



Department for
Communities and
Local Government

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Our Ref: APP/C3105/A/12/2184094

23 September 2013

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY TAYLOR WIMPEY UK LIMITED
SITE AT LAND NORTH OF THE BOURNE AND ADJOINING BOURNE LANE,
HOOK NORTON**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Ian Radcliffe BSc(Hons) MCIEH DMS, who held a public local inquiry on 18 to 21 December 2012 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against a refusal by Cherwell District Council ("the Council") to grant outline planning permission for the erection of up to 70 dwellings, public open space including a play area/amenity space and a balancing pond, associated earthworks to facilitate surface water drainage, landscaping, car parking, a pumping station and other ancillary works, on land north of the Bourne and adjoining Bourne Lane, Hook Norton, Oxfordshire, in accordance with application Ref 11/01755/OUT, dated 18 November 2011.
2. The appeal was recovered for the Secretary of State's determination on 28 January 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals which raise important or novel issues of development control and/or legal difficulties. Three other appeals in Cherwell were then recovered for the Secretary of State's determination on 9 May 2013¹, so that they could be considered at the same time.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendation. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

¹ Land off Barford Road, Bloxham - ref:2189896;
Land East of Bloxham Road, Banbury – ref:2178521;
Land South of Milton Road, Bloxham – ref:2189191.

Procedural matters

4. Your client made an application for an award of costs against the Council. The Secretary of State's decision on this is the subject of a separate letter.

Matters arising after the close of the inquiry

5. Following the close of the inquiry, the Regional Strategy for the South East (Revocation) Order 2013 came into force on 25 March 2013 and has partially revoked the South East Plan ("the RS"). The Secretary of State considers that the RS Policies which remain extant are not relevant to his decision on this appeal. Given the reasons for the basis of the decision as set out in the remainder of this letter, the Secretary of State does not consider that the partial revocation of the RS raises any matters that would require him to refer back to parties for further representations prior to reaching his decision.
6. On 26 June 2013, the Council submitted to the Planning Inspectorate further information about housing land supply issues, copied to you and those representing the appellants for the other three recovered appeals referred to in paragraph 2 above (referred to below as "the four parties"). This led to representations from the four parties requesting a right to respond, to which the Secretary of State acceded in his letter of 3 July 2013. A response was subsequently received on behalf of the four parties on 17 July 2013, leading to further submissions from the Council dated 25 and 30 July 2013 which, in turn, led to a further response on behalf of the four parties on 12 August 2013. Copies of all the relevant correspondence may be obtained on written request to the address at the foot of the first page of this letter. The Secretary of State has given careful consideration to all this correspondence but, for the reasons given below and in the decision letters relating to the other three cases, does not consider that it raises any issues on which he requires further information before proceeding to decisions on these cases.

Policy Considerations

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan (DP) unless material considerations indicate otherwise. In this case, the DP comprises the saved policies of the Cherwell Local Plan (LP), adopted in November 1996, and the extant policies of the RS referred to on paragraph 5 above.
8. Material considerations include the National Planning Policy Framework (the Framework); Circular 11/95: *Use of Conditions in Planning Permission*; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended. The Secretary of State has had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance is currently in test mode and for public comment, he has attributed it limited weight.
9. Other material considerations include the emerging pre-submission draft local plan (PSDLP), which was published by the Council in August 2012. However, as it has yet to be submitted for examination and so is subject to change, it has been afforded little weight. Similarly, the revised housing land supply figures submitted by the Council to the Secretary of State as referred to in paragraph 6 above have

yet to be subjected to independent examination as part of the local plan process and so have been given little weight.

Main Issues

10. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR154.

The Development Plan

11. The Secretary of State agrees with the Inspector (IR156) that, as the thrust of the revoked RS policies cited by the Council in its first reason for refusal is contained in the Framework, their revocation does not significantly alter the planning policy context for the appeal. However, for the reasons given at IR157-158, the Secretary of State agrees with the Inspector that, although the proposed development would not comply with the saved policies of the LP, those do not provide for an up to date housing provision. Therefore, having regard to the advice in paragraph 215 of the Framework, the Secretary of State agrees with the Inspector (IR205) that full weight can no longer be given to such policies.

12. The Secretary of State notes that the intended timetable for the adoption of the PSDLP has not been achieved (IR159); and he recognises that the information produced by the Council as described in paragraph 6 above is likely to result in changes to the Plan. He therefore agrees with the Inspector that little weight can be attached to the PSDLP as it currently stands.

Effect of proposed development on character and appearance of the area

13. For the reasons given at IR160-167, the Secretary of State agrees with the Inspector at IR167 that, through the loss of its open and rural nature, the development of this greenfield site would cause a moderate amount of harm to the character and appearance of the countryside and, to that extent, some local landscape harm. He agrees with the Inspector that the urbanisation of this land would be contrary to a core principle of the Framework and policies H13 and H18 of the local plan. He therefore also agrees that this matter of principle would not be overcome by the fact that the site would only be readily visible from adjacent land, that there would be no material harm to the wider landscape character area or that there is potential for an attractively designed development. However, in view of these factors, the Secretary of State gives only moderate weight to the effect on the character and appearance of the area.

Sustainable development including relative sustainability of Hook Norton

14. The Secretary of State agrees with the Inspector that overall, for the reasons given at IR168, the appeal scheme would represent sustainable development in terms of the facilities and services already provided in the village. He also agrees with the Inspector that, for the reasons given at IR169-173, the appeal scheme would provide a range of economic, environmental and social benefits for the area, including making a significant contribution towards meeting affordable housing needs. The Secretary of State also notes (IR173) that the Inspector expects that the services provided in the village would be able to expand to cater for the increased population, and he has no reason to disagree with that. Overall, for the reasons given at IR174-179, the Secretary of State agrees with the Inspector's conclusions that, on balance, the village of Hook Norton is in a relatively

sustainable location for development (IR180) and that the fact that the appeal proposal represents sustainable development is a significant factor in its favour.

Prematurity and localism

15. The Secretary of State has considered carefully the Inspector's comments regarding prematurity and localism. Whilst he agrees that a core principle in the Framework is to empower local people to shape their surroundings, and notes that work has started on preparation of the Hook Norton Neighbourhood Plan (IR182), he considers, like the Inspector, and for the reasons set out in IR 183-184, that, in the circumstances of this case, little weight should be attached to prematurity or local opposition against the scheme. In particular, the Secretary of State has taken account of the fact that the Council has accepted (IR183) that no question of prematurity applies in relation to the PSDLP or the Neighbourhood Plan which will need to be based upon it.

Housing land supply

16. For the reasons given at IR195-199, and notwithstanding the further information submitted to him by the Council on 26 June 2013 as described in paragraphs 6 and 9 above), the Secretary of State agrees with the Inspector's conclusion at IR200 that there is a serious shortfall in housing land supply with currently no development plan basis on which to deliver such a supply. He therefore also agrees with the Inspector that, as the appeal site is deliverable, it would contribute towards the housing shortfall; and this is a consideration to which he gives significant weight. In coming to this conclusion, the Secretary of State has taken account of the fact that, to be included within the 5 year housing land supply, the Framework requires that sites must be deliverable (IR199).

Conditions and obligations

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions as set out at IR211 and, like the Inspector, is satisfied that the proposed conditions are reasonable, necessary and comply with Circular 11/95.

18. With regard to the section 106 Agreement (IR186-194), the Secretary of State agrees with the Inspector that the proposed contributions, other than in relation to local day resource centres for the elderly, special education needs and library provision, appear justified by local and national policy and/or guidance and can be considered to be compliant with CIL Regulation 122. He accordingly affords weight to all the provisions of the Agreement except the contributions towards local day resource centres for the elderly, special education needs and library provision to which he gives no weight.

Overall conclusions

19. Although the appeal proposal would be contrary to certain policies within an out of date the development plan, the Council does not have a proven 5-year supply of housing land so that, in accordance with the provisions of the Framework, full weight can no longer be given to the relevant housing policies of the development plan. The appeal scheme would also conflict with the Council's emerging spatial strategy contained in the PSDLP but, as that Plan is at a very early stage and likely to be subject to change while the proposed Neighbourhood Plan has yet to be

produced, little weight can be attached to these considerations against the scheme.

20. The scheme represents sustainable development which would make a significant contribution towards addressing the undersupply of housing in the District. Therefore, although the proposed development would cause moderate and localised harm to the character and appearance of the countryside, the Secretary of State is satisfied that this would be limited and would not significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework taken as a whole.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for the erection of up to 70 dwellings, public open space including a play area/amenity space and a balancing pond, associated earthworks to facilitate surface water drainage, landscaping, car parking, a pumping station and other ancillary works, on land north of the Bourne and adjoining Bourne Lane, Hook Norton, Oxfordshire, in accordance with application Ref 11/01755/OUT, dated 18 November 2011, subject to the conditions listed at Annex A of this letter.

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

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

Right to challenge the decision

24. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

25. Copies of this letter has been sent to Cherwell District Council and the agents acting for the appellants in the other three recovered cases.. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
- 3) The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The number of dwellings accommodated on the site shall not exceed 70.
- 5) The site layout in any Reserved Matters application shall accord with the Illustrative Master Plan (ref 13070/15) submitted with the application.
- 6) No works of site clearance or development shall take place until an updated Great crested newt survey has been submitted to and approved in writing by the local planning authority. This survey shall include details of any mitigation measures required should newts be found on site. Development shall be carried out in accordance with the mitigation measures approved as part of the survey.
- 7) No removal of mature trees shall take place until such time as they have been checked for bats immediately prior to removal. Should bats be found to be present in a tree due for removal, a bat mitigation scheme must be submitted to and approved in writing by the local planning authority prior to the removal of the trees concerned. Development shall be carried out in accordance with the mitigation measures approved as part of the scheme.
- 8) No works of site clearance or development shall take place until an ecological enhancement scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of how any lighting scheme will be designed to reduce impacts on wildlife. Development shall be carried out in accordance with the measures approved as part of the scheme.
- 9) Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
- 10) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site

- and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) The development shall not begin until an impact study of the development hereby permitted on the existing water supply infrastructure has been submitted to and approved in writing by the local planning authority (in consultation with Thames Water). The study shall determine the magnitude of any new additional capacity required in the system and a suitable connection point for the development. Prior to the commencement of development on the appeal site any additional capacity required in the system approved as part of the study and a suitable connection point for the development also so approved shall have been provided.
 - 12) Prior to the first occupation of the development hereby permitted, fire hydrants shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
 - 13) No development shall take place on site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which shall first have been submitted to and approved in writing by the local planning authority.
 - 14) No development shall take place, including any works of demolition, until a Construction Traffic Management Plan (CTMP) for the site has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include full details of wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. The approved Statement shall be adhered to throughout the construction period.
 - 15) A Local Area of Play (LAP) shall be provided in accordance with the Council's adopted policy. Details of the siting and design of the LAP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and thereafter it shall be provided in accordance with the approved details prior to the occupation of any dwelling within 30m of the LAP or prior to the occupation of the 20th dwelling which ever is sooner. The LAP shall not thereafter be used for any purpose other than as a play area.
 - 16) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 17) Prior to the commencement of the development hereby approved, the proposed means of access between the land and the highway shall be formed, laid out and constructed in accordance with the specification of the means of access

that has been submitted to and approved in writing by the local planning authority.

- 18) No structure or erection exceeding 1m metre in height measured from carriageway level shall be placed within the vision splays of an access to the site.
- 19) Prior to first occupation of each dwelling hereby approved, the proposed access road shall be constructed to type standards in accordance with the Oxfordshire County Council Design Guide for Residential Roads.
- 20) Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the vehicular accesses, driveways, parking spaces and turning areas to serve the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to first occupation of each dwelling and thereafter the turning area and car parking spaces shall not be used for any other purpose other than the parking and manoeuvring of vehicles.

Richborough Estates



Report to the Secretary of State for Communities and Local Government

by I Radcliffe BSc(Hons) MCIEH DMS

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

Date 1 May 2013

TOWN AND COUNTRY PLANNING ACT 1990

CHERWELL DISTRICT COUNCIL

APPEAL BY

TAYLOR WIMPEY UK LIMITED

Inquiry held on 18 to 21 December 2012
Site visit made on 7 January 2013

File Ref: APP/C3105/A/12/2184094

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Richborough Estates

File Ref: APP/C3105/A/12/2184094

Land north of The Bourne and adjoining Bourne Lane, Hook Norton, Oxfordshire (Grid Reference: Easting 4354320 Northing 2336610)

- 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 Taylor Wimpey UK Limited against Cherwell District Council.
- The application Ref 11/01755/OUT is dated 18 November 2011.
- The development proposed is the erection of up to 70 dwellings (Class C3), public open space including a play area / amenity space and a balancing pond, associated earthworks to facilitate surface water drainage, landscaping, car parking, a pumping station and other ancillary works.

Summary of Recommendation: That the appeal be allowed.

Procedural Matters

1. The application was in outline with all matters reserved for subsequent consideration. A section 106 agreement was also submitted at the Inquiry.
2. The Council refused permission for the following reasons:
 - i) *The proposal represents development beyond the built up limits of the village within open countryside that is not supported by existing or emerging policy, or local people. As such the proposal is contrary to the core principles of the National Planning Policy Framework set out at Paragraph 17 and in particular the requirement for a plan led system empowering local people to shape their surroundings, the requirement to take account of different roles and character of different areas recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities, encouraging reuse of brown field land and actively managing patterns of growth to make fullest use of walking, cycling and public transport. Notwithstanding the Council's present inability to demonstrate that it has a 5 year supply of housing land required by Paragraph 47 of the National Planning Policy Framework, the development of this site causes significant adverse effects and is contrary to the Council's spatial strategy that means the development cannot be justified on the basis of a land supply deficiency alone. As such the proposed development is contrary to policies CC6 and SP3 of the South East Plan and the saved policies H13 and H18 of the adopted Cherwell Local Plan, Policy for villages 1 and 2 and policies BSC3, BSC4 and ESD1 of the Proposed Submission Draft Cherwell Local Plan May 2012, paragraph 17 of the National Planning Policy Framework.*
 - ii) *In the absence of a satisfactory unilateral undertaking, or any other form of S106 Legal Agreement the Local Planning Authority cannot guarantee that the infrastructure directly required to service the proposed development, including affordable housing in line with local needs, open space, sports and recycling facilities including LAP provision, refuse bins and recycling, community facilities, general transport and access impacts (including rights of way), education, school and library infrastructure, day care and adult learning, museum resourcing, strategic waste management and policing; will be provided, which would be contrary to Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.*

3. The appeal was recovered for determination by the Secretary of State for Communities and Local Government by a letter dated 28 January 2013. The reason given for the recovery was because the appeal involves proposals which raise important or novel issues of development control, and / or legal difficulties.
4. The main parties have confirmed in their statement of common ground the drawings that form part of the outline application for which permission is sought. I have listed these plans at the end of the report.
5. During the Inquiry the Appellants presented tables based upon the Cherwell Rural Area Integrated Transport and Land Use Study (CRAITLUS) comparing the facilities and services provided in villages within Cherwell District. These tables complement Appendix 43 of Kathryn Ventham's proof of evidence and are recorded as document 5 in the list of documents submitted at the Inquiry.
6. An executed section 106 agreement was submitted at the Inquiry. It includes a commitment to provide contributions towards education, transport, libraries, social services, museum resource centre, off site open space, waste management, the on site provision of affordable housing and a local area of play. I shall deal with this agreement in my conclusions.
7. A statement of correction was made to Kathryn Ventham's proof of evidence. This is recorded as document 10 in the list of documents submitted at the Inquiry.
8. At the Inquiry an application for costs was made by Taylor Wimpey UK Limited against Cherwell District Council. This application is the subject of a separate Report.
9. The site visit took place on 7 January 2013. The visit to the site and land immediately surrounding it was accompanied whilst the remainder of the site visit walking around the village and viewing the appeal site from a variety of public vantage points was unaccompanied.
10. Since the closing of the Inquiry the South East Plan which was the Regional Strategy for the South East has been almost entirely revoked. Both the Council and the appellant were provided with the opportunity of making comments in light of the revocation. I have taken the representations received into account in my report and listed them at the end of this report.

