
Appeal Decision

Inquiry held on 24 - 26 September 2014

Site visit made on 26 September 2014

by Karen L Baker DipTP MA DipMP MRTPI

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

Decision date: 3 November 2014

Appeal Ref: APP/J3720/A/14/2215757

Land off Stratford Road, Hampton Lucy CV35 8BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Charles Church Developments Limited against the decision of Stratford-on-Avon District Council.
 - The application Ref. 13/01876/FUL, dated 1 August 2013, was refused by notice dated 14 March 2014.
 - The development proposed is the erection of 28 dwellings with associated access, landscaping and infrastructure.
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Procedural Matters

1. Although the application form describes the proposed development as being for the erection of 28 dwellings, this number was subsequently reduced to 25 during the course of the planning application. Furthermore, the plans submitted with the planning application were amended to reflect this. The plans upon which the application was determined by the Council are contained in Core Document 10 and are listed at the end of this Decision. As such, I have determined the appeal on this basis.
2. The appellants and the Council submitted a Section 106 Agreement at the Inquiry. This document includes obligations relating to a number of matters including the provision of 9 affordable dwellings on the appeal site and the provision, maintenance and transfer of on site open space, along with financial contributions towards the provision of footpath, highway, library, primary education and off site public open space (children's play area and youth and adult active provision) services and facilities and householder travel packs. I have had regard to this Section 106 Agreement during my consideration of this appeal.
3. Prior to the opening of the Inquiry, the Council confirmed that it would be advancing no evidence in support of its 2 reasons for refusal. At the time the Council made its decision on the planning application it could not demonstrate a 5 year supply of deliverable housing land. However, the Council's position changed in this respect prior to the Inquiry. In August 2014 the Council issued Information Sheet No. 029/2014: Five Year Housing Land Supply Calculation Summary – as of March 2014 (Revised)¹ which indicates that the Council considers that it can demonstrate a 5.4 year supply of housing land. This is disputed by the appellants. Nevertheless, both the Council and the appellants

¹ Core Document 43

agree that whatever the housing land supply position, relevant policies of the development plan (in particular, with regard to the supply of land for housing) are out of date and, as such, the presumption in favour of sustainable development set out in paragraph 14 of the National Planning Policy Framework (The Framework) is engaged in this case. For decision taking this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework taken as a whole or specific policies in The Framework indicate development should be restricted. No evidence of harm is advanced by the Council and, as such, it does not rebut the presumption in this case. Hampton Lucy Parish Council and Neighbourhood Planning Group, along with many local residents, do consider that the proposed development would be harmful, and that this harm would significantly and demonstrably outweigh the benefits of the scheme before me.

Decision

4. The appeal is allowed and planning permission is granted for the erection of 25 dwellings with associated access, landscaping and infrastructure on land off Stratford Road, Hampton Lucy CV35 8BH in accordance with the terms of the application, Ref. 13/01876/FUL, dated 1 August 2013, subject to the conditions in Appendix 1.

Application for Costs

5. At the Inquiry an application for costs was made by Charles Church Developments Limited against Stratford-on-Avon District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues in this appeal are:
 - a) whether or not a 5 year supply of deliverable housing land can be demonstrated;
 - b) the effect of the proposed development on the character and appearance of the settlement of Hampton Lucy;
 - c) whether or not the proposed development would result in the unacceptable loss of best and most versatile agricultural land;
 - d) the effect of the proposed development on community infrastructure; and,
 - e) whether or not the proposed development would represent a sustainable form of development.

Reasons

Housing Land Supply

7. Government guidance in paragraph 47 of The Framework says that local authorities should boost significantly the supply of housing and should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of either 5% or 20% depending on previous delivery.

8. Paragraph 49 of The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites.
9. During the Inquiry the Council and the appellants prepared a note on housing land supply², which sets out their respective positions on this matter. The Council's position is that it can demonstrate a 5.4 year supply (applying a 5% buffer), whereas the appellants' position is that only a 1.9 year supply can be demonstrated (with a 20% buffer applied).
10. Although both the Council and the appellants agree that the Sedgefield approach is the most appropriate method for dealing with any backlog, there are disagreements between the parties relating to the housing requirement, the appropriate buffer and the housing supply. I therefore consider each of these matters below.

