



Department for
Communities and
Local Government

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Our Ref: APP/L2630/A/13/2196884
Your Ref: TW/688

7 August 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR STEPHEN BIART OF THE FAIRFIELD PARTNERSHIP
AT LAND AT CHAPEL LANE, WYMONDHAM, NORFOLK
APPLICATION REFERENCE 2012/1434/O**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr J P Sargent BA(Hons) MA MRTPI, who held a public local inquiry on 15,16,17 and 18 October 2013 and 4, 5 and 6 of February 2014 into your client's appeal for non-determination of an application by South Norfolk District Council (the Council) for residential development of up to 70 new dwellings, including associated access and parking, utilities and service infrastructure, amenity space, play area, open space and landscaping at Land at Chapel Lane, Wymondham, Norfolk in accordance with application reference 2012/1434/O, dated 25 July 2012.
2. On 14 March 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason given for the recovery, set out in a letter to parties of the same date was:

in the light of the outcome of the Court of Appeal Judgement issued on 18 February 2014 on the case of Barnwell Manor Wind Energy Limited v E Northamptonshire District Council and others, and that the application was refused by the Council on the grounds that, among other things, the development could have a '...substantial harmful impact...' on the setting of the Grade I listed Wymondham Abbey, a building of national significance, the Secretary of State is of the view that he would like to determine the appeal.

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Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. For the reasons given by the Inspector, the Secretary of State agrees with him that while the arrangement on the Indicative Masterplan might provide a flavour of the possible nature of the development, it does not merit significant weight (IR5). He also agrees with the Inspector's comments about the photomontages submitted on behalf of the Appellant, the Council and the Friends of the Tiffey, and agrees that given the outline nature of the proposal these merit limited weight, especially as many relied on the incorrect Edge of Best View (IR6). The Secretary of State has also taken into account that Drawing No 3113_03_I was withdrawn by the Appellant (IR7) and that views of the Council and the Appellant were sought on the issuing of the Barnwell Manor judgment and the publication of the planning practice guidance following the close of the inquiry (IR9). He has also had regard to the letter from George Freeman MP dated 3 February 2014 and observes that this was copied to parties.

Matters arising after the close of the inquiry

5. The Secretary of State is in receipt of the following correspondence received following the close of the inquiry: Dr T F Apthorpe dated 29 May 2014; Dr Michael Signy dated 18 June 2014; and George Freeman MP dated 25 July 2015. He has carefully considered these representations but does not consider that they raise new matters that would affect his decision. Copies of these representations can be provided on application to the address at the bottom of the first page of this letter.

Policy considerations

6. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case, the development plan includes the Joint Core Strategy (JCS) for Broadland, Norwich and South Norfolk which was adopted in 2011 with amendments adopted in 2014, and saved policies of the South Norfolk Local Plan (LP) that was adopted in 2003. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR29-30. With respect to the Draft Wymondham Area Action Plan (WAAP) (IR31) the Secretary of State is aware that this was submitted for examination on 17 April 2014, together with the Site Specific Allocations and Policies Document and the Development Management Policies Document. Prior

to the completion of their examination, he gives limited weight to these documents.

8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the planning guidance, the Community Infrastructure Levy (CIL) regulations and the documents identified at IR32.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the proposals before him or their settings or any features of special architectural or historic interest which they may possess.

Main issues

10. The Secretary of State considers that the main considerations in this case are those identified by the Inspector at IR98 and whether the proposals are in accordance with the development plan.

Whether a 5 year supply of deliverable housing sites can be demonstrated

11. The Inspector reports that he has no sound basis to disagree with the views of the Council and the Appellant that the supply of housing in the District falls below the figure of 5 years plus 5%, and that it lies between 3.84 years and 4.66 years (IR99). The Secretary of State agrees. He also agrees that in light of this shortfall, paragraphs 49 and 14 of the Framework are engaged, and the relevant policies for the supply of housing should not be considered up-to-date (IR100).

Policy

12. For the reasons given by the Inspector, the Secretary of State agrees that LP policy ENV8 is designed to protect the countryside rather than being one of the 'relevant policies for the supply of housing' and can be considered not out-of-date (IR101). Regarding LP policies ENV3 and WYM13, for the reasons given at IR102-104 he agrees with the Inspector that the policies are inconsistent with the Framework and should be afforded limited weight. The Secretary of State also agrees that the other policies cited from the LP and JCS are consistent with the Framework (IR105).
13. Regarding the WAAP (IR106), as indicated at paragraph 7 above, the Secretary of State attaches limited weight to it prior to the completion of its examination. Like the Inspector (IR107) he has taken into account the South Norfolk District Landscape Character Assessment, the South Norfolk Place-Making Guide and the Greater Norwich Development Partnership Strategic Housing Land Availability report. As to the Council's arguments described at IR108, the Secretary of State agrees with the Inspector that Framework paragraph 133 is not absolute but requires a balance and a judgement to be made and, in respect of Framework paragraph 64, a judgement has to be made as to whether any particular scheme can be described as poor design (IR108).

The effect on the setting of Wymondham Abbey

14. The Secretary of State agrees with the Inspector's reasoning and conclusions regarding the setting of Wymondham Abbey at IR109-130. He agrees with the Inspector's conclusion (IR125) that harm would be caused to the setting of the Abbey when on Chapel Lane, and that the scheme would fail to take into account its effect on the two towers. He also agrees that these adverse impacts would apply similarly to the effect on the experience of the Abbey from the houses along that road (IR125). Like the Inspector (IR126) the Secretary of State considers that from those points in the valley identified in IR126, the experience of the pastoral setting of the Abbey would be diminished, causing harm (IR126). He further agrees that increased tree planting would impede views of the Abbey, thereby further diminishing the experience these views offer its setting (IR128). Overall, the Secretary of State shares that Inspector's conclusion that the scheme would not call into question the Grade I status of the Abbey and that the harm caused would be less than substantial (IR130). However, like the Inspector, and taking into account the Barnwell Manor judgment, he considers that this is still a level of harm to which considerable weight and importance should be attached (IR130).

The visual effect on the landscape

15. For the reasons given by the Inspector at IR131-135 the Secretary of State agrees with his conclusion at IR135 that the proposal would have an unacceptable effect on the landscape when seen from Chapel Lane and from the valley, thereby conflicting with the Framework and, insofar as they have been attributed weight, LP policies ENV3 and ENV8.

Other matters

16. The Secretary of State agrees with the Inspector's assessment of those issues identified at IR136-148.

The benefits of the scheme

17. For the reasons given at IR150, the Secretary of State agrees with the Inspector that some benefit would result in respect of new public access, but that it merits limited weight (IR150) and, for the reasons set out at IR151 and IR152, he agrees that the hedgerow works also merit limited weight (IR153). With regards additional housing, he shares that Inspector's view that, given the acknowledged shortfall in housing, the provision of up to 70 further dwellings, of which 33% would be affordable, is a material consideration to which substantial weight should be given (IR154). Like the Inspector (IR155), the Secretary of State considers that the scale of the economic and ecological benefits has not been articulated in detail and would only be of limited value. He also agrees that the site is appropriately located in relation to services and facilities but would fail to protect the natural and historic environment and that as such the weight afforded to the provision of sustainable development is limited (IR156).

Balancing of harm and benefits and overall conclusions

18. The Secretary of State has had regard to the Inspector's comments at IR157-166. Like the Inspector (IR160), he concludes that the benefits from the intended hedgerow works or improved public access would not outweigh the harm to the setting of the Abbey, and that the effect of the new development means the resultant situation, even with those elements in place, would be significantly inferior to the current position. As indicated at paragraph 17 above, the Secretary of State attaches substantial weight to the benefits of the provision of additional housing, gives limited weight to the benefit of the provision of sustainable development in this case, and has also taken into account the economic and ecological benefits which he considers are of limited value. Although he agrees with the Inspector (IR161) that the harm caused to the Abbey's setting would be less than substantial he also agrees that the Barnwell Manor judgment indicates that this should be afforded considerable weight and importance. He shares the Inspector's conclusion (IR162) that, under paragraph 134 of the Framework, the benefits of the scheme do not outweigh the less than substantial harm it would cause to the setting of the Abbey (IR162).
19. In respect of the balancing exercise under paragraph 14 of the Framework, the Secretary of State, like the Inspector, is mindful that addressing a housing shortfall will often involve building outside of the development limits of settlements and agrees with him that the benefit of additional housing would not have been outweighed by the harm to landscape had that been the only concern with the proposals (IR163). However, he shares the Inspector's conclusion that the adverse impacts of the development on the setting of the Abbey significantly and demonstrably outweigh not just the benefit of providing further housing where a 5 year supply of deliverable housings cannot be demonstrated, but the other benefits that he has identified as well (IR163). Like the Inspector (IR164), the Secretary of State considers that the site's allocation in the SHLAA does not lead him to change his view. The Secretary of State agrees with the Inspector that the scheme would conflict with the Framework, LP policies WYM12, ENV3 and ENV8 insofar as they are afforded weight, and JCS policy 2.

Conditions

20. The Secretary of State has considered the conditions proposed by the Inspector at Annex 1 of the IR, the Inspector's comments at IR89-94, national policy set out at paragraphs 203 and 206 of the Framework and the planning guidance. He is satisfied that the proposed conditions are necessary and meet the other tests identified in paragraph 206 of the Framework, however he does not consider that they overcome his reasons for dismissing the appeal.

Obligation

21. The Secretary of State has considered the planning obligation submitted by the appellant, the Inspector's comments at IR95-97 and IR141, national policy set out at paragraphs 203-205 of the Framework, the planning guidance and the CIL regulations. He agrees with the Inspector that the elements of the deed identified at IR96 are directly, fairly and reasonably related to the development and are compliant with Regulation 122 of the CIL regulations (IR96). In respect of the

landscape management plan and footpaths, the Secretary of State agrees with the Inspector's comments at IR97 and like him considers that these elements of the deed are directly linked to the development and are fairly and reasonably related to it in scale and kind, but are not necessary to make the scheme acceptable in planning terms. The Secretary of State does not consider that the planning obligation overcomes his reasons for dismissing the appeal.

Overall Conclusions

22. The Secretary of State has found that, under paragraph 134 of the Framework, the benefits of the scheme, including the provision of additional housing, do not outweigh the less than substantial harm it would cause to the setting of Wymondham Abbey. He has also found, in respect of paragraph 49 of the Framework, that relevant policies for the supply of housing are out of date. However, in respect of paragraph 14 of the Framework, the Secretary of State considers that the harm that would be caused to the setting of Wymondham Abbey significantly and demonstrably outweighs the benefits that he has identified. The Secretary of State concludes that the scheme would conflict with LP policies WYM12, ENV3 and ENV8 insofar as they are afforded weight and JCS policy 2 and also conflicts with the Framework.

23. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflict identified with the development plan. He considers that there are no material considerations of sufficient weight which would justify allowing the appeal.

Formal Decision

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for residential development of up to 70 new dwellings, including associated access and parking, utilities and service infrastructure, amenity space, play area, open space and landscaping at Land at Chapel Lane, Wymondham, Norfolk in accordance with application reference 2012/1434/O, dated 25 July 2012.

Right to challenge the decision

25. 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.