The Site and Surroundings

11. The appeal site is a field of pasture 3.28 hectares in size. It is located on the northern edge of Hook Norton village on the western side of Bourne Lane. The site is bounded by Bourne Lane to the east, which has residential dwellings facing the site and adjoining it to the south. Hook Norton Sports and Social Club is on the western side of the site and open fields are to the north.
12. The site is largely rectangular in shape and is bounded by hedgerows and a small number of trees along its eastern, western and southern boundaries. The site connects to the larger field of pasture to the north. There are 2 public

footpaths¹ that run off Bourne Lane across the northern part of the site. Access to the site is currently by way of a gateway on Bourne Lane. The Lane is a lit road and has a speed limit of 30mph. A footway runs on one side of the Lane.

13. There are a number of existing facilities and amenities which already serve Hook Norton. These include; Hook Norton Primary School; post office and stores; village shop; doctor's surgery; dental surgery; library; 2 public houses; memorial hall; 2 churches; Hook Norton Sports and Social Club (which contains tennis courts, a multi use games area for a variety of team sports, cricket pitch, football pitch and a clubhouse for social events). The location of these facilities and services are located on a plan². The vast majority of these facilities are located within a comfortable walking distance of the site. Hook Norton has a regular bus service (No 488) that runs between Chipping Norton and Banbury. The service generally runs on an hourly basis from Monday to Saturday³.
14. The site lies outside of the Hook Norton Conservation Area which lies some distance to the south. The Council has raised no objection to the proposal in relation to its effect upon the Conservation Area. On the basis of the distance of the appeal site from the Conservation Area I concur with that assessment.

The Proposal

15. The proposal is for a residential development of up to 70 dwellings with all matters reserved for subsequent approval. The Appellants have produced an illustrative master plan (ref 13070/15) to accompany the application. It shows 4 lines of houses arranged parallel to Bourne Lane with public open space, and the potential for a play area, in the north eastern corner of the site. A balancing pond as part of a sustainable drainage scheme is shown in the south western corner of the site. Two new access points off Bourne Lane are depicted which would link with a central main lane within the development. Minor internal lanes would provide access to the remaining houses.

Planning Policy

16. In determining the appeal regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan

17. The development plan for the District comprises the saved policies of the adopted Cherwell Local Plan (Local Plan), adopted in November 1996, and the remaining policies of the South East Plan (SEP) which were not revoked in March of this year. Policies CC6 and SP3 of the SEP cited in the Council's reasons for refusal of the application have both been revoked.
18. The following development plan policies from the Local Plan are the most relevant to this appeal:

¹ Public right of way numbers 253/14 & 253/15, Figure 2, Landscape and Visual Appraisal.

² Services and facilities plan, Appendix 1, Statement of Common Ground (SOCG)

³ SOCG Appendix 2.

- Policy H12 advises that new housing in the rural areas of the District will be permitted within existing settlements. Different policies apply according to the number of facilities and services the settlement has and the category that the settlement as a result has been placed in.
- Policy H13 identifies Hook Norton as a category 1 settlement which has the greatest number of facilities and services. Within the village the policy allows infilling, the minor development of small groups of dwellings and the residential conversion of buildings.
- Policy H18 restricts new housing within the open countryside outside settlements. There are two instances in which permission for new housing will be granted. Firstly, when it is essential for agriculture or other existing undertakings. Secondly, when it is a small scale low cost housing development which meets a specific local need that cannot be satisfied elsewhere.
- Policy C8 of the Local Plan resists sporadic development in the open countryside.

Non statutory Cherwell Local Plan (2011)

19. This Plan was originally intended as a replacement for the 1996 Cherwell Local Plan to cover the period up to 2011. However, in December 2004 the Council discontinued work on the plan to enable work to begin on the Local Development Framework. Although the plan is not part of the development plan the Council decided that it should be used as an interim planning policy for development control purposes. This Plan also identified Hook Norton as a category 1 village due to the range of facilities and services that it had. Policies H7, TR4, R8, R9 and R10A are cited by the Council in relation to the second reason for refusal which relates to the effect of the proposed development on local infrastructure and services⁴.

SEP and housing supply targets

20. The housing requirement contained within the SEP which covered the period 2006 to 2026 set a requirement of 13,400 dwellings for Cherwell District. This equated to 670 dwellings per annum (dpa). However, since the Inquiry closed a large part of the SEP including the policy governing regional housing provision has been revoked.

Emerging Local Planning Policy

21. The PSDLP was published in August 2012 and has yet to be submitted for examination. Policy BSC3 relates to the provision of affordable housing. Policy BSC4 seeks an appropriate housing mix in new development. It was agreed that, although both Policies BSC3 and BSC4 were cited in relation to the first reason for refusal, contravention of these 2 draft policies was no longer contended. Policy ESD1 amongst other matters seeks to distribute new development to the most sustainable locations in order mitigate climate change. Policy Villages 1 carries forward the 1996 Local Plan approach of supporting limited development within Hook Norton. Policy Villages 2 identifies the number

⁴ SOCG paragraph 4.10

of new houses proposed in rural areas and their distribution according in part to how accessible the villages are. The question of weight to be attached to its policies will be dealt with in the section headed 'Inspector Conclusions'.

National Planning Policy

22. Relevant national planning policy is set out in the National Planning Policy Framework ('the Framework').

Planning History

23. There have been no previous planning applications for residential development of the appeal site, nor has any evidence been presented of applications for other forms of development of the site. The site was considered as part of the Inquiry into the Local Plan which was adopted in 1996. The Inspector at the time determined that the land should not be allocated for housing within the Plan. He formed this opinion on the basis of his analysis of the character of the site and the effect that its development would have on the locality. He considered that the site was seen as part of the open countryside with wide views both out of the site and into it. As a result, he concluded that residential development of it would be seen as an extension of the village into the open countryside. He also considered that highway improvements that would be required to Bourne Lane would also have significant adverse impact the character of this part of the village⁵.

Other Agreed Facts

Water supply, sewage infrastructure and flooding

24. The relevant infrastructure for water and sewage are nearing their design capacity. However, it is common ground that the upgrading of the necessary infrastructure could be dealt with through appropriate conditions. The appeal site lies within Flood Zone 1 which is the lowest category of flood risk. A sustainable urban drainage scheme has been designed which would ensure that the flow of water leaving the site would be no greater than prior to development. As a result the proposal would not increase the risk of flooding off site.

Residential amenity

25. It is agreed that the proposed development would not adversely affect the residential amenity of neighbours.

The Case for the Appellants

26. This summary consists of the material points of the Appellant's case. It is taken from the submissions made and evidence given on behalf of the Appellant and from other documents submitted at the Inquiry. In relation to the main issues identified in relation to this appeal the Appellant contends as follows;

⁵ Appendix 1 of proof of Philip Smith

(a) whether the proposed development would be in accordance with the development plan for the area.

27. Following the revocation of the SEP the development plan for the purposes of this appeal consists of the adopted Cherwell Local Plan (November 1996). In determining the appeal regard, amongst other matters, must be given to the respective weight that policies can carry depending upon how up to date they are deemed to be.
28. It was accepted by the Council and Mr Smith that the only policies of the development plan with which the Council is alleging conflict are those set out in the Council's Reasons for Refusal 1: namely, Policies H13 and H18 of the Local Plan. It was conceded that no other conflict was being alleged.
29. However, as the development plan consists of many other relevant policies with which the proposal is considered to comply with, and the judgment is being made against the development plan as a whole, it is important in making that judgment to remember the full extent of the proposal's compliance with all those other policies. The absence of harm to any matter of material planning concern and its location within comfortable walking distance of the village centre count in its favour.

The South East Plan

30. Policies CC6 and SP3 of the SEP were both cited by the Council in its reason for refusal but have now been revoked and do not form part of the development plan. Policy SP3 of the SEP was a strategic spatial strategy policy for the region as a whole. It identified that the prime focus for development should be urban areas in order to foster access to services and facilities and to avoid unnecessary travel. Policy CC6 was also a high level strategic policy that identified that actions and decisions associated with the development and use of land should actively promote the creation of sustainable and distinctive communities. The objectives of both policies are consistent with the Framework and reasonably consistent with the Local Plan. The Council's witness agreed that the revocation of the SEP would not materially affect the appeal.

The adopted Local Plan

31. Policy H13 identifies that Hook Norton is a Category 1 settlement. This recognition, in 1996, carried with it recognition of the ability of those settlements to accommodate some limited extra housing growth⁶. The policy restricted development to within the built up area of the village. Any area outside the built up area is treated as countryside. Policy H18 restricts the provision of new dwellings in the countryside to that which is essential for agriculture. It is accepted that the proposal does not comply with policy H13 or policy H18.
32. However, Policies H13 and H18 are out of date. They are contained within the Local Plan adopted in 1996 and which was meant to cover the time period up until 2001. This Secretary of State direction which saved policies from the Local

⁶ Paragraph 2.65 of the Local Plan

Plan made it clear that they would need to be assessed in the light of up-to-date policy and requirements. The Council's own evolving replacement local plan strategy acknowledges that further housing growth will be required in Category 1 settlements such as Hook Norton and that this growth will involve the development of greenfield countryside sites. The policy position is made clear by paragraph 49 of the Framework which states that in circumstances where there is not a 5 year housing land supply, policies for the supply of housing should not be considered to be up to date.

33. It is incorrect to argue as Mr P Smith does that whilst some aspects of these policies are out of date other aspects are not. It is accepted that the fact that these policies are out of date does not mean that there is now no restriction on development in the countryside. Instead as Mr P Smith conceded paragraph 14 of the Framework applies and any adverse impacts must clearly and demonstrably outweigh the benefits of the appeal proposal if permission is to be denied.
34. The Council argues that their spatial strategy is in accordance with the Framework. This is not true as it fails to provide a 5 year supply of housing land as required by the Framework.
35. The Council argues that as the proposed development breaches the development plan the Appellant has 'considerable ground to make up'. However, this fails to take account of s.38(6) of the 2004 Act that in determining a planning application the decision need not be in accordance with the development plan if there are material considerations that indicate otherwise. Paragraph 14 of the Framework is one obvious such example. The Council's approach to s.38 (6) of the 2004 Act is therefore incorrect. The correct approach is to assess the proposed development in the manner described in paragraph 14 of the Framework.

Proposed Submission Draft Local Plan (PSDLP)

36. Following the abandonment of the replacement for the current Local Plan in 2004 and the Council not achieving its goal of adopting a Core Strategy by 2010 preparation of the PSDLP began⁷. The PSDLP is not part of the development plan. However, Mr P Smith's central analysis treats the PSDLP as if it were part of the development plan. Most of his analysis in his proof is based upon the PSDLP as if it were adopted text and policy. It is not.
37. Indeed it was agreed by Mr P Smith in cross examination that the PSDLP carried very little weight. Whilst the principle of some further housing within sustainable villages, which will include the development of greenfield land, is accepted there are strong objections to the PSDLP that remain unresolved. These include the underassessment of the overall level of housing needs for the District; the classification of Hook Norton as a Group 2 village suitable for less new housing than Group 1 villages; the numbers of dwellings allocated to each Group of villages and the suggestion that housing should be evenly distributed between the villages in each category. As a consequence of the very early stage that the PSDLP has reached and the unresolved objections very little weight can be attached to it.

⁷ SOCG paragraphs 4.7 & 4.8

38. The PSDLP's position is all the weaker in light of the unique circumstances of its production for consultation. Mr P Smith accepted that it was fundamental to any of the housing policies and to any proper consultation on them to have sight of the Strategic Housing Market Assessment (SHMA) and the Strategic Housing Land Availability Assessment (SHLAA) on which the housing policies it is said are based. He accepted that these were fundamental documents, without which views could not be meaningfully expressed or the policies which relied upon that evidence base understood. The Council has refused to produce that evidence base. No professional at the inquiry gave evidence that they had previously come across this situation.
39. In the absence of publication of the evidence base for the PSDLP, it was impossible to understand the justification for those parts of the policies that depend on that evidence base and accordingly no weight (Mr P Smith accepted "very little weight") can be put on those parts of the policies. The housing numbers in question are therefore unreliable and have the potential to be much greater in any sound local plan for the future. That will inevitably include the housing distribution in rural villages and the groups they have been classified into. Moreover, in that absence, Mr P Smith accepted that as a matter of fairness the Council would have to reconsult on that part of the submission draft local plan affected before it was submitted to an Inspector for examination. The Appellant's objections identify that these numbers are significantly below those which would be expected from the household projection data which has been analysed.⁸
40. The Council's Executive Report of 3 December 2012 reports on progress on the PSDLP, but that document confirms the lack of any material weight that can be placed on the PSDLP version. This is because the Executive has not grappled yet with the need for reconsultation prior to submission, in light of the evidence base if and when it is published. Quite apart from that, the Executive were told that the PSDLP would require change in light of the consultation and that a further version of the submission Local Plan is going to be produced. This therefore raises the potential for the PSDLP to be changed to reflect the objections that have been made by the Appellant and others. It is not known at the moment therefore as to what the next submission draft Local Plan will look like.
41. As the Council has not yet produced any document or response to those objections setting out their position the adoption of any Local Plan is some distance away. But in terms of the PSDLP no material weight can be placed on those policies which are subject to objection given the fact of those objections and the real potential for those policies to change.
42. The nature of the objections means that the essence of the draft policies relied upon by the Council in this appeal cannot be relied upon. For example, it is wrong for Sir Tony Baldry to assume that there is no issue over the housing numbers. There clearly is.⁹ This is in addition to the specific objections in respect of Hook Norton and Policy for Villages 2.

⁸ Appellant's objections to the PSDLP Ventham Appendix 12

⁹ Appellant's objections to the PSDLP Ventham Appendix 12

43. The categorisation of Hook Norton as a "Group 2" village, rather than a Group 1 village, can carry no weight (or Mr P Smith: very limited weight) at all. This is because it is the subject of a strong objection from the Appellant which has not been answered by the Council.