Housing Requirement

11. There is a dispute between the Council and the appellants as to the appropriate figure to use to determine the housing requirement within Stratford-on-Avon. Government guidance in paragraph 47 of The Framework says that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. The PPG sets out the standard methodology for assessing housing need. It states, in paragraph 2a-015, that household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need, which may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends. Furthermore, other issues should be taken into account, including employment trends, such as likely changes to job numbers, the growth of the working age population in the housing market area and any cross boundary migration assumptions; and, market signals, such as land prices, house prices, rents, affordability, rate of development and overcrowding.
12. The Council considers that the full objectively assessed need for housing would require 10,800 dwellings over the period 2011 – 2031, which would give an annual requirement of 540 dwellings. This housing target has been derived from the Coventry and Warwickshire Joint Strategic Housing Market Assessment³ (SHMA), published in November 2013, following an independent review⁴ of the evidence prepared in respect of housing need by ERM Consulting, on behalf of the Council. This review took into account the Joint SHMA, as well as an earlier SHMA for the District published in January 2013, along with a further report, the Housing Provision Options Study⁵, produced by GL Hearn in association with JG Consulting in June 2011 and further update produced in December 2012. The figure of 10,800 dwellings included within the Core Strategy Proposed Submission Version⁶, published in June 2014, is

² Document 28

³ Core Document 39g

⁴ Core Documents 40 and 41

⁵ Core Document 39c

⁶ Core Document 42

the mid-point projection from the Joint SHMA incorporating a higher migration rate of 1,056pa).

13. The appellants, on the other hand, consider that the full objectively assessed need for housing would require 20,342 dwellings over the period 2011 – 2031, which would give an annual requirement of 1,017 dwellings. This housing target has been derived from the Chelmer Model, run by the Pegasus Group, on behalf of the appellants, taking account of economic considerations (b)2. This model relies upon an economic forecast by Cambridge Econometrics. This exercise utilised the 2012 population projections, using the truncated mean of the overall migration figures for the last 11 years, rather than the 5 year migration figures upon which the 2012 population projections were based, due to that being a period of recession.
14. At the time of the Inquiry, the emerging Core Strategy had yet to be submitted to the Secretary of State for Examination. However, it was submitted shortly after the close of the Inquiry, on 30 September 2014. Representations have been made to this document in respect of the housing requirement put forward by the Council, including the appellants, and this matter will no doubt be the subject of debate at the upcoming Examination. Given this, I have afforded the emerging Core Strategy limited weight, having regard to the advice in paragraph 216 of The Framework.
15. The approach advocated by the appellants in terms of determining the housing requirement is based upon an economic forecast, the assumptions for which are not known. This assessment⁷, which forms part of the appellants' representation to the emerging Core Strategy, has not as yet been tested. As such, I have afforded it little weight in my consideration of this appeal.
16. Policy STR.2 of the Stratford-on-Avon District Local Plan Review 1996-2011⁸, adopted in July 2006, says that provision will be made for approximately 1,450 dwellings to be completed in the District during the period 2005 – 2011, in accordance with the requirements of the Regional Spatial Strategy (RSS). The RSS has since been revoked and, as such, does not now form part of the development plan. The appellants and the Council agree that the Local Plan Review does not contain an up to date housing requirement, as the relevant policies only relate to the plan period and thus do not go beyond 2011. I concur with this view. As such, I have afforded Policy STR.2 no weight in my consideration of this appeal.
17. As the development plan does not contain an up to date housing requirement, the starting point in this appeal is the full objectively assessed need. In this respect, there are 2 figures before me, namely 10,800 dwellings or 20,342 dwellings over the period 2011 – 2031. Although the emerging Core Strategy has yet to be examined, I acknowledge that the approach used by the Council to identify its full objectively assessed housing need was derived from the Joint SHMA and following an independent review of the evidence prepared in respect of housing need for the District. This review concluded that the Council should set a housing requirement of between 10,500 and 10,800 dwellings within the emerging Core Strategy for the period 2011 – 2031. The Joint SHMA states⁹,

⁷ Appendix 17 to Mr Bateman's Proof of Evidence

⁸ The Local Plan policies to which I refer in this Decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 9 July 2009.

⁹ Paragraph 7.74 of Core Document 39g

in relation to Stratford-on-Avon, that overall the evidence points to a need for a minimum of 480 homes per year. However, it goes on to say that, the evidence points towards this resulting in some suppression of household formation and to a need to consider a higher level of provision to support economic growth in south Warwickshire. As such, the Joint SHMA considers that an appropriate level of provision based on the evidence in the report would equate to between 540 – 600 dwellings per annum (dpa). The lower end of this range is based on the PROJ 1A Midpoint Headship Projection, while the higher end assumes a proportionate uplift on this to support stronger growth in the workforce and to improve affordability in the District. The figure included within the emerging Core Strategy would equate to around 540dpa and, although at the lower end of the range suggested as being appropriate by the Joint SHMA, would be consistent with it.