26. A copy of this letter has been sent to South Norfolk District Council.

Yours faithfully

James Henderson

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Mr J P Sargent BA(Hons) MA MRTPI

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

Date: 4 June 2014

TOWN AND COUNTRY PLANNING ACT 1990

SOUTH NORFOLK DISTRICT COUNCIL

APPEAL BY MR STEPHEN BIART OF THE FAIRFIELD PARTNERSHIP

**in connection with residential development of up to 70 new dwellings,
including associated access and parking, utilities and service
infrastructure, amenity space, play area, open space and landscaping**

on

Land at Chapel Lane, Wymondham, Norfolk

Inquiry held on 15, 16, 17 & 18 October 2013, and 4, 5 & 6 February 2014

File Ref: APP/L2630/A/13/2196884

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Abbreviations used in this Report

The Abbey	Wymondham Abbey, also known as the Abbey Church of St Mary and St Thomas of Canterbury
The Act	The Town and Country Planning Act 1990 (as amended)
App	Appendix
the Barnwell Manor judgement	Court of Appeal Judgement on <u>Barnwell Manor Wind Energy Limited v (1) East Northamptonshire District Council (2) English Heritage (3) National Trust (4) SSCLG [2014] EWCA Civ137</u> dated 18 February 2014
CAMP	<i>Wymondham Conservation Area: Character Appraisal and Management Plan</i>
the CIL Regulations	The Community Infrastructure Levy Regulations 2010
the Colman judgement	Judgement on <u>Anita Colman v SSCLG and North Devon District Council and RWE Npower Renewables Limited [2013] EWHC 1138 (Admin)</u> dated 9 May 2013
the Costessey decision	Appeal decision APP/L2630/A/12/2170575 concerning land at Townhouse Road, Costessey, Norfolk (dated 31 August 2012)
the Council	South Norfolk District Council
DAS	<i>Design and Access Statement</i> by LDA Design
the Deed	The Planning Obligation Deed signed by the Council, Norfolk County Council and Roger Meadows dated 9 December 2013
EBV	Edge of Best View
FoT	Friends of the Tiffey
the Framework	<i>The National Planning Policy Framework</i>
JCS	<i>Joint Core Strategy for Broadland, Norwich and South Norfolk</i>
LBCA Act	Planning (Listed Buildings and Conservation Areas) Act 1990
LCA	<i>South Norfolk District Landscape Character Assessment</i>
Local Plan	<i>South Norfolk Local Plan</i>
MNR	Mid-Norfolk Railway
p	Page or pages
para / paras	Paragraph / paragraphs
planning guidance	Planning practice guidance launched by the Government on 6 March 2014
PMG	<i>South Norfolk Place-Making Guide</i>

the Rices' path	The section of the permissive footpath along the valley bottom owned by Mr & Mrs Rice and running from Becketswell Road to point A on Doc A19
s	section
SHLAA	<i>Greater Norwich Development Partnership Strategic Housing Land Availability (June 2009)</i>
WAAP	<i>Draft Wymondham Area Action Plan</i>

All numbers in this Report that are within square brackets refer to paragraph numbers elsewhere in the Report

Richborough Estates

File Ref: APP/L2630/A/13/2196884

Land at Chapel Lane, Wymondham, Norfolk

- The appeal is made under s78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Mr Stephen Biart of The Fairfield Partnership against South Norfolk District Council.
- The application Ref 2012/1434/O, is dated 25 July 2012.
- The development proposed is residential development of up to 70 new dwellings, including associated access and parking, utilities and service infrastructure, amenity space, play area, open space and landscaping.

Summary of Recommendation: I recommend the appeal be dismissed

BACKGROUND INFORMATION

1. This appeal has been recovered by the Secretary of State. In the letter to the parties dated 14 March 2014 the reason given for the recovery was
'in the light of the outcome of the Court of Appeal Judgement issued on 18 February 2014 on the case of Barnwell Manor Wind Energy Limited v E Northamptonshire District Council and others, and that the application was refused by the Council on the grounds that, among other things, the development could have a '...substantial harmful impact...' on the setting of the Grade I listed Wymondham Abbey, a building of national significance, the Secretary of State is of the view that he would like to determine the appeal'.
2. The Inquiry sat for a total of 7 days and I undertook an accompanied visit to the site on the final day of the Inquiry. The following day I made an unaccompanied visit to the area around the site and also visited the site of the Costessey decision¹ to which reference had been made throughout the appeal.
3. The appeal was lodged against a refusal of planning permission. However, the application had not been advertised as affecting the setting of the Grade I listed Wymondham Abbey, and so the Council was not in a position to issue such a decision. The appeal has therefore been treated as being against the non-determination of the application. The necessary advertising was undertaken in October/November 2013 and I have taken into account the responses received, but this procedural matter has had no bearing on my recommendation.
4. In the absence of any information on the application form the parties agreed the address above accurately identified the site.
5. This is an outline application with all matters but means of access being reserved for later consideration, and I have assessed it on that basis, having regard to the intended developable area, the number of houses proposed and the various conditions that were suggested to control and direct the housing. I have noted the possible scheme on the Indicative Masterplan submitted with the appeal² but as matters such as appearance and layout were not before me this was only ever intended to be illustrative. In any event, it was accepted in the course of the Inquiry that the Edge of Best View (EBV) on which that layout was partly based

¹ Doc D3 App 11

² Plan D

(a concept explained fully below ^[16]) was incorrectly aligned. As a result the housing would have to be set back closer to Chapel Lane and the density on the area between that line and Chapel Lane would have to be increased. Further parking provision was also needed. Therefore, while the arrangement on that drawing might provide a flavour of the possible nature of the development it has not been afforded significant weight.

6. Similarly, at the Inquiry there was much discussion about the merits or otherwise of the photomontages submitted on behalf of the Appellant³, the Council⁴ and Friends of the Tiffey⁵ (FoT). Again, although these have been material considerations of some assistance to me, given the outline nature of the proposal the weight these could be afforded is limited, especially as many relied on the incorrect EBV.
7. At the Inquiry the Appellant withdrew Drawing No 3113_03_I⁶. This had been one of the original application drawings but it was no longer required under the current regulations.
8. A Deed made under s106 of the Act was submitted that had been signed by the Council, Norfolk County Council, and the landowner, Mr Meadows. The various elements of this are assessed against Regulation 122 in the CIL Regulations below.
9. After the Inquiry had closed the Barnwell Manor Judgement was issued and also the planning practice guidance was launched by the Secretary of State. Given the potential effect of this judgement and this guidance on the position of the parties and on my reasoning, I sought the views of the Council and the Appellant on each, and have taken their responses into account.
10. Lists of those who appeared at the Inquiry, and the documents and plans that were submitted, are found at the end of this Report. A schedule of suggested conditions is attached at Annex 1.

THE SITE AND THE SURROUNDINGS

11. Wymondham is a historic settlement and since the middle of last century it has been subject to significant growth. However, development to the west in the Tiffey Valley has been limited, and this is now a wedge of open land extending to the oldest part of the town and culminating at Wymondham Abbey. The MNR, a heritage railway line, also runs along the valley.
12. The appeal site covers 3.51ha of pastureland⁷ on the slopes of the Tiffey Valley. Open countryside with isolated dwellings and buildings lies to the south and west across the valley. Chapel Lane runs along the site's north-eastern boundary and on the opposite side of that road is suburban housing that was built in the 1950s or later, while dwellings of a similar age are to the south-east. When travelling along Chapel Lane the appeal site is therefore the last appreciable area of open space one passes when entering the town, and the first one passes when leaving.

³ Docs A3 p84-89 & D7

⁴ Doc C14

⁵ Doc E2

⁶ Plan B

⁷ Doc D2 para 2.4

13. At the time of my visit public access to the valley was possible along 2 footpaths. One ran along the valley bottom from near the Abbey to Chapel Lane at Chapel Bridge, and this was joined at roughly its mid-point by another that dropped down from Frogshall Lane. These were not public footpaths though but were permissive paths. The one along the valley bottom (with the exception of a 150m stretch in the middle) was owned by Mr and Mrs Rice⁸, while the middle 150m of the valley bottom path plus the footpath to Frogshall Lane were owned by Mr and Mrs Meadows, who also own the appeal site⁹. The route along the valley and back up to Frogshall Lane formed part of a circular walk that was recognised by Norfolk County Council¹⁰.

PLANNING HISTORY OF THE APPEAL SITE & THE CURRENT APPLICATION

14. In 1989 planning permission was refused for 320 dwellings on a much larger piece of land that included the appeal site¹¹. As that application is 25 years old and related to a bigger area, limited weight has been afforded to that decision.

THE PROPOSAL

15. Outline planning permission is now sought for up to 70 houses¹², of which 33% would be affordable. The Indicative Masterplan¹³ shows the housing limited to a triangular part of the site on the eastern side, with the remainder being public open space with balancing ponds. The entire site is outside of but immediately adjacent to the Development Limits to Wymondham as defined in the Local Plan¹⁴.
16. The triangular portion where the houses would be built is bounded by Chapel Lane on one side and existing properties to the south-east on another. On the final side facing the valley the new dwellings would be confined by the EBV line. The concept of the EBV line was established by the Appellant by defining the best views of the Abbey from Chapel Lane as being those where both towers and the intervening nave roof could be seen with no interruptions¹⁵. The EBV was therefore the point where, when travelling in a south-easterly direction along the road, those views were no longer possible due to intervening trees and buildings. I will refer to the points from where the towers and the roof could be clearly seen as within the EBV line, while I will describe the places from where views were interrupted as outside of the EBV line.
17. During the Inquiry the Appellant accepted that the EBV line on the plans submitted to that date was incorrectly drawn¹⁶, as it was focussed on the Abbey's west tower rather than its east. A plan was therefore presented¹⁷ that showed a revised EBV line focussed on the east tower and I have come to my recommendation based on that amended plan.

⁸ Identified by red dots on the plan attached to Doc A20. The northern section beyond the railway was not identified by any party as having a particular relevance to this appeal

⁹ Plan attached to Doc A20 between points A to E via B identified by orange dots

¹⁰ Doc C5 App D

¹¹ Doc A4 p7 & p8

¹² While the layout on Plan D shows the footprints of 66 buildings, Doc D20 Dwg 3642_21 shows 70 units would be achieved by the provision of some maisonettes.

¹³ Plan D

¹⁴ Doc D6 App 2 App C

¹⁵ Doc A3 p22 & Mr Crawford in oral evidence

¹⁶ Mr Crawford in oral evidence

¹⁷ Doc D26

18. Key Principles A to S were given in the DAS¹⁸ that would inform the nature of the development. Of particular relevance are
- Principle A – which confirms development would be pulled back from the uninterrupted views of the Abbey (ie not extend within the EBV line);
 - Principle B – which seeks to avoid suburban features along the interface with the pasture land (ie the elevation overlooking the valley);
 - Principle C – a positive built development frontage would face onto the retained pasture land with buildings facing the valley;
 - Principle D – ensuring public access from Chapel Lane to the development and the river path;
 - Principle I – buildings will be 2 storeys high along the Chapel Lane frontage and 2½ storeys elsewhere and
 - Principle S – a design code shall be submitted before the approval of Reserved Matters.
19. The new buildings would also use design cues and materials that were characteristic of the older parts of Wymondham (Key Principle N)¹⁹.
20. As part of the scheme, and as confirmed under Principle D above, the Appellant is proposing to provide 2 new footpaths – one running across the site and up to Frogshall Lane that would be dedicated, and a second down to the river path, which would be permissive²⁰. This would be in addition to the path network that would otherwise occur, as the Meadows have confirmed²¹ that if the appeal is dismissed they intend to end public access to their land.
21. Moreover, the Appellant is also proposing to undertake works to the hedgerow on the south-west side of Chapel Lane from its junction with Tuttlés Lane West to a point roughly opposite 102 Chapel Lane. These would allow for improved clear and filtered views of the Abbey from this stretch of road and from some of the houses adjacent²².
22. Further details and supporting documents can be found in Documents A4 – A16, and these include a Planning Statement, and assessments of such matters as highways implications, wildlife and flooding.

THE DETERMINATION OF THE APPLICATION

23. The application subject of this appeal was dated 25 July 2012, and was considered by the Council's Development Management Committee in February 2013. The Officer Report²³ presented to members identified 274 individual letters of objection, along with objections from FoT, the local MP, English Heritage, the Environmental Services (Protection), the Conservation Officer and Planning Policy²⁴. The application was refused on 27 February 2013, with 4 reasons stated

¹⁸ Doc A3 p82 & 83

¹⁹ Doc A3 p62 & p63 & Doc 4 p34

²⁰ Doc D2 para 4.7-4.12 & A20

²¹ Docs D23 & D32

²² Doc D20

²³ Doc A32

²⁴ Docs A24-A31

on the decision²⁵. Reasons 1 and 2 identify harm to the landscape and the setting of the Grade I listed Wymondham Abbey. Reason 3 contended a lack of information had been submitted to show there would not be odour nuisance from the sewage works, which would be about 800m away²⁶. Reason 4 said that the harm caused by the development would not be outweighed by any benefits towards resolving the Council's acknowledged housing land supply shortage. As stated above, despite the issuing of this decision the appeal is being considered as against the non-determination of the application.

CHANGES TO THE COUNCIL'S CASE SINCE THE ISSUING OF THE DECISION

24. At the Inquiry the Council confirmed its concerns about odour nuisance had been allayed²⁷ and so it was no longer pursuing Reason for Refusal 3. It therefore offered no evidence on that matter.
25. Moreover, while there was an acknowledged shortfall in housing land supply in the decision, in its Rule 6 Statement it contended that the supply was then '*much closer*' to the required provision of 5 years plus a 5% buffer (ie 5.25 years)²⁸. By the time the Inquiry opened though the Council contended there was no shortfall and it had a 5 year supply of housing land plus a 7% buffer²⁹, and that formed the basis of Mr Marjoram's evidence. However during the Inquiry it acknowledged its demonstrable supply was, in fact, 4.66 years³⁰, and so it accepted that paras 49 and 14 of the Framework were engaged. This means it has, in effect, returned more or less to the view expressed in the decision, and that is still its position.