(b) the effect of the proposed development on the character and appearance of the area.

44. The Council's case on visual impacts primarily relates to character, rather than any specific visual impacts. No identified visual impacts, let alone specific viewpoints of concern, are identified anywhere in the reason for refusal. None of the asserted impacts or visual judgments advanced by Mr Smith are ones expressed by the Council members. These are therefore assumptions he makes, without the benefit of any specialist expertise, and based upon inferences from the reason for refusal which have not been endorsed.
45. The Appellant's Landscape and Visual Appraisal (LVA) which identified viewpoints was independently assessed by the Council's duly qualified Landscape Officer who exercised her own independent review¹⁰. Her advice was that the proposal was acceptable. The Council has now confirmed in the SOCG at paragraph 6.22: " It is agreed that the Site is well screened by the topography and existing boundary screening and that the level of boundary planting ensures that views into and across the Appeal Site are limited and where they do exist, such as from the public right of way to the north-east, the impact on landscape character is not likely to be harmful. There will be no landscape character harm therefore there is no objection on this basis."
46. Mr P Smith has no relevant expert qualifications in landscape or visual assessments. However, he now seeks to allege harm in terms of visual impacts, but it is very difficult to understand how he is intending to do so in circumstances where no harm to landscape character (which includes the countryside) is alleged. The Council offer no witness to contradict the views of the author of the LVA, Mr Chard and the Landscape Officer of the Council herself.
47. Mr Chard has reviewed the LVA. He has objectively assessed both the character of the site and the visual effects of the development, in accordance with the approach set by his Institute. He acknowledges that development of the open field will inevitably have some harmful effect, as will always be the case for any development of a greenfield site wherever it is located. However he has identified why that harmful effect is extremely limited and the overall effect of the development is not harmful having regard to the overall effect of the development, the planting that already exists, the location of the site on the urban edge, its lack of visibility from wider views and the planting on the northern boundary extending the existing planting across the northern boundary to create a natural extension of a defensible boundary.
48. By contrast, Mr P Smith's written evidence seeking to allege harm is limited¹¹. Nowhere does he identify in which particular viewpoint the harm is said to arise.

¹⁰ See Ventham Appendix 31.

¹¹ Paragraphs 6.12-6.14 of Mr Smith's evidence.

What he says has to be read subject to the SOCG paragraph 6.22. His assertions and judgments as to overall harm are generally inconsistent with the qualified expertise (see Mr Chard and the Council's own Landscape Officer) and they are not properly referenced or justified. For example:

- a. At paragraph 6.12 he seeks to rely upon apparent isolation of the site from the existing urban edge of Hook Norton as a clear and strong barrier. However, as the photographs demonstrate and the site visit reveals, the site's context is visible urbanised edge development on all but the northern edge of the site. There is a failure to analyse this aspect of the character of the site, and its qualities as a site with development on these 3 sides.
 - b. As to the northern hedge, he talks of this extending to the north with "no boundary" on the ground to the field beyond. This is not accurate. There is already some significant vegetation on the northern boundary. As to the triangular part of the site to the north east, this is shown in the illustrative plan as open space and there is no requirement for landscaping on its boundaries looking west, where the footpaths run.
 - c. As to paragraph 6.13, it is asserted that the extension of the village on this appeal site would be visible "from a number of public vantage points to the north of the site", but these are not specified. In fact the visibility from any wider viewpoints is extremely limited.
 - d. Mr P Smith then seeks to rely upon the Local Plan Inspector's views for the 1996 Local Plan. However, he acknowledged the Local Plan Inspector pre 1996 was looking at the site in a different context with significantly less development at the Sports and Recreation Club which abuts the western boundary of the site, and a proposal which involved highway works to Bourne Lane which are simply not proposed with the appeal site. Moreover, it is now acknowledged that whatever the position may have been in 1996, the conclusion of visibility of the site over a wide area is no longer correct. To the contrary, this is a well-contained site¹².
 - e. In paragraph 6.14, it is asserted that there would be a significant impact on the visual appearance of the northern edge of the village through "a clear change" in its open rural character and overall would cause harm to the character and appearance of Hook Norton. Again, the claim of a significant impact and harm is not objectively referenced or justified. Whilst the fact that there will be a "change" and that it will affect the appearance of the northern edge is not in dispute the notion that it will have a significant adverse impact and cause harm is not correct and is inconsistent with the general agreement in the SOCG¹³.
49. We therefore strongly commend to the Secretary of State the analysis of Mr Chard and the Landscape Officer and the judgments they have reached in determining the appeal.

¹² Paragraph 6.22 of the SOCG

¹³ Paragraph 6.22 of the SOCG

(c) Sustainable development

50. Paragraph 7 of the Framework identifies that there are 3 dimensions to sustainable development: economic, social and environmental. The Appellant has assessed the proposed development against each¹⁴.
51. In terms of the economic dimension, the written Ministerial Statements '*Planning for Growth*' dated 23 March 2011 and '*Housing for Growth*' dated 6 September 2012 both emphasise the importance of development as a driver of economic growth which is the Government's number 1 priority¹⁵. The building of new homes creates new jobs. In this instance 105 jobs would be created thereby assisting the national and local economy. Locally the creation of 70 new households based on average occupancy levels would generate £3.9m Gross Value Added per year, or by a different measure approximately £1.2m of additional money would be available to spend in the local economy. The New Homes Bonus provided by central government would also contribute £627,000 over 5 years to be spent by local authorities that administer the area. These effects contribute towards economic growth.
52. With regard to the social role, the new housing proposed would help address the shortage of housing in the village and wider area both for market housing and affordable housing. The situation in relation to affordable housing in the District is particularly poor. The Oxfordshire Housing Market Assessment identifies an overall annual shortfall of 686 affordable dwellings in Cherwell District. The Housing Needs Survey for the village dated April 2012 identified a need for 25 affordable dwellings¹⁶. Of the 70 units proposed 21 would be affordable homes. In addition the development would provide a solution to providing access to a land-locked parcel of land to the south of the site to which the Parish Council have referred where further affordable housing could be provided. The appeal scheme would also provide a significant amount of amenity space incorporating natural play equipment which would be available for all in the village to use. The additional local spending power generated by the development would assist in sustaining local shops and services.
53. In terms of the environment, the biodiversity interest of the current site of the development is very limited. The development aims to deliver gains in biodiversity through measures detailed in the ecological summary note¹⁷. Whilst there would be a loss of countryside as a result of the development, the harm to the character and appearance of the area would be extremely limited for the site specific reasons given earlier.
54. Mr P Smith accepted in his evidence that he has omitted to carry out an assessment of sustainability that covered all 3 dimensions. He accepted that the economic and social benefits that Ms Ventham had identified would flow from the development. He further conceded that the delivery of up to 70 units, 30% of which would be affordable, as a contribution to the large shortage of housing in the District was a substantial benefit of the proposal.

¹⁴ Ventham paragraphs 8.89- 8.109

¹⁵ Ventham Appendix 25

¹⁶ Ventham paragraphs 8.131 to 8.134, 8.143 and Appendix 49.

¹⁷ Ventham's Appendix 45

55. In terms of accessibility and promoting sustainable modes of transport¹⁸ Hook Norton contains a good range of facilities including amongst others: convenience stores, doctor's surgery, dental surgery, primary school, nursery school, public houses and a sports and social club. The local facilities are all situated within easy walking distance of the appeal site along routes that have footways conducive to pedestrian use. The village lies on the No 488 bus route which operates at 60 minutes intervals Mondays to Saturdays in both directions between Banbury and Chipping Norton. Residents are able to commute to Banbury to start work at 8am and finish at 6pm. The services also allow people to undertake personal business, shopping or leisure trips to either Banbury or Chipping Norton.
56. As a consequence, Hook Norton is a sustainable settlement and the facilities that it has, together with the bus service, would reduce the need for future residents of the appeal site to use a car for every day journeys.

Relative sustainability of Hook Norton

57. The Council in its Closing Submissions contends that the Appellant has to show that the appeal proposal is "of such high relative sustainability" that it warrants coming forward. This is wrong in principle. There is no such requirement as a matter of law to demonstrate comparative sustainability at all. The issue is only of sustainability of the appeal proposal which has been demonstrated. The Council is applying the wrong test under paragraph 14 of the Framework where it is the adverse impacts of any proposal that must significantly and demonstrably outweigh the benefits.
58. It is agreed that very little weight, (the appellant suggests no weight), can be given to the PSDLP and its spatial strategy which includes the numbers and distribution of new housing within the District (see paragraph 37).
59. Notwithstanding both of the above considerations, the Council stands by the CRAITLUS study which it commissioned to assess the relative sustainability of rural settlements and inform the development of the PSDLP. On the basis of the findings of this study, which places Hook Norton within the second of 3 groups of the District's most sustainable rural settlements, there are several villages that rate more highly when services, facilities and accessibility are considered together.
60. However, the CRAITLUS study is unreliable for a number of reasons. Firstly, it contains some errors in the facilities and services for Hook Norton and Cropredy. When corrected¹⁹, Hook Norton's updated score is the same as all the Group 1, Category A villages in the PSDLP. Furthermore, when CRAITLUS is expanded to consider Doctors and Dentists, the resulting position is that Hook Norton is in the top three of all villages in the District (along with Bloxham and Deddington) as to the range of facilities and services it possesses, and significantly better than all the other Group 2 villages.
61. Secondly, the principal reason (as Smith accepted in cross examination) why the CRAITLUS study concludes that Hook Norton is less sustainable and should

¹⁸ Boswell paragraphs 6.1- 6.2

¹⁹ Document 5 submitted at the Inquiry and Ventham's Appendix 43. Both reassess the facilities in villages identified in CRAITLUS.

be in Group 2, and why the PSDLP put it into Group 2, are the conclusions that were reached in CRAITLUS on Total Network Travel Time and Total Network Travel Distance for Hook Norton. On the flawed methodology analysed by Mr Boswell, Hook Norton was attributed as having an average commuting distance of some 37km²⁰. Mr P Smith agreed that it was appropriate to cross-check the results of the CRAITLUS modelling with the actual survey data from the Office for National Statistics (ONS), and this was a useful exercise²¹.

62. The actual survey data demonstrate that the average commuting distance for Hook Norton is 18.6km²². This is in fact less than Deddington, a Group 1 village. Moreover, as Mr Boswell identified, it is not materially different from the other settlements which are treated as Group 1 (see e.g. Adderbury at 16.0 km). Therefore if you discard the CRAITLUS gravity model as not fit for purpose, and rely upon the only data which have not been challenged in terms of network travel distance averages and travel time, Hook Norton is not materially less sustainable than the Group 1 villages. The truth is that any objective assessment of Hook Norton should properly recognise that it is one of the most sustainable villages in the whole district.
63. The report to Committee repays re-reading. It sets out an informed appraisal, based on full familiarity with the site and the district, by professional officers as to the acceptability of Hook Norton accommodating the proposed dwellings. Even though the CRAITLUS model was being used by those officers (without recognition of the errors that show Hook Norton has been wrongly denigrated), the officers were satisfied the location was sustainable.
64. In addition, the glossary definition of sustainable transport modes in the Framework has been wrongly interpreted by the Council as only permitting cycling, pedestrian or public transport modes. It also includes low or ultra low emission vehicles or indeed car-sharing. There is no reason why residents of Hook Norton cannot use these forms of car travel at Hook Norton.
65. One further fundamental aspect of sustainability is the latest position on the transport contribution that would be secured if planning permission was granted for this proposal. The County Council has now confirmed that in addition to providing new bus stops within a convenient walking distance of the appeal site the major part of the transport infrastructure contribution (£60,000) would be spent on providing an additional bus service for the No 488 most likely in the evening. This is a significant advantage of the development overall, improving not only the sustainability of the development but of the village in itself.

d) whether the proposal would be premature thereby compromising the ability of the emerging Cherwell Local Plan to set the spatial vision for the area having regard to localism and the advice in paragraphs 17-19 of The Planning System: General Principles.

66. Paragraphs 17-19 of *The Planning System: General Principles* (2005) provide as follows:

17. "In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity

²⁰ see Boswell Appendix E, §7.6.1 onwards and Chart 7.1

²¹ see objections to PSDLP, Ventham Appendix 12, Table 3

²² Ventham Appendix 12, page 12 and tables 2 & 3

where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development, which has an impact on only a small area would rarely come into this category. Where there is a phasing policy, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect.

18. Otherwise, refusal of planning permission on grounds of prematurity will not usually be justified. Planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging DPDs. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached. For example:

- Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified, because of the delay which this would impose in determining the future use of the land in question.
- Where a DPD has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted. The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies.

19. Where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process.”

67. As to paragraph 17, Smith in cross examination on behalf of the Council confirmed that no question of prematurity arises from the appeal proposal. It is therefore unnecessary to deal with this in any detail given it is common ground. Sir Tony Baldry MP and others made assertions of prematurity in the context of the PSDLP and the potential for a neighbourhood plan. However it became clear that those assertions were not made based on the *General Principles* document above and they do not begin to explain how a proposal for 70 dwellings in Hook Norton could satisfy paragraph 17 of that general approach, or be prejudicial at all in that way. As to a neighbourhood plan, there is simply no draft neighbourhood plan in existence upon which to express any view. In any event, any neighbourhood plan would have to be in conformity with the local plan in due course.

e) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

68. The second reason for refusal is no longer an issue between the main parties in light of the conditions and the section 106 agreement. The development properly provides for contributions in respect of infrastructure where required and addresses all impacts that might arise.

69. We recognise that local residents and the Parish Council are opposed to the development. There is nothing unusual in local communities resisting further housing for their areas, particularly when it would be located in a village. But inspection of many of the objections reveals that many are based upon concerns about the effect of the development on infrastructure, such as water,

services, the primary school or the roads. On objective analysis, these concerns, whilst they may be held, are not objectively justifiable. Whilst we therefore acknowledge those views, the appellant has ensured that those concerns relating to these issues have all been fully addressed.

(f) Other material considerations

Housing Land Supply

70. In the context of the many statements of Government policy on housing and growth identified in Ms Ventham's proof and the general thrust of the NPPF, it is difficult to understate the importance of the assessment of the housing land supply situation in the determination of this appeal. The need for a five years' supply has been part of the national policy approach for several years²³. However, the Framework has identified the consequences of the inability to demonstrate such a supply in clear terms²⁴. These consequences have been demonstrated in the decisions of Inspectors and the Secretary of State to which Ms Ventham has referred²⁵.
71. Ms Ventham's proof of evidence analyses the sources and underlying rationale of the imperative of a five years' supply, but putting it shortly it serves at least three fundamental purposes of current Government policy:
- a. The need to have such a supply to ensure that local planning authorities address the chronic housing shortage problem that exists right now. The housing situation in this country is acute. For Cherwell District, it is particularly bad. There has been a huge failure in the planning system over the past few years to ensure the delivery of sufficient housing, with all the consequential social and economic problems that has created. This means that local planning authorities have to meet those needs now. They cannot wait. Cherwell is no exception. To the contrary, its poor housing land supply position means that the position is all the more acute.
 - b. The problem is not limited to the supply of market housing (that part of the appeal proposal that some objectors and Mr P Smith have exclusively focused upon), but it also relates to the acute shortage of affordable housing. There is an even more chronic shortage of affordable housing that exists nationally right now, but the problem is particularly disturbing in Cherwell. Even in 2007, the problem in Cherwell was the worst in the County (with 14.4 people seeking a place for every one that became available as compared with the next worst district of South Oxfordshire at 10.7)²⁶. The persistent under-delivery of housing since then can only have made the problem worse. In Hook Norton itself, the problem is serious, with at least a

²³ PPS3 which was replaced by the Framework

²⁴ see paragraphs 14 and 49 of the Framework

²⁵ Burgess Farm, Worsley decision by the Secretary of State referred to by Ventham at paragraph 8.21 and Ventham Appendix 30, paragraph 21 of the Secretary of State's Decision Letter; Appendix 40.