AGREED MATTERS

26. Given its Grade 1 listed status³¹, the significance of the Abbey as a heritage asset was not in dispute between the parties and they have both outlined a broadly similar history of the building³². They stated it was initially founded as a priory in 1107, and by the time of the dissolution of the monasteries the building had a joint monastic and parochial use. This had resulted in 2 towers of differing designs being erected. The smaller, which is currently semi-ruinous, was built by the monastery between 1376 and 1409 to replace an earlier one. Although originally in the centre of the building, subsequent demolitions mean it is now at the east end of the church. At the west end the second tower, which is still in good repair, was built in 1445 to house the parishioners' bells³³. Around the Abbey were also a number of other listed buildings along with a Scheduled Ancient monument, but the parties agreed these were not affected by the scheme³⁴.
27. The Council and the Appellant also agreed³⁵, among other things, that

²⁵ Doc A33

²⁶ Doc D3 App 3

²⁷ Doc B1 App 1

²⁸ Doc C1 para 6.5

²⁹ Docs C8 s6 & C10 p5 para 2.3

³⁰ Doc B2 para 7.1(c)

³¹ Doc A23

³² Docs D8 para 5.7 and following, & C2 s4

³³ Extensive details of the long and complex history of the building are found in Docs A5, D14 & D21 in particular

³⁴ Doc A23, Doc D8 para 2.14-2.16 & Mr Edleston in oral evidence

³⁵ Doc B1 as amended by Doc B2

- i) the Council cannot demonstrate a 5 year supply of housing;
- ii) the highway implications of the scheme would be acceptable;
- iii) the development would not adversely affect the living conditions of neighbouring residents, or result in poor living conditions for future occupiers of the scheme;
- iv) the development would be in the setting of the Abbey;
- v) the development would not adversely affect flooding, wildlife or the infrastructure of the town and
- vi) the development is in a sustainable location with regard to services and facilities³⁶.

PLANNING POLICY

28. The development plan includes the *Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS)*, which was adopted in 2011 and 2014, and the 'saved' policies³⁷ from the *South Norfolk Local Plan*³⁸ that was adopted in 2003.

29. In the Local Plan the 'saved' policies that were cited and have most relevance to the case are

- ENV3 – This seeks to resist inappropriate development in the District's river valleys, and so applies to the lower half of the intended triangle of housing.
- ENV8 – Inappropriate development in the countryside will not be permitted.
- HOU4 – Residential development will be permitted within the defined Development Limits of Wymondham, provided it would not prejudice the supply of land for other purposes
- IMP15 – When considering development within the setting of a listed building special attention will be given to the design, scale and impact of the proposal.
- WYM12 – All new buildings will be required to take account of their impact on the skyline, views and vistas of the Abbey towers
- WYM13 – Development that is detrimental to the setting of the Abbey will be refused.

30. In the JCS³⁹ the policies to which reference was made were

- Policy 2 – Promoting good design.
- Policy 4 – Housing delivery.
- Policy 10 – Locations for major new or expanded communities in the Norwich Policy Area.

³⁶ The proximity of the site to services is shown in Doc D3 App3

³⁷ Doc A22

³⁸ Docs A21& D27

³⁹ Doc C11

31. The emerging *Draft Wymondham Area Action Plan (WAAP)*⁴⁰, which has not yet been submitted for examination, was brought to my attention.
32. The following documents were also cited, and these tended to inform the Council's policy framework
- *Greater Norwich Development Partnership Strategic Housing Land Availability (SHLAA)* (June 2009)⁴¹: this identified the site as deliverable for housing between 2009 and 2014, and the land to the north-west up to Tuttle Lane West as being developable between 2015 and 2019.
 - *South Norfolk District Landscape Character Assessment (LCA)* (April 2006)⁴²: It identified landscape character areas, and defined their key characteristics. For the A2 Yare/Tiffany Rural River Valley these include narrow shallow valley-forms, meandering rivers, distinct vegetation on the valley floor, a protection of views of the Abbey and a tranquil rural character. The importance of retaining the rural character by avoiding urbanising influences is one of the key sensitivities. For the B2 Tiffany Tributary Farmland the characteristics include a gently undulating landscape with long-ranged views, and again the presence of important buildings should be protected.
 - *South Norfolk Local Landscape Designations Review* (September 2012)⁴³: This reviewed the LCA.
 - *South Norfolk Place-Making Guide (PMG)* (September 2012)⁴⁴: This is to promote high quality design. It subdivides the District into various character areas, identifying the key characteristics and design principles for each
 - *The Wymondham Conservation Area: Character Appraisal and Management Plan (CAMP)* (September 2012)⁴⁵: This seeks to improve an understanding of the conservation area and provide clearer guidance on planning matters and acceptable development.
33. The site lies outside the defined Development Limits of Wymondham, the boundary of which is shown in the Local Plan to be running along Chapel Lane at this point. The lower portion of the site is in the area designated as river valleys and subject to Local Plan Policy ENV3, while the remainder, between the Policy ENV3 land and the settlement boundary, is within open countryside and falls under Policy ENV8⁴⁶. In turn, the section subject to Policy ENV3 is also part of the A2 Yare/Tiffany Rural River Valley area in the LCA and the PMG, while the rest is part of the B2 Tiffany Tributary Farmland.
34. The site is also some way outside the Wymondham Conservation Area.

⁴⁰ Docs C9 App 9, C23 & C24

⁴¹ Doc D3 App 2

⁴² Doc C5 App B

⁴³ Doc C25

⁴⁴ Doc C5 App H

⁴⁵ Doc D9 p259

⁴⁶ The various local plan designations are shown on Doc D5 App 2C

THE CASE FOR THE COUNCIL

Policy

35. Accepting there is no demonstrable 5 year supply of housing paras 49 and 14 of the Framework apply. However, none of the policies in the decision were out-of-date as a consequence⁴⁷. In particular, Local Plan Policy ENV8 is not to be considered out-of-date as it relates to the protection of the countryside rather than housing supply. Therefore that policy is not set aside, though a breach of the policy does not necessarily, of itself, determine this appeal⁴⁸.
36. Furthermore, attention was drawn to the final bullet point of paragraph 14 of the Framework, which states that where the development plan was out-of-date permission should be granted unless specific policies in the Framework indicate the development should be restricted. In this regard para 64 of the Framework is clear that permission should be refused for poor design, and para 133 directs that permission should be refused if the conditions in that paragraph are met⁴⁹.
37. Turning to Local Plan Policy WYM13 this is unequivocal in its wording⁵⁰. However, mindful of para 215 in the Framework and having regard to the Colman judgement, that policy and Policy ENV3 are not inconsistent with the Framework as in both cases the balanced approach required by the Framework is provided by policies elsewhere in the Local Plan.

The effect on Wymondham Abbey

38. Local Plan Policy WYM13 identifies the Abbey as wholly different to any other building in the District and it was common ground that harm would be caused to its setting⁵¹. In assessing this it must be appreciated that the setting encompasses more than just visual considerations but also includes an understanding of the historic relationship between places. Moreover, the concept of setting is not about single views or the need to preserve the best views, but is about the way in which the asset is experienced and how the setting contributes to its significance⁵². In accordance with the planning guidance the contribution to setting does not depend on public access⁵³, as that can vary over time. Therefore, the difference between the parties in relation to this issue rested on the degree to which the river valley added value to the setting of the Abbey and what the connection was between the site and the Abbey⁵⁴.
39. The Abbey is an asset of national importance, and its significance is derived from its architecture, its history, its scale, its value to the town and its influence over how the town has developed⁵⁵. It is also one of the most important and iconic buildings in the area⁵⁶, and its setting is extensive due to the countryside around. The 2 towers form a dominant and dramatic skyline feature on the approaches to

⁴⁷ Mr Hancox in oral evidence

⁴⁸ Doc C28 para 2.4-2.8

⁴⁹ Doc C28 para 2.1-2.3

⁵⁰ Doc C2 para 7.3

⁵¹ Doc C29 para 8

⁵² Doc C2 para 6.6

⁵³ Doc C30 para 3

⁵⁴ Doc C28 paras 4.1, 4.2

⁵⁵ Doc C2 para 4.8

⁵⁶ Doc C2 para 6.9

Wymondham and comprise a distinctive element of the landscape⁵⁷, even though they are often viewed through trees and hedges⁵⁸. When seen from the north-west there is a long and continuously visible inter-relationship between the Abbey and the rural river valley⁵⁹ that has remained largely unchanged for centuries⁶⁰. This is important to the setting of the church, especially as this relationship with the open countryside is not experienced elsewhere, and so the setting makes a major contribution to the building's significance⁶¹.

40. Furthermore, as identified by English Heritage⁶² the Abbey would have acquired much of its wealth from the open countryside⁶³. English Heritage also said the landscape remains remarkably intact, and that any diminution of this is likely to have a negative impact on the Abbey and to erode its significance⁶⁴. These are views the Council shared⁶⁵. The 'remarkably intact' nature of this setting is what makes it so special when looking from the north-west⁶⁶. Views of the proposal from near the Abbey at the MNR station would also be possible⁶⁷. The valley should therefore be treated as of high importance to the Abbey's setting.
41. The scheme would introduce new development into the rural foreground of the Abbey view from Chapel Lane⁶⁸. The relationship of the new dwellings to the Abbey and its river valley would also be wholly different to the existing housing, as they would step further down the valley sides at a greater density and would have an urbanising effect on the predominantly rural setting⁶⁹. The views of the Abbey would therefore be completely transformed as that building would struggle to compete with what would be a dominant residential scheme⁷⁰.
42. If the proposal went ahead it is accepted the Abbey would still merit a Grade 1 listing⁷¹. However, given the status of the building, the uniqueness of the relationship of the Abbey to the valley, the largely unchanged nature of its relationship to the countryside and the damaging impact of the works, the harm would be substantial⁷² as it would go to the heart of one of the reasons why the Abbey is so special and worthy of designation⁷³. Although English Heritage deemed the harm to be less than substantial⁷⁴, that was because it had not undertaken a '360° appraisal' of the setting and had not appreciated the totality of the Abbey's context⁷⁵.
43. The Barnwell Manor judgement does not lead the Council to a different view, as it emphasises the considerable importance and weight that should be given to the

⁵⁷ Doc C2 para 4.7

⁵⁸ Doc C2 para 5.8

⁵⁹ Doc C2 para 5.10

⁶⁰ Doc C2 para 6.4

⁶¹ Doc C2 para 5.10

⁶² Doc A24(a)

⁶³ Doc C2 para 5.7

⁶⁴ Doc A24(a).

⁶⁵ Doc C2 para 5.10

⁶⁶ Doc C28 para 4.4

⁶⁷ Doc C4 para 6.3.9

⁶⁸ Doc C28 para 3.1

⁶⁹ Doc C28 para 3.6

⁷⁰ Doc C28 para 3.2

⁷¹ Mr Edleston in oral evidence

⁷² Doc C2 para 6.8 & 6.9

⁷³ Doc C28 para 4.7

⁷⁴ Doc A24 (a), (b) & (c)

⁷⁵ Mr Edleston in oral evidence

desirability of preserving the setting of a listed building under s66 of the LBCA Act⁷⁶. Similarly, the planning guidance emphasises that harm relates to the asset's significance rather than the scale of the development⁷⁷.

The effect on the landscape character

44. The concerns on the landscape impact were very much focussed on the effect on views of the Abbey. The appeal site falls within 2 character areas in the LCA⁷⁸. Part is within area A2 Yare/Tiffany Rural River Valley, where the importance of the Abbey as a landmark feature and the views across the valley are emphasised. The rest is in area B2 Tiffany Tributary Farmland, which stresses the maintenance of the predominantly rural character of the area and the protection of landmark buildings.
45. Chapel Lane is one of the 4 historic entrances into the town⁷⁹. When looking from the points on that road that fall within the EBV line, the development would introduce housing into the foreground of views of the Abbey, totally transforming those views by creating urbanising forms across the valley slopes and causing an effect of substantial adverse significance. A similar effect would also be experienced when outside the EBV line on Chapel Lane, and when in 35-51 Chapel Lane next to the site and 30-82 Chapel Lane opposite⁸⁰. Moreover, even from viewpoints that are outside the EBV line views of the Abbey are still important and these too would be lost by the development. From the Rices' path and the MNR again the development would have a substantial adverse significance effect, with views back to the site from around the MNR station experiencing a moderate adverse effect⁸¹.