²⁶ See Ventham paragraphs 8.125-8.144

need for 25 further affordable homes for the village. None of Ms Ventham's analysis of the affordable housing problem is challenged. The issue of affordable housing was left out of Mr P Smith's analysis altogether, despite his acceptance orally in cross examination as to the relevance of this in terms of sustainability for the NPPF.

- c. The delivery of housing development now is an essential part of the Government's planning for growth and need to stimulate the economy now. As Ms Ventham's materials demonstrate²⁷, the need for a five years' supply of deliverable housing is due to the need to get the economy growing and to restart the supply of housing with all the economic and social benefits it brings.
72. Appeal decisions which properly reflect Government policy, as opposed to local planning authority decisions which fail to implement that policy, repeatedly emphasise the weight that attaches to a failure to have the necessary five years' supply. The five years housing land supply has been accurately assessed in accordance with the Framework²⁸. The assessment of the supply is based upon the figures in the now revoked SEP which remain the most up to date and independently examined housing figures for the District²⁹. These figures have been used to inform the PSDLP. The position given the persistent under delivery is that a 20% buffer should be applied to the housing need over the next 5 years³⁰.
73. The proper approach is to address the existing deficit within the next 5 years (the Sedgefield approach), not spreading the deficit over the future plan period as a whole (the Liverpool approach). This is supported by an appeal in Honeybourne (appeal ref APP/H1840/A/12/2171339)³¹. Accordingly the true position as set out in the bottom row of the table in Ventham's proof is that there is a 2.09 year housing land supply for the District.
74. The housing land supply situation in Cherwell District is poor. Mr P Smith could only identify one local planning authority area where the position was worse (Daventry where he said there was a 1 year supply).
75. In opening submissions, the Council was prepared to accept that a supply of only 3 years meant that "substantial weight" should be given to the housing land supply issue and the delivery of up to 70 dwellings from the appeal scheme. That was before the concession by the Council that it is a 20% authority. In circumstances where they now acknowledge the position is worse than they had stated in opening even more than substantial weight must necessarily apply.

²⁷ E.g. The Plan for Growth – Ministerial Statement (March 2011), Ventham Appendix 25

²⁸ Ventham paragraphs 8.40-8.77

²⁹ Appellant's comments regarding the revocation of the SEP, dated 14 March 2013

³⁰ Ventham paragraph 8.52

³¹ Ventham paragraph 8.63

76. Two issues cropped up at the Inquiry in relation to housing land supply issues. The first was the suggestion³² to the effect that in considering the weight to be given to the housing land supply shortfall, one could look at what were described as the existence of a "large number" of permitted dwellings in the District "albeit they do not count towards the 5 year supply at this time." When cross examined about this, Mr P Smith conceded that these considerations were irrelevant to the 5 years housing land supply shortfall and the weight to be attached to it under paragraph 14 of the Framework. He was right to do so. The sites he referred to are not part of the 5 years supply, do not have planning permissions and may well be highly controversial.
77. Secondly, the Inquiry heard from Sir Tony Baldry MP who also sought to challenge the existence of an undersupply of housing land in the District. He had previously sought to challenge the approach adopted by officers in assessing what housing was deliverable within the 5 years supply. This led to the Council seeking legal opinions from specialist planning counsel, both of which confirmed that the Council's officer's approach was the correct one in law. This advice was provided to Sir Tony Baldry MP and was made public (it is referred to in the Committee Report for this case). No mention is made of this in Sir Tony Baldry's submissions to the inquiry. As he came to accept, his objection is contrary to the legal advice that the Council has taken and the basis of his objection is that the legal advice is wrong. However, he has not produced any legal opinion of his own; nor has the Government produced anything in response to contradict the Council's approach.
78. On the status of existing permissions, Sir Tony Baldry believed that house builders, including the Appellant, had been "sitting" on brownfield sites for which they had permission in order to bring forward greenfield proposals such as the appeal site, even though the Council had been granting consents to enable those brownfield sites to proceed.
79. This is incorrect. Ms Ventham gave evidence in respect of RAF Heyford where this accusation was made. The Appellant had in fact been seeking to develop the site but had been refused planning permission on 2 occasions initially for 5,000 houses and then for 1,000 houses. Planning permission was only gained on appeal. Before permission was confirmed the Appellant disposed of its land holding and the site is now being developed and its contribution has been taken into account in calculating the 5 year housing land supply.
80. The Appellant, like other house builders, has been trying to carry on its core business of building houses, but it has been frustrated by such events. The weight the shortfall in housing land supply carries should therefore not be reduced on this, or any other basis.

Conclusions

81. Paragraph 14 of the Framework, clearly involves a balancing exercise of the pros and cons of the development, but subject to some policy weighting.

³² Smith's paragraphs 6.28-6.30 and by the Council's Counsel in opening paragraph 10

The first is that there is a presumption in favour of the development where there is a lack of five years' supply. That is why it is a question of the adverse impacts having to outweigh the benefits of the development. The second is that weighing exercise requires the adverse impacts to be such as they "significantly and demonstrably" outweigh the benefits.

82. Contrary to what was asserted in opening, Mr Smith has not conducted any proper planning balance of the pros and cons in his evidence. To the contrary, he has failed to take into account a number of benefits which he accepted were significant and should have been included.
83. When approaching this issue we invite the Secretary of State to consider the very limited nature of the "adverse impacts" being relied upon by the Council. These are (a) conflict with the development plan and/or its spatial strategy; (b) the visual effects of the development on the countryside; (c) the loss of countryside; (d) and a claim that the development is not sustainable. We submit that these adverse impacts are either non-existent or of very little weight. However, even if you conclude that there are some adverse impacts of this kind, we strongly submit that they are not ones which either significantly or demonstrably outweigh the benefits of granting planning permission for this development to proceed.
84. To the contrary, the benefits of this proposal are overwhelming. Without intending to provide an exhaustive list of what is in evidence, they include:
 - a. The provision of housing including affordable housing in circumstances where there is a very significant shortage in the five years' supply for the District. This is a benefit of very significant weight.
 - b. The suitability of the site within Hook Norton for development
 - c. The suitability of Hook Norton as a sustainable village in a sustainable location to take this level of development.
 - d. The very significant economic benefits that would be associated with the proposal which are not disputed.
 - e. The ecological and environmental benefits that would arise.
 - f. The improvements to the overall sustainability of Hook Norton that will only occur as a result of this development, in the form of the enhancement to the bus service.
 - g. The absence of any material adverse impact on any of the infrastructures and services, which have been mitigated or dealt with in the section 106 contributions and conditions.
85. For all the reasons explained in evidence, the Appellant commends this appeal to the Secretary of State and invites him to allow planning permission so that this development can proceed. Without such development, the Council and its area will continue to have an unacceptable shortage of housing over the coming years, with all the consequential social and economic effects this will have on the area. This is a proposal that should be supported if the thrust of the Framework is to be given effect. The Appellant submits that this appeal should be allowed, in accordance with the Council officers' own objective, professional recommendations.

The Case for Cherwell District Council

86. This summary consists of the material points of the Council's case. It is taken from the submissions made and evidence given on behalf of the Council and from other documents submitted at the Inquiry. In relation to the main issues identified in relation to this appeal the Council contends as follows;

(a) whether the proposed development would be in accordance with the development plan for the area.

87. The proposal is inconsistent with the adopted development plan in terms of its location. With the revocation of the almost all of the SEP the only part of the development plan relevant to the appeal are the saved policies of the Local Plan. It contains a clear spatial strategy which is motivated by the principal objectives of sustainability and the protection of the countryside. This is consistent with the core principles of the Framework and its promotion of sustainable development. Given this and the primacy of the development plan in decision making, as set out in section 38(6) of the 2004 Act, there is no justification for giving less than full weight to the policies of the development plan.
88. The appeal site is greenfield land outside the built-up area of Hook Norton. Saved policies H12, H13, H18 and C8 of the Cherwell Local Plan prevent the development of such land. There is no reason why the development should be acceptable as an exception to the Local Plan. Further, the appeal proposals themselves are not put forward as exceptional (e.g. Policy H6 of the Local Plan supports small scale low cost housing development to meet a specific and identified local housing need that cannot be met elsewhere), so as to justify the breach of these policies.
89. The spatial strategy is motivated by the principal objective of sustainability. This is delivered through an urban and brownfield focus so that development is well located close to the urban areas with the greatest accessibility to maximise use of sustainable transport and reduce reliance on the private car³³. At the same time, this settlement focus promotes the protection of the open countryside for its intrinsic character and beauty by presuming against building on it. However, the development plan does allow for proportionate development in rural areas. The Local Plan categorises the rural villages on the basis of their relative sustainability³⁴, and Category 1 villages are identified for minor development within the built-up area of the settlement. In terms of assessing the consistency of the development plan spatial strategy, when read side by side and as drafted, it is clear that it is consistent with the Framework as agreed by Ms Ventham in cross examination.
90. It is a feature of the Appellant's case that it ignores the material breaches of the development plan and the purposes underpinning those policies, which are supported by the Framework. For example, the Appellant's opening submissions did not own up to the clear breach of the adopted spatial strategy, despite this being identified as the first main issue. Ms Ventham in her written evidence also ignores these breaches and does not assess the proposal against the spatial strategy and the harm so caused.

³³ Policies H12, H13, H18 and C8 of the Local Plan.

³⁴ Policy H13 of the Local Plan.

91. In short, the spatial strategy of H12, H13, H18 and C8 is a central part of the development plan. It is consistent with the core policies of the Framework. As the proposal would be contrary to these policies it would not comply with the development plan. No policies of the development plan support the proposed housing scheme in a rural area in a location outside the settlement.
92. The Council believes limited weight should be attached to the PSDLP. The PSDLP has been framed in the context of the Framework and seeks to strike an appropriate balance between the urban focus and rural sustainability. The objectives behind this are consistent with the Framework. The proposed distribution delivered in rural areas reflects relative sustainability and suitability. The proposed development taken together with the Stanton engineering site is not consistent with that strategy which envisages 189 dwellings being delivered up to 2031 across all five group 2 villages on a broadly equal basis. The consideration of villages through the emerging Local Plan has been detailed. This is not the proper forum to consider the evidence to that emerging plan.
93. There are outstanding objections to the draft Local Plan. However, considerable work has been done and the Council envisages an Examination in Public at Easter 2013 or thereabouts, followed by adoption. Of course full or significant weight cannot be attributed, but limited weight in accordance with paragraph 216 of the Framework reflects the balance between work done, the stage reached (i.e. that there is a formulated plan which has responded to earlier consultations), the fact that objections remain, and consistency with the policies of the Framework. It should also be recognised that the Framework places such emphasis on the plan process for 2 reasons. Firstly, because it allows for local empowerment. Secondly, because it provides a process through which broad issues such as the most sustainable locations for development can be considered and the needs for development thereby met in the most sustainable locations. The building of 70 homes on the appeal site, together with 28 homes on the former site of Stanton Engineering in the village to which there was little local opposition, would result in 98 new homes within the next five years in the village³⁵. This plainly conflicts with the proposed strategy.

(b) the effect of the proposed development on the character and appearance of the area.

94. The impact of the proposed development is best assessed on a site visit. The Council asks the Secretary of State to agree with the following important points made by Mr P Smith's evidence on behalf of the Council³⁶;
- (1) The site, with its present boundaries, has a rural feel, and forms part of a larger field which in turn forms part of the broader open countryside to the north;
 - (2) The extension of the village into the open countryside would be visible from a number of public viewpoints, including the public footpaths across the

³⁵ Ventham's Appendix 4.

³⁶ Smith paragraphs 6.12 to 6.14

field to the north which give a strong sense of open countryside and provide open views;

(3) The appeal scheme would have a significant impact on the visual appearance of the northern edge of the village through a clear change to its open and rural character;

(4) The development expands the village into a site which presently provides visual separation, and will have significant adverse impacts on views towards the village.

95. The Council invites the Secretary of State to attribute substantial weight to the adverse impacts of the development on the character and appearance of the area in the planning balance. In cross-examination Mr Chard on behalf of the appellant readily accepted that the first Reason for Refusal refers to significant adverse effects. This included in relation to the impact of the development on the role and intrinsic character and beauty of the appeal site as part of the countryside, as supported by paragraph 17 of the Framework. The Council made clear that this was not an objection in terms of unacceptable impact on landscape character³⁷, that is that some special landscape character of the wider area was unacceptably harmed. The distinction between harm to a distinct landscape character and visual impacts is recognised by the Appellant's own Landscape and Visual Appraisal (LVA). Mr Chard agreed readily that the intrinsic character of the countryside included its openness and rural/countryside character and that the impact of the development on this was raised in the reason for refusal. Impacts on openness and visual amenity are relevant.
96. At the same time the Appellant does not give a fair reading to the Landscape Officer's consultation response³⁸ which states clearly that there is not an in principle Landscape Impact objection, but which recognises that there are visual impacts. It appears that the Appellant is deliberately confusing harm to the intrinsic character of the countryside with harm to the special landscape character in order to downplay the weight to be given to the harm it accepts occurs. At the same time, the Appellant's self-assessment of its own evidence is exaggerated. The LVA does little more than identify that there are a number of open and partial views of the development from public and private viewpoints and concludes that the development is acceptable in landscape visual terms. Mr Chard accepted that the only assessment of the visual impacts on the open views from the footpath in the LVA was contained in one sentence alongside a comment on other views. Mr Chard himself has carried out only two site visits before producing his evidence, and expressed his professional view informed by the LVA. This is a straightforward matter of planning judgment and the Council invites the Secretary of State to prefer the judgment of Mr P Smith. Mr P Smith is well-placed to give evidence of such matters which are a matter of planning judgement.
97. The impact on visual amenity and on the role and character of the appeal site as part of the open countryside is agreed by Mr Chard to be an adverse impact of the proposed development. Mr Chard accepted that the proposal

³⁷ Ventham's appendix 8

³⁸ Chard's appendix 1

would have material adverse visual impacts and would change the character of the appeal site. The particular site characteristics – the degree to which it has a rural feel, the degree of separation from the settlement, the visibility of the site, whether there are proximate footpaths giving views of the development and open or partial nature of such views— need to be considered and a view formed as to the extent of the harm that would be caused. Mr P Smith has done so and considers the impact significant. In support of this view he has also referred to the 1996 Inspector's assessment of the potential of the site to accommodate housing. The Inspector considered that the site was a readily visible site in the area and that development would encroach into the countryside. In light of the site's characteristics significant weight should be placed on the adverse visual impact of up to 70 dwellings beyond the built up area of the village on an open part of the countryside.