The balancing of the harm against the benefits

46. In the Framework para 14 says that where the development plan is out-of-date permission should be granted unless (among other things) specific policies in the Framework indicate development should be restricted. Paras 64 and 133 of the Framework both indicate that permission should be refused⁸².
47. Furthermore, if the Council is correct in defining the harm to the setting of the Abbey as being substantial, then the benefits do not fulfil the '*wholly exceptional*' test in para 132 of the Framework. Indeed even if the contrary view is taken and the harm is less than substantial, the necessary clear and convincing justification⁸³ is still lacking⁸⁴.
48. The benefits of additional access would be restricted. This is because access does not have a great role to play in assessing setting, and the continued use of the proposed footpaths were not certain but rather would be reliant on a landowner who has already denied access to his permissive paths⁸⁵. In any

⁷⁶ Doc C29 para 8

⁷⁷ Doc C30 para 4

⁷⁸ Doc C5 App B

⁷⁹ Doc C28 para 3.3

⁸⁰ Doc C4 paras 6.3.3 & 6.3.1

⁸¹ Doc C4 s6.3 & Doc C5 App A Fig 2 & Doc C17

⁸² Doc C28 para 5.1

⁸³ Framework para 132

⁸⁴ Doc C28 para 4.8-4.11

⁸⁵ Doc C28 para 3.10

event access would remain along the Rices' path⁸⁶. The benefit of improved views would also be limited as only 3 of the viewpoints given by Mr Crawford in relation to the hedge works⁸⁷ had any effect on visibility from Chapel Lane⁸⁸.

49. Consequently the limited benefits offered do not outweigh the harm plus the policy harm identified⁸⁹.

Conclusions

50. Even if para 14 in the Framework is applied the appeal is to be dismissed because it conflicts with specific policies in the Framework (namely paras 64 and 133) that indicate permission should be refused, and because, when a balancing exercise is undertaken, the adverse impacts would significantly outweigh any benefits arising from the scheme. This is consistent with the desirability of preserving the setting of the Abbey under the LBCA Act⁹⁰.

THE CASE FOR THE APPELLANT

Housing land supply

51. The Appellant considered there was only a 3.84 year supply of housing land⁹¹. There could be a debate about whether a 5% or 20% buffer was appropriate, the area against which the supply of housing should be assessed, or the different ways of making up the shortfall. However, on any basis there was an accepted shortfall and so such debates would have no material bearing on the merits of the case. This site could be fully developed in 5 years of the grant of outline planning permission, and so would make a positive contribution to the supply of housing⁹².
52. It is of note that, given the role the planning guidance identifies for the SHLAA, the site was identified in the SHLAA as one of the District's deliverable sites⁹³.

Policy

53. Of the 4 policies from the Local Plan mentioned in the decision⁹⁴ it was contended that 3 should be given no material weight.
54. The first of these was Policy ENV8, as, in the light of the accepted shortfall in housing supply, this policy should be treated as being out-of-date under para 49 of the Framework. It seeks to restrict development outside defined Development Limits to certain specified types, none of which apply to the scheme being considered. Whilst the Council contended it was seeking to protect the countryside that cannot be the case as Policy HOU4, which is a parallel policy that actively supports housing in settlements, must be out-of date. As a result, Policy ENV8 must apply to the supply of housing⁹⁵.

⁸⁶ Doc C28 para 3.8

⁸⁷ Doc D20 Figs 22-28

⁸⁸ Doc C28 para 3.4

⁸⁹ Doc C28 paras 4.10 & 4.11

⁹⁰ Doc C28 s5

⁹¹ Doc B3 para 7.1(c)

⁹² Doc A4 para 6.25

⁹³ Doc D32 para 3.2 & 3.3

⁹⁴ Doc A33

⁹⁵ Doc D30 para 4.1-4.5

55. The second was Policy WYM13, which says development detrimental to the setting of the Abbey will be refused, while the third, Policy ENV3, similarly states that inappropriate development in the river valleys will not be allowed. Both fail to reflect the balanced approach in the Framework and supported in the Colman judgement⁹⁶. Moreover, Policy ENV3 is not criteria-based as required by para 113 of the Framework. Therefore they are inconsistent with the Framework and so, under para 215 of the Framework, they should be given no material weight.
56. Such findings in relation to Policies ENV3 and ENV8 were shared by the Inspector in the Costessey decision^{97, 98}.

Effect on the landscape

57. In contrast to the Council's approach the landscape impact had been carefully considered by the Appellant who has offered not only a Landscape and Visual Assessment⁹⁹ but also a Landscape and Visual Impact Assessment¹⁰⁰. It is of note that the PMG does not rule out development in the Tiffey Valley. Moreover, as is apparent from not only the plans but also the photomontages¹⁰¹ the scheme would be seen against the backdrop of housing on Chapel Lane, and it would not be on the valley floor but on its upper sides. Further concerns about maintaining the rural character are a design matter to be addressed at a later stage.
58. It is accepted that greenfield development will, inevitably, cause some harm¹⁰². The greatest effect of the scheme will be on the site itself and on the effect of the views enjoyed by the residents opposite¹⁰³. However, many of the views affected have been assessed as of lower quality due to the effect of existing vegetation¹⁰⁴. Moreover, any harm has to be balanced against the benefits of the hedge works along Chapel Lane that would not only open up and improve views along Chapel Lane for about 0.3km¹⁰⁵, but would also allow other residents to be able to see the valley and the Abbey¹⁰⁶. In Mr Crawford's opinion the benefits from the hedge works, the new views of the Abbey from places that are not now publicly accessible, the areas of additional public open space and the new footpaths clearly outweigh the slight increase in the visibility of the development¹⁰⁷.

Effect on the Abbey

59. It is untenable to say the scheme would cause substantial harm to the significance of the Abbey. Under the planning guidance such a level of harm would have to be sufficient to call into question the whole reason for listing, and it was not a view accepted by English Heritage¹⁰⁸. Indeed, English Heritage, when commenting on the WAAP expressed no concerns about safeguarding the Tiffey Valley. It is also of note that the CAMP¹⁰⁹ made no reference to views from

⁹⁶ Doc D19 & Doc D30 paras 4.12-4.16

⁹⁷ Doc D3 App 11 para 17 & 73

⁹⁸ Doc D30 paras 4.3 & 4.12

⁹⁹ Doc A7

¹⁰⁰ Doc D6 App 2

¹⁰¹ Doc A3 p84-89, Doc D7 Fig 9-11

¹⁰² Doc D5 para 6.1.9

¹⁰³ Doc D5 para 6.3.4

¹⁰⁴ Doc D5 para 6.4.7

¹⁰⁵ Doc D20 Section 3.0, Dwg 3642_014 & Figs 22-28 & Doc D5 para 6.3.6

¹⁰⁶ Doc D5 para 6.3.4

¹⁰⁷ Doc D20 para 3.1.9 & 3.1.10, Doc D5 s9

¹⁰⁸ Doc A24 (a), (b) & (c)

¹⁰⁹ Doc D9 p259

the direction of the appeal site and neither did the authoritative guide on the Abbey¹¹⁰.

60. The assessment of setting is not dependent upon public access as that can vary over time¹¹¹. In this case it is accepted the setting of the Abbey makes a notable contribution to its significance¹¹², as it sits at the head of the valley creating a skyline profile¹¹³ and it dominates, both visually and historically, the surrounding pastoral landscape¹¹⁴. The Abbey's setting can be divided into an inner zone of particular sensitivity and importance and an outer zone of relatively less sensitivity due to distance, extent and townscape¹¹⁵. The wider setting (or outer zone) is extensive and varied¹¹⁶ and in most places the contribution of the setting is apparent in the context of a historic town that has significantly expanded¹¹⁷. These views though do not contribute to the main cultural significance of the Abbey, which is appreciated in the inner zone, in a well-defined close setting¹¹⁸.
61. The Abbey would be 665m from the development at its nearest point and 1km from the view from Chapel Lane¹¹⁹. Moreover, when looking from Chapel Lane the Abbey would be seen in the context of the modern housing on that road¹²⁰. It is also noted that none of the setting is actively managed to promote views of the Abbey¹²¹, and much of the valley lies outside of the town's conservation area¹²². While the Abbey would have had links to the surrounding rural economy, what is now the really special quality of the church is the existence of its 2 towers, one of which is parochial (and so would be related to the settlement). Therefore in principle seeing houses in the wider landscape is not jarring or inappropriate¹²³.
62. If the Council had considered the valley could not have been developed because of the potential harm to the setting of the Abbey, the logical and most transparent thing to do would have been to include it in the town's conservation area¹²⁴. In any event, the character of the valley itself has altered considerably over time due to factors such as the introduction of the railway and modern housing¹²⁵, changing agricultural practices and the erection of the Tacolnестon masts¹²⁶, while the development itself would affect only a small percentage of the total valley setting of the Abbey and an even smaller amount of the overall distant setting¹²⁷. It was also stated that more dramatic views of the Abbey could be gained when entering the town along Cavick Lane¹²⁸.

¹¹⁰ Doc D14

¹¹¹ Doc D32 para 2.7

¹¹² Doc D8 p54 para 5.79 & p55 para 5.83

¹¹³ Doc D8 p48 para 5.83(a)

¹¹⁴ Doc D8 para 5.38

¹¹⁵ Doc D8 para 2.20

¹¹⁶ Doc D32 para 2.7

¹¹⁷ Doc D8 p54 para 5.79

¹¹⁸ Doc D8 p54 para 5.80

¹¹⁹ Doc D8 para 6.57(a)

¹²⁰ Doc D5 para 6.4.6

¹²¹ Doc D8 p55 para 5.84

¹²² Doc D9 p293

¹²³ Doc D8 para 2.13

¹²⁴ Doc D8 paras 5.81 & 5.82

¹²⁵ Doc D30 paras 6.14-6.16

¹²⁶ Doc D24. At the time of my inspection when looking from Chapel Lane 2 masts were visible at Talcolnестon, and they appeared to be side-by-side beyond the Abbey. However, one of these (which would be 206m high) was in the process of being built, and on its completion the other (which is 165m high) would be removed.

¹²⁷ Doc D8 para 6.57b

¹²⁸ Dr Miele in oral evidence

63. The housing would be set down the slope of the valley thereby reducing its visual impact, and trees would be planted trees in front to soften its effect still further. It would also create a varied edge to the settlement, being built in materials and designs redolent of traditional buildings, and it would not change the existing situation of urban features abutting open agricultural land in a valley with the Abbey at the end¹²⁹. Indeed, if poor designs were proposed they could be refused at the Reserved Matters stage.
64. Therefore, para 134 of the Framework and its reference to less than substantial harm must be the starting point. This area is the least sensitive location on the western part of the valley for additional housing¹³⁰, having regard to the proximity of existing housing, the angle of vision and the limited views from Chapel Lane¹³¹. Moreover, the overall effect of the development on the extensive and varied setting would be limited¹³². While it would cause some harm in this respect it would be outweighed by the opening of views with the hedge works and public access resulting in no overall harm to the setting. Accordingly, while the amended Statement of Common Ground confirmed there would be some harm to the setting of the asset¹³³, it was not now common ground that this would be the case¹³⁴.
65. The planning guidance endorses the view of less than substantial harm, as it emphasises the high test for substantial harm and the important consideration as to whether the adverse effect of such works would seriously affect a key element of the building's special architectural or historic interest.¹³⁵ Moreover, the Barnwell Manor judgement does not lead to a change of view, as it outlined a proper approach to the issue of harm to an asset with which the Appellant has complied¹³⁶. It is of note that the significance of the harm also has an influence on the strength of the presumption against granting a development¹³⁷.

Balancing

66. Having particular regard to the technical reports and consultation responses on flooding¹³⁸, highways¹³⁹ and ecology¹⁴⁰, no other matters of harm have been highlighted. Moreover, the benefits the scheme offers with regard to the provision of much needed market and affordable housing, the delivery of sustainable development, improved public access and Abbey views, economic benefits and ecological enhancement outweigh the limited harm identified¹⁴¹.
67. This was a similar view to that of the Inspector in the Costessey decision who, despite identifying significant harm to the landscape, nonetheless concluded the benefits outweighed that harm¹⁴².