98. Mr Chard considers the site to have a transitional character and the impact of the introduction of 70 houses to be a low level change. The Council disagrees. Any urban influences are entirely external to the site, it being an open field in agricultural use. Any transition occurs at the existing southern boundary to the site. The Appellant overstates the impact of the sports ground to the west. Mr Chard agrees that the existing built up part of the settlement is contained behind robust defensible boundaries, which limit any urbanising influences. In short, the existing settlement is well contained — the proposed development extends into the open countryside. There are open and partial views across the site from footpaths, Bourne Lane and residences. The introduction of the development will significantly reduce openness and have a substantial and perceived urbanising effect. Mr Chard agrees that there is no defensible boundary to the north of the appeal site between the appeal site and the open countryside. This underlines the fact that this is far from an ideal site, and in any future views towards the settlement in place of the open field there will be substantial residential and structural planting further closing down views. His opinion that it is an ideal site loses credibility given that he accepted in cross examination that he has not done any comparative assessment of any other rural site in Cherwell.

(c) Sustainable development

99. The proposed development does not constitute sustainable development within the meaning of the Framework. This is because it is not consistent with a number of the core planning principles contained within paragraph 17 of that document: it is not plan led, it does not recognise the role and intrinsic character and beauty of the countryside, it does not promote previously developed land and, it does not actively manage growth to make use of sustainable transport modes. Whilst the proposal would meet the core planning principle of meeting housing needs, this need is not overriding and the other core principles of the Framework should be taken into account.
100. Although in terms of the 3 dimensions to sustainable development there would be social and economic benefits the proposal falls short environmentally. This is because of the harm to the countryside and its poor transport sustainability. Paragraph 8 of the Framework requires that all three aspects of sustainable development are achieved. Therefore, as a whole the development is not sustainable development. The lack of a 5 year supply

position does not trump all and does not provide carte blanche to new development.

101. Two central objectives of the Framework contained in paragraphs 29 to 34 are to reduce reliance on private cars in terms of the number and length of trips and to provide a genuine choice of modes of transport³⁹. A review of the public transport options available shows that there will be heavy reliance on the private car. The issue of the bus service has been addressed comprehensively – in essence there is one service an hour to Banbury. It would take 40 minutes to get to the bus stop in Banbury town centre with further travel time then to be added to the final destination in the town. There is nothing in the evening or on a Sunday. It is not possible to get to Chipping Norton by bus before 09.50 hours. Local residents who know the area have explained the difficulties in reliance on such a service. Their experiences should be accepted. Mr Boswell has not done any assessment of how well used public transport is.
102. The County Council originally objected on sustainability grounds due to the limited range of shops services and employment in the village and the poor frequency of buses. Although the formal objection was removed to allow the Council to strike the overall sustainability balance under the Framework the County reiterated its concerns as to sustainability and accessibility⁴⁰. There is no basis for the suggestion that the County considers the development to be sustainable as a result of one additional return journey from Banbury that would occur if the development went ahead.
103. The reality is that, when assessed against the key policy objectives of the Framework in terms of sustainable transportation, Hook Norton fails. It has facilities in the village which are reasonable for a rural village. However, to access any wider services there will be heavy reliance on the private car. Hook Norton is remote from the main urban areas of the district and is connected only by minor roads as a matter of fact. Whether people will work at home or not, or buy low emission vehicles as suggested in re-examination, cannot render development in such a location sustainable. The Appellant could have produced evidence to show that in fact public transport take-up was high. It has not. Given the facts of the length of journey time, the frequency of service, and that the one bus route only really serves Banbury 40 minutes away, it can be concluded take-up is poor and reliance on the car high.

Relative sustainability of Hook Norton

104. The proposal cannot be justified by its relative sustainability in light of the housing shortfall. The Council submits that the Appellant cannot make out its case that Hook Norton is a suitable location for up to 98 additional units⁴¹. Nor can it seek to do so by suggesting it is somehow the Council's responsibility to identify better sites. That is a matter for plan making rather than a section 78 appeal.

³⁹ Agreed by Boswell in cross examination.

⁴⁰ E-mail 27/07/12

⁴¹ Up to 70 on the appeal site plus 28 on the former site of Stanton Engineering

105. The appellant has not provided its own assessment of relative sustainability, nor does it accept the Cherwell Rural Area Integrated Transport and Land Use Study (CRAITLUS) which rates Hook Norton as a type A settlement that does not have high overall sustainability ratings⁴².
106. The Council submits that the proper forum for considering the CRAITLUS report is alongside the Local Plan policies for which it provides part of the evidence base. The Council refers and relies on CRAITLUS at this Inquiry as a detailed and comprehensive assessment of relative sustainability by a respected national firm. There is no alternative assessment of overall relative sustainability before the inquiry. Mr Boswell confirmed that he had not carried out his own assessment of relative sustainability and does not put forward an alternative model to be used to assess relative sustainability. Mr Boswell also confirmed that in producing his own evidence as to relative sustainability he did not refer to census data, and that the CRAITLUS study itself did have regard to the census information⁴³. Census data in any event does not say anything about relative sustainability in terms of public transport use, car use, or use of other sustainable modes of transport.
107. Mr Boswell's real criticism is down to his professional view that the model does not pass the reality check. Halcrow, the author of the CRAITLUS Report evidently disagrees - being aware of the main criticisms raised relating to 15% of out-commuting from Oxfordshire in the Local Transport Plan, and the proportion of London-bound travel disclosed by the model⁴⁴.
108. Two major points emerge from Mr Boswell's evidence. Firstly, taking those parts of CRAITLUS that Mr Boswell is happy to accept, Hook Norton is not the most sustainable or even one of the top few most sustainable settlements in the rural area. In cross-examination it was agreed that in relation to those elements of this study not disputed by the Appellant that Hook Norton falls behind the Group 1⁴⁵ villages in terms of public transport time to key services (10 villages can access all key services within 30 minutes by public transport unlike Hook Norton⁴⁶). It was also agreed that the village falls behind Group 1 villages in terms of car accessibility, with 19 villages performing better, reflecting that the village sits on minor roads 14km from Banbury⁴⁷.
109. Secondly, even once adjusted by Mr Boswell's revisions (which are not accepted) with all of the Group 1 (using the emerging Local Plan categories) villages being above it⁴⁸. At best then it is a mid-ranking rural village. Mr Boswell agrees that his evidence in chief re-visiting the scores was not maintainable, based on the census data, as it would be not comparing like with like. Notwithstanding that these final submissions do not rehearse the evidence given and tested in detail at the Inquiry, these

⁴² As depicted in CRATLUS, Table 1.1, page 4

⁴³ Boswell, appendix E, paragraph 1.3

⁴⁴ CRAITLUS 6.8.1, 6.8.2

⁴⁵ PSDLP, policy 1 villages

⁴⁶ CRAITLUS table 3.1 and paragraphs 3.4.1 to 3.5.1

⁴⁷ CRAITLUS table 5.2 and section 5

⁴⁸ In the revised CRAITLUS Table 8.1 Hook Norton would be 9th with Cropredy 10th

two broad points suffice to dismiss the Appellant's suggestion that Hook Norton is so relatively sustainable that it should take 98 additional housing units.

110. As to other evidence of relative sustainability, the Appellant makes much of the facilities within the village. The Council recognises that there is a reasonable range of facilities in the village. However, that is the case with a number of the villages, as shown in the initial CRAITLUS review, and the updates provided by the appellant⁴⁹. However, these are assessments of necessarily limited services in rural areas. They do not warrant by themselves substantial new housing in any particular village.
111. What then is the justification for placing a further 70 not only at but outside Hook Norton with the consequent impact on the countryside? Even on the Appellant's own re-interpretation of the CRAITLUS report it is clear that the Council's proposed strategy in the emerging Local Plan is correct to identify more accessible, sustainable villages, which are better related to the main urban areas.
112. If the Appellant wishes not to rely on CRAITLUS, then it must justify development of this scale at this location. This proposal is then about the development plan policies that seek to direct housing on the grounds of sustainability. Judged by itself, there is no evidence of the relative sustainability of this location that would warrant a departure from the development plan. The Appellant fails to justify its position on grounds of relative sustainability. At best their case appears to be that there are some more sustainable villages, but also there are worse. This does not provide an endorsement of their application for permission.
113. If on other hand it is reasonable to rely on the relative sustainability assessment in CRAITLUS then this certainly does not support the identification of Hook Norton for 98 units in comparison with other more accessible villages within the district. The CRAITLUS study following its detailed analysis singled Hook Norton out as a village which should not be identified as of high overall sustainability, unlike the other Category A villages, due to its particular remoteness⁵⁰.

d) whether the proposal would be premature thereby compromising the ability of the emerging Cherwell Local Plan to set the spatial vision for the area having regard to localism and the advice in paragraphs 17-19 of The Planning System: General Principles.

114. Whilst the approach would not be premature it would be contrary to the objective of a core planning principle of the Framework, namely to empower local people to shape their surroundings.

e) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.

⁴⁹ Up to 70 on the appeal site plus 28 on the former site of Stanton Engineering

⁵⁰ See especially paragraphs 7.4.1 and 8.3.4 of CRAITLUS

115. In order to mitigate the impact of the development on local public infrastructure and services, and to secure the affordable housing proposed, planning obligations are necessary. Notwithstanding the Council's continued opposition to the proposal the Council is satisfied that the submitted section 106 agreement addresses these matters.

(f) Other material considerations

Housing land supply

116. There is a considerable degree of common ground as to the housing land supply picture as set out in the Statement of Common Ground. The Council has at all times accepted that it cannot demonstrate a five year supply of deliverable sites, as referred to in the reason for refusal. It is submitted that in light of the range agreed between the parties it is unnecessary to identify a precise figure. The Council has not resolved a formal position as to whether a 5% or 20% buffer should apply. The Liverpool approach would ensure that the shortfall is addressed over the plan period.
117. Whilst not relevant to whether there is a five year supply or not at this moment in time Mr P Smith draws attention to the number of permissions that are in fact extant and are in train to deliver beyond the five year period⁵¹. In addition, the 5 year supply figure at present does not include any windfall allowance, which will be addressed through the next Annual Monitoring Report.
118. The Council accepts that the lack of a 5 year housing land supply and the unmet need for affordable housing attracts significant weight in the balancing exercise. However, it is not accepted that the weight to be afforded to the benefits of the proposed development in this regard is sufficient to outweigh the breaches of the development plan and its inconsistency with some of the core principles of the Framework.

Conclusions

119. There is a clear breach of the development plan and so planning permission must be refused unless material considerations indicate otherwise. The Framework is a highly important material consideration. As there is an absence of a 5 year housing land supply paragraph 49 is engaged and the paragraph 14 balancing exercise applies.
120. There are 4 considerations that weigh against the appeal. Firstly, it is contrary to the spatial strategy contained within the development plan which promotes sustainability and the protection of the countryside. This weighs heavily in the balance. Secondly, there is significant harm to visual amenity and to the countryside through the loss of open rural undeveloped land. Thirdly, when assessed against the Framework itself the development is not sustainable. This is because it does not overall promote an environmental role and conflicts with several core planning principles of the Framework including sustainable transport modes.

⁵¹ Smith's proof, paragraph 6.28

121. There are 3 benefits of the scheme. Firstly, it will deliver economic benefits. Secondly, it will deliver 70 houses in a district which has a shortfall. Thirdly, it will deliver affordable housing that will help address the needs of the village.
122. Given the shortcomings that weigh against the proposal the factors in its favour are insufficient to pass the necessary balancing test. In terms of relative sustainability the appellant has not shown that the appeal site was of such high relative sustainability despite the harm caused as to be justified. That must form part of the Local Plan process which is at pre-submission draft stage and upon which consultation has taken place. An adopted plan is expected in 2013. Due weight should be accorded to this. In conclusion therefore the appeal should be dismissed.

The Case for Objectors who appeared at the Inquiry

Sir Tony Baldry, Member of Parliament for Banbury

123. The appellant's application is unsure on several grounds. Firstly, the Council has completed public consultation on the PSDLP. Officers have been considering and evaluating the responses to that consultation and it is understood that the elected members are due to take final decisions in respect of the Draft Plan in February 2013 at which point it will be an agreed Draft Local Plan. The only delay in the process of it becoming an approved Local Plan will be the examination in public, undertaken by an Inspector appointed by the Secretary of State. It is hoped that will be no later than Easter 2013⁵².
124. Present planning ministers have made it clear that in introducing Local Plans under the new National Planning Policy Framework ('the Framework') Planning Inspectors should give due and appropriate weight to agreed and emerging Local Plans.
125. In 2012 the then Planning Minister, the Rt Hon Greg Clark MP made assurances to the House that he had made it clear to the Planning Inspectorate that the Framework provided for a localist approach and provided a framework for local decisions. He advised that he expected decisions to be taken in that vein and would expect to see a sample of decisions, including the examination of plans, to ensure that is happening.
126. The Council's PSDLP contains robust provisions for new housing. The plan clearly sets out a clear deliverable 5 year housing strategy for each year between now and 2031. The plan envisages much of the new housing will be built in or around the 2 largest towns in the district – Banbury and Bicester, rightly using wherever possible brownfield sites. Cherwell is a district that is determined to ensure that there is full and proper housing provision made in the Local Plan over its period with robust proposals for new housing development. I believe at the examination in public that there will be little debate about whether or not the overall housing figures are credible.
127. The PSDLP makes provision for 189 new houses to be built amongst the Group 2 villages, which includes Hook Norton. This equates to approximately 38 dwellings per village. A number of these villages, including Hook Norton, have

⁵² Inspector's note: at the time of concluding this report, in April 2013, the Council had not submitted its Local Plan to the Planning Inspectorate for examination.

commenced work on Neighbourhood Plans to consider what housing provision their village should have over this period, and where such housing should best be situated within their villages. It is envisaged that sites for all 189 houses will be found consensually through this process.

128. It is simply premature for this planning application to be considered having regards to the provisions of the PSDLP and before Hook Norton has had the opportunity to complete its Neighbourhood Plan. It is also opportunistic. In recent months there have been a number of planning applications from developers hoping to get their planning applications approved prior to the new Local Plan being adopted.
129. Much is made of the suggestion that the District does not have a 5 year supply of housing land. The reality is that there are some sizeable housing sites for which planning permission has been granted where development due to wider economic problems has not occurred as speedily as any of us would have wished. Such sites include Upper Heyford. The Council has no control over the rate at which house builders deliver houses once planning permission has been granted. It would not be good practice to enable house builders to build opportunistically on sites of their own choosing when other sites where planning permission has been granted are not being built upon. When those planning permissions are taken into account, where construction has not yet commenced, Cherwell has a sufficient and adequate 5 year housing land supply.
130. The then Planning Minister Rt Hon Greg Clark at the beginning of 2012 in response to a question I asked of him advised that planning permissions granted by the Council should be taken into account by the Inspectorate and that the Framework confirmed this approach.
131. To allow this appeal would be contrary to a plan-led system and undermine the Framework. It would also go against the undertakings made by Ministers in respect of the proper consideration of emerging and agreed Local Plans and the taking into account of planning permissions for new housing that have already been agreed.

Julia Edwards, Mr Gardner and Mr Cooke on behalf of Hook Norton Parish Council.

132. The representations contained within a statement from each of the 3 representatives of the Parish Council have been collated and are presented in Document 1. The statements are not repeated in detail here. The main points of Ms Edwards's statement, who is a Chartered Member of the Landscape Institute, were 3 fold. Firstly, that the appeal site was open countryside and that the development would intrude into it. In support of this, reference was made to an appeal that was dismissed in relation to spectator stands and floodlighting on land to the west of the site due to the intrusive and harmful effect that it would have on the open countryside (ref APP/C3105/A/03/1114634). Secondly, at up to 70 houses in size the scale of the development was too large for the village. Thirdly, that in light of recent planning permissions in the village, most notably on the site of Stanton Engineering, the PSDLP and work starting on the Hook Norton Neighbourhood Plan, the application is premature and contrary to the Framework and the principles of localism.
133. In response to the appellant's advocate she agreed that she did not question the objectivity of the appellant's visual landscape appraisal, or the Council's

comments with regard to it. She confirmed that she had not carried out a formal visual landscape appraisal of the site as carried out by the appellant, or assessed the site in a manner similar to that carried out by the Council. In relation to a similar recent appeal for new houses on the edge of Adderbury (ref APP/C3105/A/12/2168102) she did not accept that it had been dismissed mainly because of the site specific circumstances and the adverse effect on the character and appearance of the area.

134. Mr Gardner is an environmental consultant who carries out, amongst other work, sustainability appraisals for planning purposes. His statement is a critique of alleged shortcomings of the Design and Access Statement⁵³ and the assertions made in the statements of Mr Boswell and Ms Ventham.
135. In response to the appellant's advocate he agreed that the section 106 agreement would ensure sufficient primary school places would be provided if the development went ahead. However, he pointed out that the expansion of the nursery for example would not be covered by this mechanism. It was accepted that certain criticisms of the proofs of Mr Boswell and Ms Ventham did not hold true. For example in relation the percentage of home workers in the village he asserted that it was less than stated by the appellant and that the Council had not identified the appeal site as a possible development site.
136. Mr Cooke, is a member of the Parish Council. The main points of his statement are as follows. The appellant did not consult with the community until after the planning application had been made. The application was opportunistic and made as a result of the Council not having a 5 year housing land supply. It repeated many times over such applications would see the bulk of new housing needed in the District being built in villages rather than in larger settlements. The Parish Council is in the process of preparing a Neighbourhood Plan and is working with Cherwell Community Land Trust to unlock land to the south of the appeal site in order to develop it for affordable housing. It is not proven that this land is landlocked with access only possible via the appeal site. The proposed development would be to the detriment of the local people deciding upon the location of new housing in the village. The amount of housing in the appeal scheme is greater than that proposed for the village in the PSDLP. It was conceded in cross examination that the consultation period which followed the planning application meant that the village had been given the opportunity to comment.

Councillor Irvine, Hook Norton ward, Cherwell District Council

137. There is strong local opposition to the development. The proposed development would be too large and in the wrong place. 341 letters at application stage were sent in opposition to the proposed development. Approximately 100 people have attended this public session of the Inquiry to oppose the development. The village is working on a Neighbourhood Plan to decide where new housing in the village should be built. This Plan should guide where development occurs and ensure that the amount of new housing allowed in the village is in keeping with the PSDLP.

⁵³ For example, the Design and Access Statement wrongly refers to a railway station at Chipping Norton(3.1.1) and refers to the current concept of a maximum of 10 dwellings (10.1.3)

Mr Head, local resident

138. The representations of Mr Head are set out in document 11 and are not repeated here. Mr Head made an oral submission. He was concerned that the affordable housing that would be built as part of the development would not go to local people but would be allocated to other people in greatest need across the District. As a result, young adults who had grown up in the village would be forced to move out.

Mr Broughton, local resident

139. The representations of Mr Broughton are set out in document 3 and are not repeated here. Mr Broughton also made an oral contribution confirming that in his opinion the development would also be too large and in the wrong place.

Mrs Heyward, Hook Norton Low Carbon (HNLC) & Mr Heyward, HNLC and Member of Hook Norton Parish Council

140. Hook Norton Low Carbon was formed to help the village reduce energy use and carbon dioxide emissions. The proposed development would be too large and in the wrong place. New development should be focussed on urban areas and previously developed land. Each additional house would significantly increase carbon dioxide generation as a result of regular travel to and from Banbury or similar sized towns by car. HNLC aspire that new housing is constructed to level 6 of the Code for Sustainable Homes. The appellant would not build to this standard. Small amounts of housing should be built in villages where the priority should be affordable homes.

Mr Watkins, local resident

141. He confirmed that he took an active interest in the village and sits on the Neighbourhood Plan group. In comparison to the size of the village the proposal is a very large development. In terms of accessibility public transport is non-existent. In winter the village is often cut off due to snow. Hook Norton is not the right location for so many new houses.

Mr Bailey, local resident

142. He emphasised the following points made in the majority of written representations received in relation to the proposed development. The village cannot handle the extra traffic that the development would generate. There are therefore concerns regarding highway safety and the free flow of traffic. It would be unlikely that the primary school would be increased in size before the proposed houses are built. As a result children who already live in the village may have to travel to primary schools in nearby villages. The surrounding countryside is beautiful and would be harmed by the development. He added that, in his view, taken together the adverse impacts of the proposal clearly and demonstrably outweigh the benefits and so in accordance with the Framework the appeal should be dismissed.

Mr Bassett, local resident

143. Mr Bassett made the following points which reiterate the concerns of many of the written representations received. He stated that the playgroup in the village is close to capacity. He understands that the Doctor's practice is full and that the dental practice is very busy. Both would need to expand. In the absence of

the appellant producing a sustainability appraisal of their own the Council's assessment of the sustainability of the village is correct.

Mr Smith, local resident

144. In Mr Smith's view contrary to the assertion of the appellant, with which he strongly disagreed, the development would harm the character and appearance of Bourne Lane.

Written Representations

145. 51 e-mailed objections and 16 letters of objection were received at appeal stage. 1 e-mail of support was received at the same stage. In addition copies of the 341 letter of representation received by the Council at application stage are included within the Council's questionnaire documentation (316 objected to the scheme, 7 were in support and the remainder made neutral comments). The issues of most concern to the greatest number of correspondents were almost all raised and discussed in detail by the interested parties who attended the Inquiry and are noted in preceding paragraphs.

146. Other matters raised in correspondence include:

- the poor quality of the electricity and broadband infrastructure;
- absence of a piped gas supply to the village and reliance on deliveries of oil and gas;
- that the proposed development would result in the loss of land used by walkers and dog walkers; and,
- that the proposed development would result in the loss of good quality agricultural land.

Conditions

147. A schedule of suggested conditions formed part of the Statement of Common Ground. The conditions and the reasons for them were discussed in full at the Inquiry.

148. The application is in outline and condition 1 identifies the reserved matters that need to be the subject of a further application. Condition 2 applies a 1 year time limit for the submission of reserved matters rather than the normal period of 3 years. Condition 3 requires that development commences within 1 year of the approval of the last of the reserved matters rather than the normal time limit of 2 years. These conditions are necessary to ensure as far possible, given the time it could take for all the reserved matters to be agreed by the Council, that the development promptly contributes to meeting the housing targets for the District.

149. Condition 4 is necessary to ensure that the development complements other nearby development in this edge of the village location. In order to protect wildlife and enhance the ecological value of the site conditions 6,7 and 8 are should also be imposed. In the interests of minimising the risks from flooding and in order to protect public health conditions 9 and 10 are necessary.

150. In order to ensure that the water infrastructure can cater for the development and in the interests of fire safety conditions 11 and 12 should be imposed.

Condition 13 is necessary to protect any features of archaeological value which given the history of the area it is reasonable to believe may be present on the site. To minimise the impact of construction traffic on the free and safe flow of traffic in the village condition 14 should be imposed. To ensure that the Local Area of Play is provided in accordance with the Council's policy condition 15 should be used. Condition 16 is necessary to ensure that any planting as part of the landscaping scheme submitted at reserved matters stage is properly maintained so that it can become established. To protect highway safety conditions 17 to 20 should be imposed.

151. The appellant objected to condition 5 on the basis that it was not necessary. An important part of assessing the design of the proposal and whether it would fit in with the village's pattern of development and the site's location on the edge of the village was the indicative site layout. As this plan was carefully developed as a response to the site and its setting, and given that it was a consideration in reaching my conclusion that the scheme was acceptable, it would be appropriate to require that any details should reflect its approach. I am not convinced that a development scheme that was not substantially consistent with this plan would be acceptable in terms of how it would relate to its surroundings. It is therefore necessary that the final scheme is consistent with the indicative site layout.
152. The Council also suggested a condition to ensure that access is safeguarded to a land locked parcel of land to the south of the site. The Parish Council and Cherwell Community Land Trust are intending to develop this land for affordable housing. However, the evidence that has been presented is insufficient to demonstrate that the development of this parcel of land forms part of a comprehensive planned scheme for the development of the area. It is also not clear that access could only be obtained via the appeal site⁵⁴. As a consequence, noting that this is a matter which is normally resolved by negotiation between landowners, it would be inappropriate to require that access to this parcel of land is safeguarded by condition. I recommend therefore that this condition is not attached.

⁵⁴ See paragraph 136.

Inspector's Conclusions

153. The following considerations and conclusions are based upon the evidence presented to the Inquiry in both written and oral format, upon the written representations submitted and on my inspection of the appeal site and the surrounding area. In this section the numbers in square brackets [] refer to paragraphs in the preceding sections of this Report.

Main Issues

154. Based upon the reasons for refusal, the grounds of appeal and the representations that have been made I consider the main issues are as follows -

- a) whether the proposed development would be in accordance with the development plan for the area.
- b) the effect of the proposed development on the character and appearance of the area.
- c) whether the proposed development would be a sustainable form of development having regard to the development plan and Government policies in the National Planning Policy Framework ('the Framework').
- d) whether the proposal would be premature thereby compromising the ability of the emerging Cherwell Local Plan to set the spatial vision for the area having regard to localism and the advice in paragraphs 17-19 of The Planning System: General Principles.
- e) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.
- f) whether, in the event of harm being found in any other respect, and / or that the proposal conflicts with the development plan, there are any other material considerations, including the supply of housing land which would warrant approving the proposal.

a) The development plan

155. As no locally relevant policies of the South East Plan (SEP) remain the development plan for the area consists of the saved policies of the adopted Cherwell Local Plan (Local Plan). The Local Plan set out the planning framework for the District between 1996 and 2001 [17,18].

156. In the interests of sustainable development policy SP3 of the SEP focused new development on urban areas and previously developed land. Policy CC3 promoted sustainable communities. Both were high level strategic policies whose purpose was to inform planning policy at a local level. These policies were both cited by the Council in its first reason for refusal of the proposed development. The Government revoked almost all of the policies of the SEP in March of this year, including policies CC6 and SP3. However, as the thrust of these policies is contained within the National Planning Policy Framework ('The Framework') their revocation does not significantly alter the planning policy context for the appeal [17, 30 and 87].

157. Policy C8 of the Local Plan applies to all new development beyond the built up limits of settlements. It resists sporadic development in the open countryside in order to protect its open rural character. Policy H12 of the Local Plan is an overarching policy governing new housing development in rural areas within which policy H13 operates. Policy H13 of the Local Plan advises that new housing in Hook Norton, and certain other villages, through infilling small gaps, the development of small groups of houses within the built up area of the settlement and conversion will be supported. This policy approach is carried forward into Policy Villages 1 of the Pre Submission Draft Local Plan (PSDLP). Policy H18 of the Local Plan strictly controls new housing beyond the built up limits of settlements by restricting it to that which is essential for agriculture and other rural enterprises and for small scale low cost housing to address local housing need. Given that the appeal site is clearly part of the open countryside adjacent to the built up area of the settlement, and does not fall within one of the types of housing development identified by policy H18, the location of the proposed development would not comply with the development plan [18].
158. However, the policies of the Local Plan that relate to new housing in rural villages such as Hook Norton were formulated some 17 years ago in the context of the now defunct Structure Plan. As a consequence, and having regard to the advice in paragraph 215 of the Framework, they do not provide for an up to date housing provision. That said, it remains the development plan and I have accordingly considered the proposal against its policies, as well as those of the Framework, and shall conclude on the weight I can attach to them in my overall balancing judgment.
159. Work began on a replacement to the adopted Local Plan in 1998 but the Non - Statutory Cherwell Local Plan (2011) was abandoned in 2004. In 2007 a timetable was published for the adoption of a Core Strategy in 2010. However, this was not achieved. In 2012 a new timetable envisaged adoption of the PSDLP by March 2013. This also has not been achieved. The current position is that the PSDLP has been prepared and public consultation on it has been completed. However, some of the specific objections to the Plan relate to the fact that key evidence (e.g. Strategic Housing Market Assessment and Strategic Housing Land Availability Assessment) to inform the spatial distribution and numbers of houses proposed has either not been completed or has not been published. Questions therefore exist as to whether the number of houses sought and their distribution accurately reflects what is required. The PSDLP update report to the Council Executive in December 2012 recognises that this could result in changes to the Plan. Given that the plan has not yet been submitted for examination and the unresolved questions regarding its evidence base little weight should be attached to it [19,21,36-43,92-93].

b) The effect of the proposed development on the character and appearance of the area.

160. The appeal site is located on the northern edge of the village and forms part of a larger field to the north. Residential development faces the site on the opposite side of Bourne Lane to the east and housing adjoins the site along Bourne Lane to the south. Hook Norton Sports and Social Club sits along the western boundary to the site [11,12].