¹²⁹ Doc D8 paras 6.44-6.49 & 6.65-6.66

¹³⁰ Doc D8 para 6.15

¹³¹ Doc D8 paras 6.19-6.21

¹³² Doc D32 para 2.7

¹³³ Doc B2 para 7.1(o)

¹³⁴ Doc D31 para 17

¹³⁵ Doc D32 para 2.5 & App JB28 para 1.6

¹³⁶ Doc D31 para 14

¹³⁷ Doc D31 para 19

¹³⁸ Docs A11 & A25

¹³⁹ Docs A15, A16 & A28

¹⁴⁰ Docs A10, A27 & A28

¹⁴¹ Doc D30 paras 7.4 & 8

¹⁴² Doc D3 App11 (paras 34 & 73), Doc A18 & Doc D5 s8

Conclusion

68. Therefore, in the light of the above the appeal should be allowed.

THIRD PARTY VERBAL REPRESENTATIONS MADE TO THE INQUIRY

69. All third parties who spoke at the Inquiry were against the development.

70. **Mr L Broom-Lynne** (Broom-Lynne Planning Design and Landscape appointed by and speaking on behalf of FoT). He contended that the Tiffey Valley is of great importance to the visual and landscape setting of the Abbey, and the approach along Chapel Lane provides important sequential views across this sensitive landscape that would be detrimentally affected by the development. Moreover, the Landscape and Visual Assessment that accompanied the planning application is insufficiently robust to demonstrate clearly that the proposal would not have a significant detrimental impact on the setting of the Abbey. In this regard he highlighted particular concerns about the EBV and the photomontages, and noted the focus had been on the Abbey and not the development itself. In particular he contended that the EBV line that defined the edge of the proposed housing area was aligned on the Abbey's western tower, and so would mean that the layout would encroach into uninterrupted views of the east tower, the west tower, and the connecting roof. Moreover, he considered the views of the Abbey from Chapel Lane outside the EBV line were not of any less value, and when travelling north-westwards along the road the rural character will change greatly.
71. **Canon C Davies** (Incumbent at the Abbey speaking on behalf the Council of the Abbey, the Friends of the Abbey and the Abbey Preservation Trust). He said the Abbey is a jewel in East Anglian architecture, attracting 30,000 visitors a year. One of its attractions is its unique pastoral setting. Any development of the ancient meadows would harm not just the Abbey but also the economy, as there would be fewer visitors.
72. **Mr G Freeman MP** (Member of Parliament for Mid Norfolk). It is appreciated that the town is poised for substantial economic development, and this would offer great opportunities. The residents of Wymondham therefore want a town plan put together in a manner in which they trust, that maintains the town's heritage and identity whilst making sure there is sustainable growth for prosperity. If done correctly it will retain and develop the town, lay the foundation for economic growth and be to the benefit of future generations.
73. For too long planning has been seen as something in which communities cannot take control. There is consequently a need to have a plan that reflects public aspirations, as public support increases if the public are part of the plan-making process.
74. The public have been very much involved in the evolution of Wymondham's Town Plan and the WAAP, and the vast majority of residents do not want to see housing without a strategic vision for how to develop the town. Then suitable infrastructure can be put in. While people acknowledge housing need there is nonetheless a strong view that development should be focussed to the south of the town and not to its north or west in the Tiffey Valley. As he understood it the 5 year housing land supply has now been dealt with by the development to the south of Wymondham, and so allowing proposals contrary to those documents would mean public trust in planning would be hit hard.

75. Turning to the scheme itself, the Abbey is a great historic asset for Norfolk and the view of the building from Chapel Lane is one of the great views in the county. Not only is the Abbey stunning architecturally, but it is an active church and a centre for the arts. Furthermore, the valley is hugely important as a wildlife, recreational and heritage asset.
76. Wymondham can be developed in a way that combines heritage and opportunity. This scheme though goes to the heart of that and, if allowed, would trigger public cynicism. Moreover, its impact on the immediate area would be unacceptable and it would undermine the heritage value of the surroundings.
77. Although it is appreciated that affordable housing will be limited on other sites in the town that is not a good reason to introduce such housing somewhere else.
78. **Mr A Gardiner** (Wymondham Town Councillor)¹⁴³. He noted that residents of Wymondham have firmly rejected new housing in the Tiffey Valley, and, moreover, the allocations in the WAAP represent a very significant increase in the town's size.
79. When approaching the town from this direction the Abbey is a stunning iconic entry that shows you have arrived. The Tiffey Valley is an outstanding area of rural landscape and an important wildlife area that is a precious part of the heritage of the town, attracting tourists and visitors. It would be less attractive as a result of the scheme, to the detriment of the local economy.
80. The proposal could also lead to flooding problems in the valley that could affect existing property
81. **Mr A Howell** (local resident)¹⁴⁴. He said that no development had occurred along Chapel Lane for the last 40 years with housing being refused in the 1980s. The wonderful views of the Abbey will be diminished by the proposal.
82. **Mr M Linley** (resident of Trowse with a Degree in Zoology and lecturer in wildlife conservation). The environmental impact is part of sustainable development. He said that the valley was more than just a greenfield site, but was rather a unique natural environment, and indeed the meadow has 30-40 species of plant. It should therefore be given full protection. Housing would not protect the natural environment or be a prudent use of natural resources.
83. **Mr J Miles** (local resident). He considered the view from Chapel Lane to be the best in the area. There was none like it elsewhere and barely an hour went by without someone stopping to appreciate the vista. The District was full and could accommodate no more housing. The Town Council had listened to the local electorate and as this is a democracy the development should not proceed.
84. **Mr T Povey** (local resident speaking on behalf of FoT)¹⁴⁵. He highlighted the need in Government guidance to protect the natural, built and historic environment. The valley was an unspoilt place with a wealth of wildlife that provides a deeply romantic setting for the Abbey, an asset of the highest importance. However, the scheme would cause less than substantial harm this setting and the valley's rural character due to the resultant urbanisation of

¹⁴³ Text of submissions in Doc E10

¹⁴⁴ Text of submissions in Doc E9

¹⁴⁵ Text of submissions in Doc E5

Chapel Lane. Concerning the alleged benefits, less sensitive sites for housing exist elsewhere and the hedge works are outside the Appellant's control. Moreover, there is a reasonable prospect that public access to the valley will be retained in the future along the Rices' path. Mr Povey confirmed that FoT had no constitution or elections, but rather about 200 members who were concerned not just about the Tiffey Valley but also about the environment and the town.

85. **Mrs J Raynsford** (local resident). She said the reasons for refusal had been consistently applied to the site since 1988. The development would harm the valley and the area, which should be preserved for future generations.
86. **Mr G Smith** (local resident speaking on behalf of FoT). He said this was a special location and view that was an inherent part of Wymondham. He therefore could not understand how it could be despoiled when adequate land existed elsewhere. There was an acceptance that there would be harm, and in his opinion it would destroy a special view. This was because it would result in a block of houses in the foreground with associated street furniture extending within the EBV, and again concern was expressed as to whether the EBV line was correctly aligned. Whilst there would be improved public access to the valley this would not outweigh the harm.

THIRD PARTY WRITTEN REPRESENTATIONS

87. The letters of objection submitted at the application stage raised matters that were generally addressed by those who made representations in regard to the appeal.
88. At the appeal stage 108 letters or emails were submitted and these can be found in the red folder in the file. A further 43 letters were received following the advertising of the application between the adjournment in October and the Inquiry's resumption in February¹⁴⁶. The matters raised included:
- i) harm to the setting of and views of the Abbey;
 - ii) an erosion of the high quality landscape of the Tiffey Valley;
 - iii) harm to the amenity value of the Tiffey Valley;
 - iv) the proposal would exacerbate highway problems as
 - there are already too many vehicles using the town's narrow roads
 - the access would be poor
 - there are no viable public transport options resulting in a high dependency on the car;
 - v) odour from the sewage works;
 - vi) loss of privacy for existing residents on Chapel Lane;
 - vii) on a flood plain, giving an increased likelihood of flooding downstream;

¹⁴⁶ Docs A34 & C27

- viii) leisure facilities, schools, medical facilities sewers and drainage are inadequate to cope with additional demand;
- ix) an adverse effect on the varied wildlife in the Tiffey Valley, especially given it would be adjacent to 2 County Wildlife Sites;
- x) no need for further housing, as the emerging plans and extant permissions have addressed any shortfall;
- xi) unsustainable;
- xii) harm to tourism;
- xiii) loss of farmland;
- xiv) would be the precursor to a larger development;
- xv) approval would be contrary to local democracy and the involvement of local residents in the emerging plan process.

PLANNING CONDITIONS

89. The Council and the Appellant jointly prepared a list of some 16 suggested planning conditions¹⁴⁷. These were discussed at the Inquiry in the light of Circular 11/95 *The Use of Conditions in Planning Permissions* together with a revised Condition 12 offered by the Appellant¹⁴⁸. As Circular 11/95 has now been superseded¹⁴⁹ there has subsequently been opportunity for the parties to comment having regard to the planning guidance.
90. It was accepted that some of the conditions (suggested Conditions 3, 5, 6 and 10) need not be imposed at this outline stage. Given the site's history there is also no justification under planning legislation to require steps to be taken if contamination is found (Condition 13), and no sound reasons were offered for the fire hydrants to be secured as part of a planning condition (Condition 16). As a result, the list of suggested conditions has become much shorter.
91. As well as the standard outline conditions, a condition (Condition 12) was also proffered that the development accord with the Principles A-S in the DAS. Many of these though are subjective statements that one would expect to form part of a Reserved Matters assessment in any case. Therefore, the principles could be adequately addressed by the submission of a Design Code alongside the Reserved Matters (Principle S).
92. With regard to the access, sight splays should be provided though these should be kept clear of any obstruction greater than 0.6m in height above the adjacent carriageway. Whilst the suggested condition proposed no obstruction be over 0.225m high that is unduly onerous. The necessary roads within the site should be provided to a certain standard before the occupation of houses to ensure access. The formation of the access would require the relocation of the bus stop¹⁵⁰. A condition has therefore been suggested to ensure this, though as it involves works outside the Appellant's control such a condition should be

¹⁴⁷ Doc B1 s9

¹⁴⁸ Doc D28

¹⁴⁹ Apart from its list of model conditions

¹⁵⁰ Plan C

negatively worded. A negatively worded condition was also agreed to form a footway along Chapel Lane from the site access to outside No 51¹⁵¹.

93. Given the concerns about flooding details should be agreed of the means of foul and surface water drainage. The proximity to archaeological sites means a written scheme of investigation for a programme of archaeological works is justified and the wildlife value of the Tiffey Valley supports the need for ecological mitigation measures.
94. The conditions as described above are set out in Annex 1 of this Report. In the interests of brevity and clarity I have modified the text of some so they accord with the planning guidance and the model conditions.

THE PLANNING OBLIGATION DEED

95. No legal agreement had been submitted before the start of the Inquiry, and the lack of such a document had not formed a reason for resisting the proposal. Despite this, a Deed¹⁵² signed by the land owner, Mr Meadows, the Council and Norfolk County Council was submitted at the Inquiry by the Appellant. This related to the provision of the following elements:
- 1) *An education contribution*: this comprised the sum of £6,397 multiplied by the number of multi-bed units in the scheme, with 50% of the money to be provided before occupation of 25% of the dwellings, and the remainder to be provided before occupation of 75% of the dwellings. The money would be used towards the expansion and/or reorganisation of schools in the town.
 - 2) *A library contribution*: this comprised the sum of £60 per house to be provided on the occupation of the 10th dwelling and it would be used to improve facilities at Wymondham library.
 - 3) *Play area and recreational space*: this concerned the provision of a play area within 6 months of the occupation of 75% of the dwellings and an agreement of its future management. It also involved the landscaping of the recreational space and the agreement of a management strategy for that area.
 - 4) *Affordable housing*: this concerned the provision of 33% of the total units as affordable housing before the completion of 75% of the houses not identified as affordable.
 - 5) *A landscape management plan*: this concerned the undertaking of off-site landscaping works (namely the works to the highway boundary and hedgerow^[21]).
 - 6) *Footpath provision*: this concerned the provision of the 2 footpaths^[20].
96. Mindful of the evidence from Norfolk County Council¹⁵³ the education and library contributions would be to address an increased need in Wymondham arising from the development. Moreover, it was accepted that there was a shortfall of

¹⁵¹ Plan C

¹⁵² Doc B3

¹⁵³ Doc A29

affordable housing in the area, and the affordable housing contribution would be a reasonable means of responding to this. The provision of the intended play area and open space is also suitable and appropriate for this location and the size of the proposal. Therefore, these elements of the Deed are directly, fairly and reasonably related to the development and so are compliant with Regulation 122 in the CIL Regulations.

97. Turning to the final 2 elements, namely the landscape management plan and the footpaths, the Appellant was of the view that the benefits these provided outweighed any harm. As stated below this is not a judgement I share. Therefore, although they are directly linked to the development and fairly and reasonably related to it in scale and kind, they are not necessary to make the scheme acceptable in planning terms. In this regard I consider the Deed does not comply with Regulation 122 in the CIL Regulations. However, if the Secretary of State were to come to a different judgement in relation to the benefits of these aspects then the Deed would comply with Regulation 122 in the CIL Regulations.

INSPECTOR'S CONCLUSIONS

Main considerations

98. Mindful of the Council's change in position during the Inquiry in relation to housing land supply, the main issues are therefore

- a) whether a 5-year supply of deliverable housing sites can be demonstrated;
- b) the effect of the development on the setting of the Grade 1 listed Abbey;
- c) its impact on the character and appearance of the landscape,

and, if any harm is identified,

- d) whether the harm significantly and demonstrably outweighs the benefits of the scheme arising from the additional housing and other benefits and whether any harm to the heritage asset is outweighed by the benefits of the scheme.

Housing land supply

99. The local MP and other third parties were under the impression that the housing shortfall in the area had been addressed by the WAAP and various recently granted planning permissions^[88, 74, 83]. However, despite this I have no sound basis to disagree with the views of the Council and the Appellant that the supply of housing in the District falls below the figure of 5 years plus 5%, and that it lies somewhere between 3.84 years and 4.66 years ^[25, 35, 51]. To my mind as there is a shortfall its precise size, along with debates about the rate at which it should be tackled or the scale of the buffer^[51] have no material effect on my reasoning.

100. Accordingly in the light of this shortfall paras 49 and 14 of the Framework are engaged. Therefore the relevant policies for the supply of housing should not be considered up-to-date.

Policy

101. With regard to Local Plan Policy ENV8, I accept that is, to some degree, the 'other side' of Local Plan Policy HOU4 that allows housing within Development Limits^[54]. However, on its face it is a policy that is designed to protect the countryside, rather than being one of the '*relevant policies for the supply of housing*'¹⁵⁴. As such, I consider it is not out-of-date, though I accept that, in the absence of evidence to the contrary, addressing a housing land shortfall may well necessitate conflicting with this policy.
102. Turning to Local Plan Policy ENV3, despite comments to the contrary by Mr Hancox¹⁵⁵ I consider this is not criteria-based as required by para 113 of the Framework, and it also imposes a blanket restriction on '*inappropriate development*'. Therefore I share the Appellant's view^[54] and find it inconsistent with that document. Accordingly the weight afforded to it is limited.
103. I consider my findings in relation to these 2 policies concur with those expressed by the Inspector in the Costessey decision^[67].
104. Finally, with regard to Local Plan Policy WYM13 I agree with the Council that this is 'unequivocal' in its wording^[37]. It gives no opportunity for any level of harm to be accepted within the setting of the Abbey, no matter how minor and no matter how great the associated benefits may be. To my mind it is not sufficient to say other policies elsewhere in the Local Plan provide a balanced assessment. Clearly if there was harm from works within the setting of a listed building but it was suitably outweighed by other considerations those works would not conflict with paras 132-134 of the Framework. However, in the same instance a conflict with Policy WYM13 would remain, even if that was outweighed by compliance with another policy. Therefore, Local Plan Policy WYM13 is inconsistent with the Framework and so the weight it should be afforded is limited. Notwithstanding that point, I am nonetheless aware that the scheme would still have to be weighed against s66 of the LBCA Act and the relevant portions of the Framework.
105. I consider the various other policies cited from the Local Plan and the JCS are consistent with the Framework.
106. I appreciate that the WAAP has been the subject of significant public involvement and consultation, and the 'ownership' of that plan by the town's residents came across strongly in the appeal submissions^[74, 88]. However, it is still at a relatively early stage in its preparation, and so I can have little confidence that its policies or allocations will be adopted in the form now before me. Therefore that is given little weight.
107. Although the public involvement in the preparation of the LCA, the PMG and the SHLAA might have been limited, they have all been used to inform policy and practice and the nature of their contents went broadly unchallenged at the Inquiry. I have therefore taken them into account in my reasoning.
108. I have also noted the Council's argument that, even if para 14 of the Framework and its presumption to grant permission was to be engaged, the

¹⁵⁴ Framework para 49

¹⁵⁵ In cross-examination

scheme should still be refused because paras 64 and 133 of the Framework indicate development should be restricted^[36]. However, para 133 is not absolute but requires a balance and a judgement to be made. Moreover, para 64 seeks to resist '*poor design*' and clearly design must be a consideration even when dwellings are proposed in the face of a shortfall in housing land supply. Again though a judgement has to be made as to whether any particular scheme can be so described.

The effect on the setting of Wymondham Abbey

109. In Annex 2 of the Framework the setting of a heritage asset is defined as 'the surroundings in which a heritage asset is experienced'. The parties agreed that this development fell within the setting^[27]. The Appellant said in the amended Statement of Common Ground that there would be some harm to the setting of the Abbey^[64]. However, Dr Miele, in his evidence, concluded that on heritage terms alone the improved views of the Abbey that would result from the hedge works, footpaths and the open space would mean that overall there would in fact be no such harm to the setting of the asset^[64], and that was the Appellant's position at the end of the Inquiry.
110. When in and around the Abbey its history, its detail and its architectural elements can be readily appreciated, but I note that the enclosing trees and buildings mean little sense can be gained of its wider context and its position at the head of the Tiffey Valley. In particular, the appeal site cannot be seen from ground level by the Abbey. The site is visible from near the MNR station^[40], but from there it is distant and, in any event the station is some way from the Abbey. Therefore the proposal would not adversely affect what Dr Miele identified as the inner zone^[60] of the Abbey's setting.
111. However, Chapel Lane provides the best publicly-accessible points from where this heritage asset can be experienced in its landscape context. Views are also possible from the MNR but as that heads straight towards the Abbey I anticipate that these are restricted. Similarly, the Abbey can be seen from Cavick Lane^[62] when entering the town from the west, but that is a narrow winding road and so a true awareness of the Abbey only occurs as arrival in Wymondham is imminent.
112. In contrast, Chapel Lane provides a series of dynamic and sequential views of the distinctive towers of the Abbey^[39, 60]. When more distant from the town the views are partially filtered or blocked by ground levels, planting, buildings and so forth. Then from just before the junction with Longlands Drive the towers and the roof can be clearly seen over the intervening fields and woodlands, only to become again intermittent before the building is concealed by the houses on the edge of the town. In these views it is clear that, despite the expansion of Wymondham over the years, this building, which no doubt formed part of the town's historic core, is still bounded to the west and north-west by countryside.
113. Throughout this approach, the Abbey is not only a statement in its own right, but is also a landmark heralding the traveller's arrival at Wymondham. Even though the Chapel Lane views are at least 1km from the Abbey, they are an important experience of this heritage asset. This is because, whether the views are partial or not, they emphasise the building's scale and its dramatic and imposing nature as well as its pastoral context. Furthermore, they highlight the historic dominance and status of the building within the area.

114. I do not share the Appellant's view that, from Chapel Lane, the Abbey is seen in the context of the housing along that road^[61]. This is because, when looking at the Abbey from within the EBV line housing on the north-east side of the road is in an appreciably different direction, while the housing that lies to the south-west of Chapel Lane is limited in scale and nature, and sits close to the carriageway in relatively large, maturely landscaped plots and the properties on Frogshall Lane are set at a lower level. Moreover, when within the EBV line the Abbey is experienced within the context of the entire appeal site rather than just the part of the site that lies directly in front. Therefore, even in February when I visited the site the foreground had a pastoral ambience as it was dominated by the grassed fields and the trees in the middle-distance with few houses visible.
115. I appreciate that the character of the Tiffey Valley has changed since the Abbey was built and changes have taken place even since the Abbey took its current form^[62] but that is not surprising. Indeed it would be exceptional to find heritage assets of this age whose settings were unaltered. However, despite the changes the valley still retains a pastoral context and nothing in the valley challenges the dominance of the Abbey. As such, the prominence of the building is still apparent. Whilst the 2 masts at Tacolneston were noted behind the towers^[62], one is soon to be removed. Given their scale and form it is inevitable they would have some effect on the settings of listed buildings over quite a wide area. In any event, they are extremely slender features, and their presence does not undermine the experience of the Abbey within the landscape to any material degree.
116. I also appreciate that the original Abbey might well have had a strong link with the valley^[40] but neither the link nor its scale has been proven or is known with any certainty^[61] and the parochial function that is now apparent would have been focussed on the town. There was certainly no evidence presented to show it had a direct functional link with the appeal site. However, even if such links did not exist that does not preclude the Tiffey Valley in general and the appeal site in particular from playing a valuable role in the setting of the Abbey.
117. To my mind it would not have been in accordance with the requirements of the LBCA Act to extend the conservation area to include the setting of the Abbey, if that had meant incorporating land that was not, of itself, of special architectural or historic interest, and which had a character or appearance it was desirable to preserve^[62]. Indeed s66 in the LBCA Act seeks the protection of the settings of listed buildings, and so it is unnecessary to endeavour to do this through other means. The extent of the conservation area has therefore been afforded little weight.
118. Therefore I am of the opinion that the manner in which the Abbey is experienced in the views from Chapel Lane in the vicinity of the appeal site makes a significant contribution to its setting.
119. I am also aware though that safeguarding the setting of a heritage asset does not apply just to public viewpoints but also concerns other places^[38, 60]. In this case these appear to be focussed in the valley, whether on the permissive paths or not, and from these points again the Abbey appears as a dominant and dramatic presence in a pastoral landscape. While the Chapel Lane houses are apparent, they are set well up the hill slope near to the crest across the road. They are also detached and of varied designs, and tend to be separated by

- appreciable gaps and side spaces. As a result, their dominance is limited and they do not significantly erode the rural ambience in the valley or on the existing footpaths.
120. Finally, while some of the houses on the north-east side of Chapel Lane have their views of the Abbey blocked by planting, from others a similar experience of the Abbey to that from Chapel Lane itself is again no doubt possible.
121. Turning to the impact of the proposal, I do not share the Appellant's view that it would be replicating the existing settlement edge^[63]. This is because, unlike the existing dwellings, I consider the housing would not be confined to the upper sides of the valley^[57], but would extend a significant distance from Chapel Lane and would also drop to an appreciably lower ground level down the slope. The density of the development would also be much greater than is found around. It would therefore be at odds with the arrangement and pattern of housing in the immediate vicinity^[41].
122. Consequently, having regard in particular to the Appellant's photomontage¹⁵⁶, although the housing would lie outside of the EBV it would very much encroach into the experience of the Abbey when viewed from Chapel Lane. I accept that this would not be an actual encroachment into the EBV line. However, it would, in visual terms, be close to the eastern tower and so there would be strong awareness of it when looking towards the Abbey from this stretch of road. As such, the rural foreground that now informs the appreciation of the heritage asset would be very much diminished, thereby challenging the current impression of the Abbey standing in a tall and dominant manner within a pastoral landscape.
123. The Indicative Masterplan¹⁵⁷ also shows an access road along the side of the development that would face the valley, and indeed that seems a reasonable and necessary arrangement if the 70 units are to be fitted into the triangular area and if Principle C^[18] is to be achieved. This would inevitably result in parked vehicles encroaching into the EBV, and there could well be further fencing, lamp posts, low hedging, planting and similar. Beyond it is intended to be public open space. While the precise nature and form of this is unspecified, it is reasonable to assume its character would not be that of pasture land as stated in the Key Principles in the DAS^[18] as it would be to some degree more manicured. To my mind such a layout would emphasise the scheme's urbanising effect on this rural landscape.
124. Furthermore, as I have stated above^[113] the views of the Abbey from outside the EBV to the south-east also have a value and contribute to the experience of the asset, yet these would be virtually lost.
125. Therefore, taking all these factors together I conclude that harm would be caused to the setting of the Abbey when on Chapel Lane and the scheme would fail to take into account its effect on the 2 towers. Moreover, these adverse impacts would apply similarly to the effect on the experience of the Abbey from the houses along that road.
126. When in the valley, and when further south than the southernmost point of the Appellant's land as shown on Plan A the development would not encroach into an

¹⁵⁶ Doc D7 Figs 9, 10 & 11

¹⁵⁷ Plan D

appreciation of the Abbey. However, when north of that point, whether on the footpaths or the other land, the development would be notably more apparent than the Chapel Lane housing because of its density and its extension down the valley side, and so it would introduce a far stronger urban presence. From those points the experience of the pastoral setting of the Abbey would again be diminished, once more causing harm.

127. In assessing this matter I do not question that the new houses would be varied in detail using design cues from the town^[19], and I appreciate that such elements can be addressed at the Reserved Matters stage^[57]. However, I have no basis to consider that this would allay my concerns relating to the adverse impact of this block of development within the setting of the Abbey.
128. Moreover, while increased tree planting in front of the houses has been suggested^[63] this would in my opinion impede views of the Abbey, thereby further diminishing the experience these views offer of its setting.
129. Finally, while the development would affect a relatively small percentage of the overall setting of the Abbey, I see nothing in national guidance that implies any adverse impacts are therefore acceptable.
130. In assessing the level of harm, I have taken into account the advice in the planning guidance. Mindful of the Council's comments about the views of English Heritage^[42] I have travelled extensively round the setting of the Abbey, and I have viewed the building from all points suggested by the parties. To my mind, and as acknowledged by Mr Edleston^[42], the scheme would not call into question the Grade 1 status of the building, and when in the immediate environs of the Abbey its special architectural and historic interest would be unaffected. I therefore do not share the Council's view that substantial harm would be caused to the setting of this listed building. Rather, the harm caused by the development in this regard would be less than substantial. However, mindful of the Barnwell Manor judgement that is still a level of harm to which considerable weight and importance should be attached^[43].