161. Given that the appeal site is on the edge of the village within the open countryside rather than in an isolated location I consider that of the development plan policies saved policies H13 and H18 of the Local Plan are the most relevant to this issue. A core principle in paragraph 17 of the Framework is that the intrinsic character and beauty of the countryside should be recognised in both plan making and decision taking. The approach of the Local Plan to confine new housing, other than in certain specified instances, to within the built up areas of settlements is consistent with this approach.
162. The introduction of houses, access roads and associated domestic paraphernalia onto the site would urbanise the site. The resulting loss of the open undeveloped green field nature of the site would cause harm to the countryside [97-98]. The visual impact of the development would be limited to mainly that which could be seen from adjacent land and roads owing to the flatness of the site and the mature hedges around surrounding fields. In views from the public rights of way that cut across the northern part of the site the proposed housing would be enclosed by housing along Bourne Lane and development associated with the Sports and Social Club. Reinforcement and extension of the hedge by the existing pond from the eastern side of the site to the western side shown on the illustrative Master Plan (drawing reference 13070/15) would enclose housing on the site and separate it from the field to the north.
163. Although the northern end of the appeal site extends beyond the built edge of the village to the east and west the Design and Access Statement shows how this land could be left undeveloped and used as public open space. As a consequence, the proposed development would not protrude beyond the northern edge of the village into the surrounding countryside.
164. In long distance views the site is only visible from higher ground mainly to the south of the village. From these positions development of the appeal site would relate well as an extension to the existing built form of the settlement and would not appear prominent or obtrusive.
165. The report of the Planning Inspector on the Cherwell Local Plan prior to its adoption in 1996 stated that development of the site would be an extension of the village into the countryside that would be visible over a wide area, particularly from the west. However, since the report was written development at the sports and social club has served to enclose a significant section of the western side of the site. In the statement of common ground the Council and the appellant, having regard to Area of High Landscape Value identified by the Local Plan and the LVA carried out by the appellant, also agree that there would be no landscape character harm from development of the site. On the basis of the evidence submitted in relation to this matter, and what I saw of the site and its surroundings, I agree that its context is significantly different now to what it was in 1996 and find that the development would not be visible over a wide area. As a consequence, I attach comparatively little weight to the finding of the Planning Inspector in 1996 [23,45,48d and 98].
166. The proposed development at up to 70 units would be larger than many other developments that have been built in the village. However, the Design and Access Statement, despite containing some errors pointed out by the Parish Council, is a useful document [134]. It advises that housing would be predominantly 2 storeys which would be in keeping with the scale of nearby

housing. The Statement also indicates how it could be set back from Bourne Lane and the northern and eastern boundaries of the site with soft landscaping. This would complement the setback of development on the other side of Bourne Lane and assist the development to merge into its surroundings to the north. With the control that can be exerted at reserved matters stage in relation to landscaping, layout, scale and appearance there is no reason why well conceived houses that complement the vernacular of the village could not be designed.

167. Taking all these matters into account, I conclude that the development of this greenfield site through the loss of its open and rural nature would cause a moderate amount of harm to the character and appearance of the countryside, and to that extent some local landscape harm. This harm would not be overcome by the site only being readily visible from adjacent land, the fact that there would not be material harm to the wider landscape character area, or the potential for an attractively designed development. The urbanisation of this land would be contrary to a core principle of the Framework and policies H13 and H18 of the Local Plan [18, 47 and 97-98].

c) Sustainable development

168. Sustainable development and the presumption in its favour are at the heart of the Framework. The appeal site is located within easy walking distance of the centre of the village and the range of shops, services and facilities that it has to offer. This includes a primary school, post office, village shop selling a wide range of produce, and dentist's and doctor's surgeries. The settlement, other than in relation to employment, is capable of meeting many of the day to day needs of its residents. In recognition of this the adopted Local Plan and the Non Statutory Cherwell Local Plan both identified Hook Norton as a 'Category 1' settlement. This is the highest category in terms of the facilities and services present. Based upon the assessment carried out by the appellant I agree that the facilities and services within the village are similar to those found in the most sustainable villages in the District. In reaching this conclusion I recognise that the village does not have a piped gas supply and that as a result many residents rely on deliveries of oil and gas to heat their homes. Residents also report that from time to time there are problems with the electricity supply and that broadband connectivity can be poor. However, these considerations are insufficient to alter my overall assessment of the services and facilities within the settlement [13,18,19,55 and 146].

169. Turning to the economic aspects of sustainability, the government has placed great importance on development as a driver of economic growth which is its number one priority. The construction of the proposed development would generate according to the appellant up to 105 construction jobs. This has not been challenged by the Council. Post completion the spending of an additional 70 households would be significant and would benefit the economy of the village and the District. The local planning authority and the County Council would also receive additional money through the New Homes Bonus to spend on local services and facilities [51].

170. In terms of the social aspect of sustainability, the proposed development would help address the shortage of housing generally in the District and in particular the shortage of affordable housing in the village. Paragraph 7 of the Framework advises meeting the need for new housing supports strong, vibrant and healthy

communities. The local experience at present, due to the shortage of affordable housing, is that young adults who have grown up in the village are being forced to move out. The proposed development in providing 21 affordable homes could by itself largely address the identified need for 25 such homes in the settlement. In combination with the Stanton Engineering development the identified need for affordable housing in the village would be fully met and a contribution would be made to meeting the district wide shortfall [71b, 52, and 138].

171. I recognise that the village already has a high quality play area. However, the amenity space and area of play that would be incorporated into the development would add to the play space available to all in the village, as well as meeting the needs of future residents of the proposed development. As a consequence, it is a social benefit of the scheme. The increase in the spending power of the local economy would also help support the services and facilities within the village that are such an asset to the community [52].
172. In relation to the environment, I earlier found that although the loss of the site would cause harm to the character and appearance of the countryside this harm would be limited to short distance views of the site. In terms of the form and appearance of the development it would complement that of the village. Whilst the development would result in the loss of agricultural land no evidence has been presented that it is the best and most versatile of such land. The construction of the houses would comply with Building Regulations and therefore would be energy efficient with low carbon dioxide emissions. The inclusion of managed public open space and a pond as part of the surface water drainage of the site would provide the opportunity to enhance its ecological value [24,53,140 & 146].
173. I recognise that there is potential for the proposed development to be constructed before expansion of the local primary school occurs. This would require children to attend other nearby schools which would inconvenience local people. However, funding to address the situation is included in a planning obligation and so the inconvenience is likely to be short lived. There are widespread concerns that services in the village such as the doctor's and dental practices are full and would be unable to provide a service to everyone in the village if the proposed development went ahead. However, I am confident that they would be able to expand and cater for the increased population [142,143].

Relative sustainability of Hook Norton

174. Although I have attached little weight to the draft Local Plan it and the spatial strategy contained within it are still material considerations. Policy Villages 2 of the PSDLP proposes that housing growth should be distributed between rural settlements according to the sustainability of the settlements. The 'Cherwell Rural Areas Integrated Transport and Land Use Study' (CRAITLUS) has informed the PSDLP in this regard. Work carried out by the appellant comparing facilities and services in Hook Norton with other villages in the District has included using a variation of the CRAITLUS categories. In terms of services and facilities this work ranked Hook Norton alongside the Group 1 rural settlements identified by the PSDLP as being suitable for taking the bulk of new rural housing. When the presence of a doctor's surgery and dental practice was included it was within the top 3 of such settlements. On the basis of the available evidence I agree with these assessments. This ranking of the village is consistent with the adopted

Local Plan and the Non Statutory Cherwell Local Plan which categorised Hook Norton in terms of facilities as a category 1 village. However, overall it was categorised as a village with medium sustainability ratings by CRAITLUS because it scored poorly in terms of total network travel time and distance. This is as a result of Hook Norton being located on minor roads off the A361 some 14km from Banbury [17,19,60, 61 and 108].

175. In terms of car accessibility, only one village is less than 10 minutes travel time away from all key services and facilities. Hook Norton is between 10 and 15 minutes away by car. Therefore whilst there are 19 villages that have shorter car journey times than Hook Norton the difference is comparatively small and insufficient to indicate that Hook Norton is a remote village in an unsustainable location [108 and footnote 47].
176. The commuting destinations inputted into the CRAITLUS model, a number of which are outside of the County, are not supported by data from the Office for National Statistics (ONS). These indicate that residents commute shorter distances similar to the most sustainable villages identified by Policy Villages 2 [61 & 62]. The ONS data also shows that in keeping with other villages in the District a significant number of residents work from home. Whilst future residents would make trips by private car it therefore appears that the travel time and the distances involved are not so different to those of the more highly rated Group 1 villages as to render Hook Norton unsuitable for additional housing.
177. Opportunities to travel by public transport also need to be considered. The No 488 bus service links Hook Norton with Chipping Norton to the south and Banbury to the north. Whilst unlike 10 other villages this bus service cannot link Hook Norton with all key services within 30 minutes, it can access the majority of key services within this time period and all such services within an hour [108 & footnote 46].
178. The No 488 service operates at 60 minute intervals Mondays to Saturdays. The service starts early enough in the day and finishes late enough to allow residents of the village to commute to Banbury but not Chipping Norton. The service allows residents to access the wider range of services and facilities in both towns. The absence of an evening and Sunday service is a limitation. However, in my judgement, Hook Norton has a reasonable level of service [13,55 and 101].
179. For reasons of convenience and quicker overall travelling time if permission was granted it is reasonable to assume that many future residents who need to commute to work would choose to do so by car. However, the provisions of the Section 106 agreement would ensure that residents of the development would be within convenient walking distance of a bus stop. An additional bus would also be funded by for several years by this agreement to operate each day. If the service was well used it would continue. These improvements would ensure that the proposed development would be reasonably well served by public transport. As a result, residents would have the opportunity to make sustainable transport choices in accordance with the objectives of the Framework. This would be of particular benefit to the elderly and those on lower incomes whether they would live in the proposed housing or are existing residents of the village [65].

180. Taking all these matters into account, whilst I accept that residents of the village, in travelling further than residents of a number of other villages to nearby towns, would generate more carbon dioxide emissions, I conclude, on balance, that the village is in a relatively sustainable location for development.

Overall Conclusion on Sustainability

181. Taking all these factors into account, I conclude, based upon the overall balance of considerations, that the proposal would be a sustainable development. This is a significant factor in favour of the development.

d) Prematurity and localism

182. A core planning principle of the Framework is to empower local people to shape their surroundings. Work has started on preparation of the Hook Norton Neighbourhood Plan, but a draft of the plan has yet to be produced. The PSDLP for the whole of the Plan period ending in 2031 proposes a total of 189 new houses in Hook Norton and the other Group 2 villages. This crudely equates to 38 houses per village. On the basis of the Council resolving to grant permission for 28 houses at the former site of Stanton Engineering, and the small number of dwellings that will be built on infill sites, over 100 new houses would be built in the village if the appeal proposal went ahead. This would be over twice the number of dwellings the PSDLP envisages for the village if the figure of 189 is divided equally between the 5 Group 2 villages [127].

183. However, any Neighbourhood Plan must be based upon the strategy set down in a Local Plan and the Council accepted that as the PSDLP, upon which the Neighbourhood Plan is to be based, has not yet been subject to examination, and there are unresolved objections, no question of prematurity applies in this case. Furthermore, the proposed development is not of a strategic scale in the context of Cherwell District and so would not prejudice the emerging spatial vision for the area. The advice contained within 'The Planning System: General Principles' (Office for the Deputy Prime Minister 2005) supports this stance.

184. There are strongly held objections to the proposed development. Over 300 letters of objection were sent in by local residents at application stage and 67 items of correspondence were sent in objection at appeal stage. A large number of villagers attended the Council committee meetings when the application was considered. At the Inquiry the Parish Council represented the concerns of the village along with a local councillor of Cherwell District Council and the Member of Parliament for the area. A number of local residents also spoke and the evening session of the Inquiry was particularly well attended. I have given due consideration to the objections raised to the proposal on planning grounds and answers given by planning ministers to questions in the House regarding the role of localism in decision making. However, the extent of local opposition in itself is not a reasonable ground for resisting development. In addition, the mechanism via which localism works is the local plan, which is at too early a stage to have more than little weight attached to it, and the neighbourhood plan, a draft of which has not yet been written [123-146].

185. For all of the reasons given above I conclude that little weight should be attached to prematurity or local opposition against the scheme [67].

e) Planning obligations

186. The appellants and the Council have agreed a planning obligation under S106 of the Town and Country Planning Act 1990 (as amended) and a signed copy was submitted at the Inquiry⁵⁵. The Council have also submitted a statement⁵⁶ that they consider demonstrates the compliance of the S106 Obligation with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the tests in paragraph 204 of the Framework. To be compliant, contributions must be necessary in planning terms, directly related to the development and fair and reasonably related in scale to it.
187. The obligation has been drawn up having regard to policies H5, TR1 and R12 of the Local Plan, policies H7, TR4, R8, R9 and R10A of the Non Statutory Cherwell Local Plan 2011 (NSCLP) and the draft supplementary planning document 'Planning Obligations' (SPD). Although the NSCLP is not part of the development plan and work on it was abandoned in 2004 it is used by the Council as interim planning policy for development control purposes. Owing to its age and status I attach comparatively little weight to it. The draft SPD is a well researched document however as informal guidance it does not carry the same weight as a formally adopted SPD. Nevertheless, it is still a material consideration and I attach some weight to it. I have taken these policies and the SPD into account on this basis in the assessment of the provisions of the obligation against the requirements of Regulation 122 and the tests in the Framework.
188. The section 106 agreement contains a number of obligations. These include ensuring that 30% of the housing to be constructed is affordable, the payment of £91,263 towards the upgrading of off site open space at Hook Norton Sports Club and a commuted sum towards the cost of future maintenance of the Local Area of Play, informal open space, pond and hedges. £4,725 is sought towards the cost of providing refuse and recycling containers for the new dwellings. At County Council level a sum of £474,131 is sought to fund the expansion of the primary school in Hook Norton. An infrastructure contribution of £75,416 is sought towards transportation and £25,009 towards other infrastructure.
189. In terms of affordable housing there is an established unmet need in the village. Consistent with the Framework policy H5 of the adopted Local Plan requires that such housing is provided as part of the proposed development. Similarly, on the basis of the evidence base for open space, sport and recreation facilities referred to in the SPD the development will generate additional demands within the village which current provision cannot meet. The onsite provision of a local area of play and informal open space is therefore sought along with a contribution towards their future maintenance. A contribution towards the improvement of off site open space at Hook Norton Sports Club is also sought for the same reason. The provision of refuse bins to each property is also necessary to facilitate the collection and disposal of household waste.
190. The local primary school is not large enough to cater for the at least 28 additional children that it has been calculated would live in the village as a result of the construction of the 70 houses proposed. A financial contribution is

⁵⁵ Document 9

⁵⁶ Document 4

therefore necessary to mitigate the effect of the development by expanding local primary school provision. The promotion of sustainable transport is an objective of the Framework. The appeal site is not close to existing bus stops in the village. In the interests of sustainable transport funding is required for bus stops and shelters to service the new development and to fund an additional bus service to make public transport more attractive to commuters.