The visual effect on the landscape

131. The part of the site identified as B2 Tiffey Tributary Farmland in the LCA is little more than a thin sliver of land along the top of the slope^[32, 33], isolated from any other similarly designated area. I therefore afford it little weight as a landscape designation in my assessment, though I accept it forms a context for the rest of the site and the valley beyond.
132. The area identified as the A2 Yare/Tiffey Rural River Valley is part of a pleasing rural landscape. While the focus is inevitably upon the Abbey, it also has a visual interest due to its topography, the scattering of trees and woodlands, and the variety of planting that is apparent. I am aware though that it is subject to no specific designation beyond Local Plan Policies ENV3 and ENV8^[29] and the allocations in the LCA^[33].
133. Within this context the development would result in the direct loss of a field. This would cause an effect of major-moderate significance when passing the site in either direction along Chapel Lane or when looking across the site from the houses opposite, as it would diminish and enclose the rural landscape appreciably from these viewpoints for the reasons already stated^[122, 122, 124]. Moreover, from

the valley when on or level with the Appellant's land (based on the assumption that the footpath network was provided in accordance with the Appellant's intentions^[20]) again I consider there would be a major-moderate effect as the housing and associated urban paraphernalia would encroach into the valley eroding the current character.

134. However, from by the MNR station the development would be so distant as to mean it would not be intrusive, while its impact on travellers on the MNR would be only fleeting^[45]. Therefore from those points the effects would be moderate or less.

135. Accordingly I conclude the proposal would have an unacceptable effect on the landscape when seen from Chapel Lane and from the valley, thereby conflicting with the Framework and, insofar as they have been attributed weight, Local Plan Policies ENV3 and ENV8.

Other matters

Highway issues^[88]

136. Wymondham is a busy town, and its historic street pattern means the roads are narrow in places. However, given the traffic information submitted^[66] I have no basis to consider the scheme's additional vehicle movements would be sufficient to affect highway safety unacceptably.

137. Visibility from the proposed access would be satisfactory, and having regard to the parking standards¹⁵⁸ adequate on-site parking could be provided, even accounting for the increased density caused by the realignment of the EBV line.

Accessibility to services

138. The site would be outside Wymondham's designated Development Limits^[33] but it would nonetheless be within a reasonable walking distance of the town centre, and closer to shops and services than many other properties in the town^[27]. Although the railway station¹⁵⁹ and the main employment areas would be on the other side of Wymondham, those factors alone would not render the location inappropriately divorced from services and facilities.

Economic effects

139. The scheme would bring some degree of economic benefit during the construction process and also as a result of the further residents. I accept that tourists come to the town because of the Abbey and the Tiffey Valley^[71, 79, 88], and I have identified harm in relation to those matters. However, there is no basis to consider that such harm, however adverse it may be, would be sufficient to cause a reduction in tourism that would offset the economic benefits of the scheme that have been otherwise identified.

Flooding^[88]

140. Even though the development would extend down the slope, it would still be some way above the valley bottom and in Flood Zone 1^[66]. Therefore it should

¹⁵⁸ Doc D29

¹⁵⁹ The railway station linking the town to the national rail system rather than the station serving the MNR

not experience any direct flooding. Moreover, controls could be in place to ensure run-off was no greater than at present, thereby ensuring residents downstream did not suffer as a consequence^[80].

Infrastructure^[88]

141. The Deed is proposing a proportionate contribution towards educational and library facilities in the town, and as stated above I consider this to be compliant with the CIL Regulations^[95] and would address any reasonable additional demands resulting from the scheme. The technical evidence on drainage, together with the consultation responses from the Environment Agency^[66] demonstrate that the town's drainage system could cope with this further development. No sound evidence has been offered to show the medical facilities in Wymondham would be inadequate.

Loss of agricultural land^[88]

142. Although the development would result in the loss of a field by not just the creation of the houses but also the formation of the open space, it has not been stated that this is valuable agricultural land and so that is not a concern I have with the development.

143. At no point did the Council contend that building on this greenfield area would impeded the development of previously developed land in Wymondham or elsewhere.

Living conditions

144. In all probability the scheme would have windows facing across Chapel Lane to the houses opposite. However, the distances involved and the public nature of the intervening road mean those existing residents would not experience any undue loss of privacy^[88].

145. Given the distance to the sewage works so odour from there would not be unacceptable^[23, 24, 88].

Flora and fauna^[82]

146. As the site is on the edge of the countryside it is to be expected that it is used by wildlife. However, again on the evidence before me^[66] if a condition were to be imposed requiring suitable ecological mitigation works there is no basis to conclude that material harm would arise. There was no evidence of any likely direct effect on the nearby County Wildlife Sites.

Public disillusionment with the planning process^[73, 74, 88]

147. There is no Neighbourhood Plan for the area, though I accept that local residents have been actively involved in the preparation of the WAAP^[74]. This site was not identified within that document, and so it is alleged that if the appeal were to be allowed the public would be come disillusioned with the plan preparation process. However, the Framework places a clear and bold emphasis on the primacy of the development plan and the opportunities communities have to shape the scale, location and timing of development. The Localism Act has put the power to plan back in the hands of communities, but with this power comes responsibility: a responsibility to meet their needs for development and growth, and to deal quickly and effectively with proposals that will deliver homes, jobs

and facilities. This greater involvement will consequently depend upon the expeditious preparation of local plans that make provision for the future needs of those areas. The approach given in paragraphs 49 and 14 of the Framework therefore does not undermine the development plan process or the role of local involvement. Rather it only becomes applicable when that process has not achieved one of its fundamental tasks, namely the provision of an adequate supply of housing land.

148. Therefore, given the parties' agreement that there is a shortfall in housing land supply, and mindful too of the relatively early stage of the WAAP, in this instance it would not be appropriate to attach significant weight to the concern of the public and its involvement in the preparation of that document.

The benefits of the scheme

149. The Appellant has identified 6 benefits from the scheme^[66], each of which is considered below.

Public access

150. Of the 2 proposed footpaths^[20], the one that would run from the site down to the Rices' path would still be permissive, and whilst the Deed requires its provision there is no certainty as to how long it would be retained thereafter. It therefore cannot be assumed it would secure the long-term protection of the circular walk through the valley^[13]. The other path, which would be a new route and would be dedicated, would run from Chapel Lane to Frogshall Lane, while there would also be access to the new areas of public open space. These would provide views of the Abbey that would be little different to those on Chapel Lane, but both the open space and the new footpath would be very much influenced by the development. Some benefit would therefore result but overall the weight I have attached to this new public access is limited.

Hedgerow works

151. The proposed works to the hedgerow^[21] would allow clearer views of the Abbey and the landscape at certain points when approaching the town along Chapel Lane, and they would also allow these views to some residents who now have no such views because of the hedging. They would introduce an element of hedgerow management as well that would enhance this feature. In these respects the works would therefore bring some benefit.
152. However, currently filtered views of the Abbey and the valley are visible through much of this length of hedge. Therefore, the works would introduce few new views but rather would be improving those that already exist. In this regard they are therefore not comparable to the clearer more open views of the Abbey and the landscape that are possible in the vicinity of the appeal site and would be harmed by the scheme. Moreover, the views of the Abbey that would be formed through the hedging would be more distant when compared to those around the site, and where clearer views would be provided, such as opposite 102-106 Chapel Lane, the new development would be apparent.
153. Therefore, the weight afforded to the hedgerow works is limited.

Additional housing

154. Given the acknowledged shortfall in housing, the provision of up to 70 further dwellings, of which 33% would be affordable, is a material consideration to which substantial weight should be given.

Economic benefits and ecological benefits

155. Although the scheme would bring forth some economic and ecological benefits, the scale of these has not been articulated in detail and they would be of only limited value.

The provision of sustainable development

156. The site is appropriately located in relation to services and facilities. However, under paragraph 7 of the Framework the Government's definition of sustainability development goes beyond that aspect alone. In this case I have also found that the scheme would harm the landscape and it would cause less than substantial harm to the setting of the Abbey. It would therefore fail to protect the natural and historic environment. As such, the weight afforded to the provision of sustainable development is limited.

Balancing of harm and benefits and overall conclusions

157. Accordingly I consider harm would be caused to the setting of the heritage asset and the landscape, whilst I have found benefits of varying weight resulting from the public access, the hedge works, the provision of housing, the provision of sustainable development and the effects on the economy and ecology.
158. In paragraph 14 the Framework says that where the relevant policies of the development plan are out-of-date planning permission for sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when taken against the policies in the Framework as a whole, or specific policies in the Framework indicate development should be restricted. It does not follow from paragraph 14 that the mere presence of a housing shortfall means housing developments must automatically be allowed. Furthermore, by the use of the word 'significantly' it is clear that para 14 of the Framework intends any adverse impacts to outweigh the benefits by an appreciable amount rather than just marginally.
159. Moreover, s66 of the LBCA Act says special attention should be paid to the desirability of preserving or enhancing the setting of a listed building, and in the Barnwell Manor judgement it was emphasised that this is a matter to which considerable importance and weight should be given. Para 134 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal, and para 132 of the Framework says that any harm requires clear and convincing justification.
160. In the light of the above, and turning first to the balancing exercise under para 134 of the Framework, the benefits from the intended hedgerow works or improved public access would not outweigh the harm to the setting that I have found, as to my mind the effect of the new development means the resultant situation, even with those elements in place, would be significantly inferior to the current position.

161. I have noted benefits of varying weight result from the additional housing and from the effects on ecology and economy. However, I am not satisfied that the provision of such benefits in this specific location clearly justifies the harm to this heritage asset that would result, or that the benefits that would flow from these matters are so pronounced as to outweigh the less than substantial harm caused to the Abbey's setting and the considerable weight and importance that the Barnwell Manor judgement says this should be afforded.
162. Therefore, under para 134 of the Framework I am of the opinion that the benefits of the scheme do not outweigh the less than substantial harm it would cause to the setting of the Abbey.
163. Turning to the balancing exercise under para 14 of the Framework, I appreciate that the provision of housing is a matter to which substantial weight should be attached. Mindful that addressing a housing shortfall will often involve building outside the Development Limits of settlements, to my mind the benefit of additional housing would not have been outweighed by the harm to the landscape had that been my only concern. However, for the reasons given in the paragraphs immediately above I am of the view that the adverse impacts of the development on the setting of this Grade 1 listed building significantly and demonstrably outweigh not just the benefit of providing further housing in an area where a 5 year supply of deliverable housing sites cannot be demonstrated, but also the other benefits cited as well.
164. While the site was identified in the SHLAA^[52] that is not a policy document that designates land use and so does not lead me to change my view.
165. I appreciate that my findings differ to those in the Costessey decision^[67], but to my mind a fundamental difference between that case and this one was the siting of the development within the setting of the Abbey.
166. Accordingly I conclude that the scheme would conflict with the Framework and with Local Plan Policies WYM12, ENV3 and ENV8, insofar as they are afforded weight, and JCS Policy 2.

RECOMMENDATION

167. I recommend the appeal be dismissed.
168. However, if the Secretary of State were to take a different view and decided to grant outline planning permission, I recommend the conditions in Annex 1 should be attached to the permission.

J P Sargent

INSPECTOR

ANNEX 1 – PLANNING CONDITIONS

Reserved Matters details

- 1) Details of the appearance, landscaping, layout, and scale, (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 3 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the Reserved Matters to be approved.
- 4) Along with the submission of the Reserved Matters a Design Code to guide and inform the form of the development shall be submitted to the local planning authority. and the development shall not commence until the Design Code has been approved in writing by the local planning authority.

Highways details

- 5) No development shall take place within the site until the bus stop on Chapel Lane by the proposed access has been installed in a new location and to a design first approved in writing by the local planning authority.
- 6) No development shall take place within the site until the footway along the south-west side of Chapel Lane from the site access to the existing footpath in front of 51 Chapel Lane has been formed in accordance with details first approved in writing by the local planning authority.
- 7) Prior to the first occupation of any dwelling the access shall be formed and visibility splays measuring 2.4m by 59m shall be provided to either side of the access at its junction with Chapel Lane. Thereafter these sight splays shall be retained and kept clear of any obstruction exceeding 0.6m above the height of the adjacent carriageway.
- 8) Prior to the first occupation of any dwelling the estate road(s) and associated footway(s) shall be constructed to binder course level between the dwelling and Chapel Lane in accordance with details that have been submitted to approved in writing by the local planning authority.

Environment

- 9) No development shall take place until a Written Scheme of Investigation for a programme of archaeological works, comprising an intensive watching brief, has been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the site investigation and post investigation assessment has been carried out in accordance with the approved Written Scheme of Investigation, and the provision made for analysis, publication and dissemination of results, together with archive deposition, has been secured.
- 10) Along with the submission of the Reserved Matters details of the means of surface and foul water drainage scheme, together with details of its future management and a timetable for its implementation shall be submitted to the local planning authority, and the development shall not commence until these details have been approved in writing by the local planning authority.

The scheme shall then be implemented in accordance with the approved details and the approved timetable, and thereafter retained.

- 11) Along with the submission of the Reserved Matters details of the means of ecological mitigation, together with details of its future management and a timetable for its implementation shall be submitted to the local planning authority, and the development shall not commence until these details have been approved in writing by the local planning authority. The mitigation shall then be implemented in accordance with the approved details and the approved timetable, and thereafter retained.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Lintott of Counsel	Instructed by South Norfolk District Council
He called	
Mr D Edleston	Conservation, Design and Landscape
BA(Hons) Dip Arch RIBA IHBC	Manager with the Council
Mr M Flatman	Chartered Landscape Architect with Liz Lake
BA Hons (Larch), DipLA CMLI	Associates
Mr G Hancox	Senior Planning Officer with the Council
BA(Hons) DipP MRTPI	
Mr S Marjoram	Senior Planning Officer with the Council's
BA(Hons) Dip Urban Plg MSc MRTPI	Planning Policy Team

FOR THE APPELLANT:

Mr P Village QC	Instructed by Mr J Boyd
He called	
Mr J Boyd MRTPI	Planning Consultant
Mr C Crawford	Landscape Consultant
MA Cantab DipLA CMLI	
Dr C Miele IHBC MRTPI FRHS FSA	Heritage Consultant

INTERESTED PERSONS:

Mr L Broom-Lynne	Broom-Lynne Planning Design Landscape speaking on behalf of Friends of the Tiffey
Canon C Davies	Incumbent at The Abbey
Mr G Freeman MP	Member of Parliament for Mid-Norfolk
Mr A Gardiner	Wymondham Town Councillor
Mr A Howell	Local resident
Mr M Linley	Resident of Trowse with specialist experience on wildlife matters speaking on behalf of Friends of the Tiffey
Mr J Miles	Local resident
Mr T Povey	Local resident and speaking on behalf of Friends of the Tiffey
Ms J Raynsford	Local resident
Mr G Smith	Local resident and speaking on behalf of Friends of the Tiffey

PLANS

Application Plans

- A Drawing No 3113_01_C: Site Location
- B Drawing No 3113_03_I: Site Plan
- C Drawing No 1616/GA/001/D: Priority Site Access Junction

Other Plan submitted with the application

- D Drawing No 3113_02_G: Indicative Masterplan
- E Drawing No 3113_07: Proposed Public Rights of Way
- F Drawing No 3113_08: Illustrative Masterplan and Viewpoints

DOCUMENTS

A) BACKGROUND DOCUMENTS

Submitted with the Application by the Appellant

- A1 Application form and certificates
- A2 Letter to the Council dated 25 July 2012
- A3 *Design and Access Statement* by LDA Design dated July 2012
- A4 *Supporting Planning Statement* by JB Planning Associates dated July 2012
- A5 *Heritage Statement* by Heritage Collective LLP
- A6 *Archaeological Desk Based Assessment* by Heritage Collective LLP dated June 2012
- A7 *Landscape and Visual Assessment* by LDA Design dated 19 July 2012
- A8 *Affordable Housing Statement* by Pioneer dated 23 July 2012
- A9 *Arboricultural Impact Assessment* by PJC Consultancy Limited
- A10 *Badger Survey, Reptile Survey, Water Vole Survey, Breeding Bird Survey, Bat Survey, GCN Survey* by PJC Ecology dated July 2012
- A11 *Flood Risk Assessment* by Stomor Civil Engineering Consultants dated January 2012
- A12 *Services Investigations Report* by Stomor Civil Engineering Consultants dated January 2012
- A13 *Sustainable Design and Construction Statement* by Daedalus Environmental dated 4 July 2012
- A14 *Statement of Community Involvement* by JB Planning Associates dated July 2012
- A15 *Transport Statement Volume 1* by WSP dated July 2012
- A16 *Transport Statement Volume 2* by WSP dated July 2012
- A17 *Response to Representations* by JB Planning Associates dated October 2012
- A18 Counsel's Opinion dated 12 November 2012
- A19 Letters to the Council dated 12 & 20 February 2013
- A20 Letter to the Planning Inspectorate dated 7 October 2013

Other application documents

- A21 Relevant extracts from the *South Norfolk Local Plan*
- A22 Letter from Government Office for the East of England to South Norfolk Planning Services dated 14 September 2007
- A23 Listing details for Abbey Church of St Mary and St Thomas of Canterbury and the other listed buildings around the Abbey

- A24 Consultation responses from English Heritage dated (a) 5 September 2012, (b) 14 February 2013, together with (c) response to Mr Land dated 12 February 2013
- A25 Consultation response from Environment Agency dated 20 September and 31 October 2012
- A26 Conservation & Design Observations dated 13 November
- A27 Other consultation replies from internal consultees
- A28 Other consultation replies from external consultees
- A29 *Evidence in Support of Infrastructure requirements relating to Education and Library provision* by Norfolk County Council
- A30 Letter of representation from George Freeman MP
- A31 Letters of representation from local residents received prior to the determination of the application
- A32 Officer report dated 27 February 2013
- A33 Decision notice dated 27 February 2013
- A34 Letters of representation received in response to the renotification of the application in October/November 2013

B) JOINTLY SUBMITTED BY THE LOCAL PLANNING AUTHORITY & THE APPELLANT AT THE INQUIRY

- B1 *Statement of Common Ground* signed by the parties on 15 October 2013
- B2 *Amendment to the Statement of Common Ground* signed by the parties on 6 and 8 November 2013
- B3 Signed Planning Obligation Deed dated 9 December 2013

C) SUBMISSIONS FOR THE LOCAL PLANNING AUTHORITY

Proofs of evidence and appendices

- C1 Statement of Case
- C2 Mr Edleston's Proof of Evidence and Summary Document
- C3 Mr Edleston's Appendix
- C4 Mr Flatman's Proof of Evidence and Summary of Evidence
- C5 Mr Flatman's Appendices
- C6 Mr Hancox's Proof of Evidence and Summary Proof of Evidence
- C7 Mr Hancox's Appendices
- C8 Mr Marjoram's Proof of Evidence and Summary
- C9 Mr Marjoram's Appendices

Documents submitted during or after the Inquiry

- C10 Opening submissions
- C11 *Joint Core Strategy for Broadland, Norwich and South Norfolk* adopted March 2011
- C12 *Rebuttal to JB Planning Associates Proof of Evidence 09/13 and Rebuttal to Council's Proof of Evidence on Housing Land Supply 10/13* by Mr Marjoram dated 14 October 2013
- C13 *5-Year Land Supply/Housing Trajectory Data: South Norfolk Council as at 31 March 2008*
- C14 *Illustrative Photomontages*
- C15 Annotated drawing 3113_02_G showing the location of Viewpoint 4

- C16 Appendix 4 from the Local Plan
- C17 Appendix A from Mr Flatman's Proof of Evidence at A3 scale
- C18 Draft Minutes from Wymondham Town Council with associated letters concerning the permissive paths in the Tiffey Valley
- C19 *Note on the Colman vs Secretary of State High Court Judgement and its relevance to policies WYM13 and ENV3* dated January 2014
- C20 Appeal decision APP/K2420/A/13/2202261 concerning Land East of Wolvey Road, Three Pots, Burbage, Leicestershire dated 3 January 2014
- C21 Appeal decision APP/R0660/A/13/2195201 concerning Land off Sandbach Road North, Alsager, Stoke-On-Trent dated 18 October 2013
- C22 Errata sheet for evidence of Mr Hancox
- C23 *South Norfolk Council Draft Sustainability Appraisal Report for the Wymondham Area Action Plan* dated September 2013
- C24 Plan of site No 0173 in the *South Norfolk Council Draft Sustainability Appraisal Report for the Wymondham Area Action Plan*
- C25 *South Norfolk Local Landscape Designations Review*
- C26 Plan of the site subject of Appeal APP/L2630/A/12/2170575 at Townhouse Road, Costessey, Norfolk dated 31 August 2012
- C27 3 letters received in response to the re-consultation associated with this appeal
- C28 Closing submissions
- C29 *Note on Barnwell Manor Wind Energy Limited v (1) East Northamptonshire District Council (2) English Heritage (3) National Trust (4) SSCLG [2014] EWCA Civ137* dated February 2014
- C30 Note on the Planning Practice Guidance dated March 2014

D) SUBMISSIONS FOR THE APPELLANT

Proofs of evidence and appendices

- D1 Statement of Case
- D2 Mr Boyd's Proof of Evidence and Summary Proof of Evidence (2 documents)
- D3 Mr Boyd's Appendices (2 documents)
- D4 *Rebuttal to Council's Proof of Evidence on Housing Land Supply* by Mr Boyd dated October 2013
- D5 Mr Crawford's Proof of Evidence
- D6 Mr Crawford's Appendices 1 & 2A-2G
- D7 Mr Crawford's Appendix 2H
- D8 Dr Miele's Proof of Evidence and Summary (2 documents)
- D9 Dr Miele's Appendices

Documents submitted during or after the Inquiry

- D10 Opening submissions
- D11 Details of the remitted extracts from the JCS
- D12 A chain of letters and e-mails between variously Mr Marjoram, Mr Waller, Mr Hancox and Mr Boyd dated from 26 June 2013 to 16 September 2013
- D13 A chain of letters and e-mails between variously Mr Waller, Mr Edleston and Mr Grech (English Heritage) dated from 27 March 2012 to 6 June 2012, together with notes on a meeting dated 15 May 2012
- D14 Extracts from *Wymondham Abbey: A History of the Monastery and parish Church* edited by Paul Cattermole
- D15 *Guidelines for Landscape and Visual Impact Assessment* (3rd ed) by

- Landscape Institute and Institute of Environmental Management & Assessment
- D16 *Rebuttal to Additional Information: Photomontages submitted on behalf of South Norfolk Council* by Mr Crawford dated October 2013
 - D17 E-mail to the Planning Inspectorate dated 28 October 2013
 - D18 Letter to the Planning Inspectorate dated 11 December 2013
 - D19 *Supplementary Statement* by Mr Boyd dated January 2014
 - D20 *Second Rebuttal Proof of Evidence* by Mr Crawford dated January 2014
 - D21 File Note by Dr Chris Miele/Kate Falconer Hall dated 15 January 2014
 - D22 E-mail to the Planning Inspectorate from Tim Waller dated 15 January 2014
 - D23 Letter from Roger & June Meadows to the Town Clerk dated 15 October 2013
 - D24 Appendix A from the *Annual Monitoring Report for Broadland, Norwich and South Norfolk 2012-13*
 - D25 Details of transmission mast at New Road Tacolneston
 - D26 Drawing No 3642_032
 - D27 Policies HOU3 and HOU4 from *South Norfolk Local Plan*
 - D28 New Condition 12
 - D29 *Parking Standards for Norfolk 2007*
 - D30 Closing Submissions dated 6 February 2014
 - D31 Closing Submissions dated 7 March 2014 [concerning the Barnwell Manor judgement]
 - D32 Supplementary Statement dated 17 March 2014

E) SUBMISSIONS FOR OTHER INTERESTED PARTIES IN RELATION TO THE APPEAL

- E1 Representations from FoT submitted before the opening of the Inquiry
- E2 *Review of Landscape and Visual Assessment Report* by Broom Lynne for Friends of the Tiffey dated 6 September 2013
- E3 Letter of representation from George Freeman MP
- E4 Letters of representation from local residents submitted before the opening of the Inquiry
- E5 Submission by Terry Povey
- E6 *A Further Report From Luke Broom-Lynne* dated 28 October 2013
- E7 Letter from FoT dated 5 November 2013
- E8 Note from Mr Howell requesting the opportunity to give evidence
- E9 Statement from Mr Howell
- E10 Statement from Mr A Gardiner
- E11 Photograph from Mr A Gardiner



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.