191. Banbury is the service hub for the part of Cherwell in which Hook Norton is located. An infrastructure contribution is sought by the County Council towards the costs of 'other infrastructure'. This includes relocating Banbury Library and providing a new adult learning centre. Expansion of day resource centres for the elderly, the local household waste recycling centre and museum resource centre is also sought. In support of this evidence was submitted by the County Council and Mr Briscoe and Mr Arnold answered my questions⁵⁷.
192. In relation to all the areas of infrastructure identified by the District and County Councils, other than with regard to local day resource centres for the elderly and special education needs, there is evidence that existing service provision is failing to meet current demand. The contributions are calculated based upon the additional demand the development is likely to generate and the cost of providing the infrastructure for the additional services. The sums sought therefore, other than in relation to local day resource centres for the elderly and special education needs, are reasonably related in scale and kind to the proposed development.
193. In relation to all these matters, other than library provision given that a library is present in Hook Norton, it is also clear that the sums sought would be spent on an identified programme of local infrastructure provision. Whilst in several instances such provision will be several miles away this constitutes local provision as it reflects the rural context of Hook Norton and the role of other larger settlements such as Banbury as service hubs.
194. As a consequence, all the contributions sought, other than in relation to local day resource centres for the elderly, special education needs and library provision, satisfy the tests in the Framework and accord with the Regulation. All the provisions of the section 106 agreement other than in relation to these 3 services should be taken into account in order to mitigate the harm that the development would otherwise cause.

f) Other material considerations & overall conclusions

Housing land supply

195. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to deliver housing over a 5 year period to meet the target contained within the development plan. In evidence housing land supply figures have been expressed in relation to the District and in relation to North Cherwell and Banbury. In development plan terms there is no demographic or other basis for breaking the District down into sub areas. For the purposes of this appeal I therefore consider that the figures that relate to the District are the most relevant format and I shall assess the housing land supply on this basis.

⁵⁷ Documents 4 and 12

196. The housing requirement contained within the SEP which covered the period 2006 to 2026 set a requirement of 13,400 dwellings for Cherwell District. This equated to 670 dwellings per annum (dpa). However, since the Inquiry closed a large part of the SEP including the policy governing regional housing provision has been revoked. Nevertheless, the data on which the allocations were made remain the most up to date and tested figures presently available for Cherwell. The Council's PSDLP incorporates this annual target throughout the lifetime of the plan (which is to be until 2031)⁵⁸. In the absence of any adverse comments from the main parties regarding the use of this target to calculate the housing land supply for the District, it remains common ground that 670 dpa is the appropriate standard against which to carry out this calculation⁵⁹. I agree with that assessment.
197. Based upon the last Annual Monitoring Report, new sites identified in the Housing Land Supply updates in 2012 and making a reasonable windfall allowance of 70 dpa it is common ground that Cherwell District at best has a 3.4 year supply of housing land⁶⁰. This calculation includes the minimum 5% buffer required by the Framework.
198. The Council has not resolved a formal position as to whether a 5% or 20% buffer should apply to the 5 year housing land supply target. However, it was accepted in cross examination by the Council's witness, Mr P Smith, that a 20% buffer was appropriate as the Authority has a persistent record of under delivery. On the basis that the Authority has failed to meet its annual target for new housing since 2006/7 I agree with the appellant and the assessment of Mr Smith on this matter. In my view, given that the aim of paragraph 47 of the Framework is to significantly boost housing land supply, the correct approach to address this shortfall is to do so within the next 5 years (the 'Sedgefield' approach) rather than to spread the shortfall over the 20 year lifespan of the PSDLP (the 'Liverpool' approach) [72, 73 & 116]. On this basis, it is common ground that the housing land supply is no better than 2.5 years⁶¹ and in the appellant's view is as low as 2.1 years. On either analysis there is an unacceptable undersupply of housing land in Cherwell District [73, 116].
199. For housing land to be included within the 5 year housing land supply paragraph 47 of the Framework requires that sites must be deliverable. In practice this means sites must be suitably located, available and that development is viable. Although house building activity since the start of the economic difficulties in 2008 has reduced, no evidence was provided that the absence of a 5 year housing land supply in Cherwell was due to the non-viability of housing development in the District. Reference was made to RAF Upper Heyford. The view of some of the interested parties was that developers, including the appellant, were choosing not to build on brownfield sites such as RAF Upper Heyford in order to force the development of greenfield land such as the appeal site. However, the appellant's explanation that development on this site had been delayed due to a complicated development history, including a number of appeals, was convincing. No party provided sound reasons to counter this explanation, rather the views expressed appeared speculative. As a

⁵⁸ PSDLP Table 3

⁵⁹ Statement of Common Ground (SOCG) paragraph 6.7

⁶⁰ SOCG Table 5

⁶¹ SOCG Table 5

consequence, I attach little weight to this consideration against the appeal [79,129].

200. Taking all these matters into account, I therefore conclude that there is a serious shortfall in housing land supply with currently no development plan to deliver a supply. At present there is no clear prospect that the shortfall will be addressed shortly, nor is there even a time line which with confidence can be relied upon to resolve the situation. Against this background this is a deliverable site which would contribute towards the housing shortfall.

Other matters

Other edge of village development refused on appeal

201. I have noted the 2 appeal decisions relied upon by the Parish Council but these are readily distinguishable from the proposed development. In relation to the first, which sought permission for spectator stands and lighting for sports facilities on neighbouring land to the west (ref APP/C3105/A/03/1114634), it was a fundamentally different type of development and housing land supply was not a factor in that case. With regard to the second, the Inspector found that the appeal site related poorly to the village of Adderbury through the inclusion of a narrow finger of development unrelated to any physical feature of the site and an artificial southern site boundary. As a consequence, he had concerns that the design of development on the site would be poor and so would not constitute sustainable development. For these reasons, these decisions are a consideration to which little weight should be attached against the proposed development [132,133].

Access

202. The Local Plan Inspector in 1996 was of the view that Bourne Lane was narrow and did not appear to be of a standard suitable to serve development on the appeal site. There is also widespread concern from local people regarding the effect of the proposal on highway safety and highway capacity within the village. However, the Council based upon the advice of the Highway Authority has no objections on these grounds, either to the principle of creating access to the site off Bourne Lane, or to the effects of the development on the village. I have no reason to disagree with those conclusions [142].
203. In the written representations received reference has been made to the fact that the proposed development would result in the loss of access to land used by walkers and dog walkers. However, the public rights of way which cross the northern edge of the site would be unaffected by the development. Furthermore, whilst the remainder of the site is informally used for dog walking the land is private and there is no public right of access to it [146].

Ecology

204. The view of the Council is that the site is of no particular ecological value and that the current indicative layout is likely to enhance biodiversity as sought by paragraph 118 of the Framework. However, as the ecological enhancement as a result of the development is uncertain, the biodiversity effects of the proposed development neither weigh in favour of nor against the scheme [53].

Overall Conclusions: The Planning Balance

205. For the reasons that I have set out earlier the proposal would be contrary to the development plan as it would not comply with policies C8, H12, H13 and H18 of the adopted Local Plan. Such contraventions are considerations that normally weigh heavily against the proposal. However, the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies governing housing land supply, such as policies H12, H13, H18 and C8 of the adopted Local Plan, should not be considered up to date. On the evidence before me, I find that there is more than a limited degree of conflict between the Framework and the approach of the development plan on the issue of residential development and housing land supply. In these circumstances, full weight may not continue to be given to relevant policies of the development plan, as paragraph 215 of the Framework makes clear. This is an important material consideration in this appeal.
206. The proposed development would also cause moderate and localised harm to the character and appearance of the countryside, contrary to policies H13 and H18 of the adopted Local Plan, albeit that for the reasons set out above, the provisions of paragraph 215 of the Framework mean that this plan and these policies can no longer be regarded as up to date. Nonetheless, the localised landscape impact is a consideration of notable weight against the proposal.
207. It would also conflict with the Council's emerging spatial strategy contained within the PSDLP which seeks to steer the majority of new rural development to the settlements it identifies as being the most sustainable. In relation to Hook Norton the proposed development is of a significant size and by itself would result in the construction of nearly twice the amount of housing envisaged for the village by the PSDLP through to 2031. This is worthy of note because the Council has already agreed in principle to the granting of permission for 28 houses on the former site of Stanton Engineering to which there was little local opposition [93]. Hook Norton therefore is not a community opposed to development in principle. Furthermore, the Parish Council intends to produce a Neighbourhood Plan. This plan led approach is strongly supported by the Core Planning principles of the Framework which seeks to empower local people to shape their surroundings. However, due to the early stage of the PSDLP on the road to adoption no question of prematurity applies in this case. In addition neither has a Neighbourhood Plan been produced. As a consequence, little weight can be attached to these considerations against the scheme.
208. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. I have found that the development would constitute a sustainable development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework is clear. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
209. The proposed development would make a significant contribution towards addressing the undersupply of housing in the District. By itself in providing up to 21 affordable homes it could largely address the affordable housing needs of the village. It would also be a sustainable development in a relatively

sustainable location. These factors weigh heavily in favour of allowing the appeal. Whilst the provision of an additional bus service once a day is a benefit of the scheme funding for it from the section 106 agreement will only last for a few years. I therefore attach only a small amount of weight to this consideration in favour of the proposal.

210. My overall conclusion in this case, having considered all the matters raised, is that the adverse impacts of the proposal are limited and they do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The granting of planning permission is therefore justified.

Conditions

211. Appendix A contains a full list of conditions I would recommend in the event that the appeal is allowed. This list is based upon the conditions that formed part of the statement of common ground and matters discussed at the inquiry conditions session. I have considered all the conditions in light of the advice contained within Circular 11/95 '*The Use of Conditions In Planning Permissions*'. Amendments have been made to some of the suggested conditions in order to better reflect the advice contained within the Circular and to reflect discussions that occurred at the Inquiry. I am satisfied that, should planning permission be granted for this proposal, for the reasons given the conditions listed in Appendix A would be necessary and reasonable and meet the other tests of Circular 11/95 [147-152].

Recommendation

212. I recommend that the appeal is allowed and that the conditions set out in Appendix A to this Report are attached.

Ian Radcliffe
Inspector

APPEARANCES

FOR THE APPELLANT:

James Strachan Of Counsel, instructed by Kathryn Ventham,
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He called

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David Boswell David Boswell Associates.
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Kathryn Ventham Barton Willmore LLP.
BSc (Hons), MSc, MRTPI

FOR THE LOCAL PLANNING AUTHORITY:

Guy Williams Of Counsel, instructed by Nigel Bell, Solicitor for the
Council.

He called

Philip Smith BA (Hons) Brian Barber Associates.
Dip TRP MRTPI

INTERESTED PERSONS:

Julia Edwards	Hook Norton Parish Council.
Mr Gardner	Hook Norton Parish Council.
Mr Cooke	Hook Norton Parish Council.
Mr Hayward	Hook Norton Parish Council & Hook Norton low carbon.
Mrs Hayward	Hook Norton low carbon.
Sir Tony Baldry	Member of Parliament for Banbury.
Councillor Irvine	Cherwell District Council.
Mr Head	local resident.
Mr Broughton	local resident.
Mr Bassett	local resident.
Mr Bailey	local resident.
Mr Watkins	local resident.
Mr Smith	local resident.
Mr Briscoe	Oxfordshire County Council
Mr Arnold	Oxfordshire County Council

APPLICATION PLANS

Drawing Reference	Drawing name
13070/19	Site Location Plan
13070/05 Rev A	Site Boundary Plan

INDICATIVE DRAWINGS

Drawing Reference	Drawing name
13070/15	Illustrative Masterplan
S856/01	Topographical Survey
7801/01 1/2	Tree Constraint Plan
7801/01 2/2	Tree Constraint Plan
20285/03/001	Preliminary Access Layout

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Statements of Julia Edwards, Mr Gardner and Mr Cooke on behalf of Hook Norton Parish Council.
- 2 Statement of Mr Broughton.
- 3 Statement of Sir Tony Baldry, MP.
- 4 Regulation 122, Community Infrastructure Levy Regulations 2010 (as amended) Compliance Statement.
- 5 Updates to the CRAITLUS based table of village facilities in Appendix 43 of Kathryn Ventham's proof of evidence.
- 6 Executive Local Plan Update, Report of Head of Strategic Planning and the Economy, Cherwell District Council 3 December 2012.
- 7 Cherwell District Council 5 Year Housing Land Supply Briefing Note.
- 8 Letter of objection from Mr Rae, local resident.
- 9 Section 106 agreement.
- 10 Statement of correction to Kathryn Ventham's proof of evidence.
- 11 Statement of Mr Head.
- 12 Statement of Mr Briscoe, Development Funding Officer, Oxfordshire County Council.

DOCUMENT SUBMITTED AFTER THE INQUIRY

- 1 Comments on the revocation of the South East Plan received from Barton Willmore on behalf of the appellant, dated 14 March 2013.

APPENDIX A – SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
- 3) The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The number of dwellings accommodated on the site shall not exceed 70.
- 5) The site layout in any Reserved Matters application shall accord with the Illustrative Master Plan (ref 13070/15) submitted with the application.
- 6) No works of site clearance or development shall take place until an updated Great crested newt survey has been submitted to and approved in writing by the local planning authority. This survey shall include details of any mitigation measures required should newts be found on site. Development shall be carried out in accordance with the mitigation measures approved as part of the survey.
- 7) No removal of mature trees shall take place until such time as they have been checked for bats immediately prior to removal. Should bats be found to be present in a tree due for removal, a bat mitigation scheme must be submitted to and approved in writing by the local planning authority prior to the removal of the trees concerned. Development shall be carried out in accordance with the mitigation measures approved as part of the scheme.
- 8) No works of site clearance or development shall take place until an ecological enhancement scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of how any lighting scheme will be designed to reduce impacts on wildlife. Development shall be carried out in accordance with the measures approved as part of the scheme.
- 9) Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
- 10) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged

- from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) The development shall not begin until an impact study of the development hereby permitted on the existing water supply infrastructure has been submitted to and approved in writing by the local planning authority (in consultation with Thames Water). The study shall determine the magnitude of any new additional capacity required in the system and a suitable connection point for the development. Prior to the commencement of development on the appeal site any additional capacity required in the system approved as part of the study and a suitable connection point for the development also so approved shall have been provided.
 - 12) Prior to the first occupation of the development hereby permitted, fire hydrants shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
 - 13) No development shall take place on site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which shall first have been submitted to and approved in writing by the local planning authority.
 - 14) No development shall take place, including any works of demolition, until a Construction Traffic Management Plan (CTMP) for the site has been submitted to, and approved in writing by, the local planning authority. The CTMP shall include full details of wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. The approved Statement shall be adhered to throughout the construction period.
 - 15) A Local Area of Play (LAP) shall be provided in accordance with the Council's adopted policy. Details of the siting and design of the LAP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and thereafter it shall be provided in accordance with the approved details prior to the occupation of any dwelling within 30m of the LAP or prior to the occupation of the 20th dwelling which ever is sooner. The LAP shall not thereafter be used for any purpose other than as a play area.
 - 16) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 17) Prior to the commencement of the development hereby approved, the proposed means of access between the land and the highway shall be

formed, laid out and constructed in accordance with the specification of the means of access that has been submitted to and approved in writing by the local planning authority.

- 18) No structure or erection exceeding 1m metre in height measured from carriageway level shall be placed within the vision splays of an access to the site.
- 19) Prior to first occupation of each dwelling hereby approved, the proposed access road shall be constructed to type standards in accordance with the Oxfordshire County Council Design Guide for Residential Roads.
- 20) Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the vehicular accesses, driveways, parking spaces and turning areas to serve the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to first occupation of each dwelling and thereafter the turning area and car parking spaces shall not be used for any other purpose other than the parking and manoeuvring of vehicles.

Richborough Estates



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

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