18. The Chelmer Model used by the appellants is based on the most recent ONS 2012-based population projections. However, the migration figures have been amended by the appellants by examining the last 11 years of migration, which cover both a period of growth and a period of recession, rather than the previous 5 years, which were recession based. In addition, account is taken of the economic requirements. Nevertheless, I am not satisfied that sufficient information has been provided by the appellants about the particular relationships and assumptions used within the Chelmer Model to enable proper scrutiny of it. The requirement for 20,342 dwellings over the period 2011 – 2031, which would equate to around 1,017dpa, is considerably higher than Council's assessment and, indeed, any of the projections made in the Joint SHMA¹⁰. As such, in the absence of any substantial evidence in respect of the assumptions made within the Chelmer Model and, given that the Council's approach more closely reflects that advocated within the PPG, I have used the housing requirement put forward by the Council in its emerging Core Strategy as the full objectively assessed need for the purposes of this appeal.

Appropriate Buffer

19. Paragraph 47 of The Framework says that to boost significantly the supply of housing, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
20. The appellants and the Council also differ on the appropriate buffer to be used in the housing land supply calculations. The Council considers that a buffer of 5% should be applied, whereas the appellants are of the view that the Council has a record of persistent under delivery of housing and, as such, a buffer of 20% would be more appropriate.
21. The appellants and the Council agree¹¹ that the basis for assessing past housing delivery, in order to determine whether a 5% or 20% buffer should be

¹⁰ Tables 47 and 48 of Core Document 39g

¹¹ Paragraph 10 of Document 28

applied, can be the correct application of the West Midlands RSS Phase 2 Revision Panel Report, September 2009, recommendations and the Local Plan Review.

22. Table 1 of Appendix 1 to the Council's Policy Advice Note: 5 Year Housing Land Supply¹², August 2014, indicates that when completions are assessed against the Stratford-on-Avon District Local Plan Review housing requirement of 475dpa for the years 2001/02 – 2010/11 and the emerging Core Strategy housing requirement of 540dpa for the years 2011/12 – 2013/14, the targets were not met in 10 of the last 13 years. Table 2 shows the delivery against the West Midlands RSS (including the Phase 2 Revision Recommendations) housing requirement. However, during the Inquiry a discrepancy was identified between the targets included within this table for the years 2006/07 – 2013/14 and those referred to in the RSS. The latter sets out the annual levels of delivery required in Warwickshire as 1,300 (2006-11) and 1,915 (2011-16). This would equate to 343dpa in years 2006/07 – 2010/11 ($1,300 \div 100 \times 26.4$) and 506dpa in years 2011/12 – 2015/16 ($1,915 \div 100 \times 26.4$), rather than the figures of 225dpa and 330dpa used by the Council in Table 2. When applied correctly, the RSS targets were not met in 8 of the last 13 years.
23. I note that during the period 2006 – 2011 a housing moratorium was in place in the District, which the Council says had the effect of slowing down the release of sites for housing. Government guidance in the PPG says that it is legitimate to consider a range of issues, such as the effect of imposed housing moratoriums and the delivery rate before and after such moratoriums when assessing whether or not there has been a persistent under delivery. It goes on to say that the assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of peaks and troughs in the housing market cycle.
24. I acknowledge that, although the moratorium ended in 2011, the residual effects were still evident in the years 2011/12 and 2012/13 due to the time lag between obtaining planning permission and constructing homes on site. Nevertheless, in all but 2 of the years between 2006/07 and 2012/13 the dwellings built were substantially less than the targets in the RSS and less than the Local Plan Review targets in each year. Indeed, in the period 2001/02 – 2005/06 a total of 2,965 dwellings were built ($472 + 436 + 602 + 806 + 649$) against an RSS target of 2,640 (528×5) and a Local Plan Review target of 2,375 (475×5) giving a surplus of 325 and 590 dwellings respectively against the RSS and Local Plan Review targets at that time. In the period 2006/07 – 2012/13, which includes the 2 years following the end of the moratorium 1,791 dwellings were built ($454 + 401 + 172 + 244 + 102 + 133 + 285$) against an RSS target of 2,727 ($343 \times 5 + 506 \times 2$) and a Local Plan Review/emerging Core Strategy target of 3,455 ($475 \times 5 + 540 \times 2$) giving a shortfall of 936 and 1,644 dwellings respectively against the RSS and Local Plan Review/emerging Core Strategy targets at that time. Indeed, when the whole period between 2001/02 and 2012/13 is examined, a shortfall exists of 611 dwellings ($936 - 325$) and 1,054 ($1,644 - 590$) respectively against the RSS and Local Plan Review/emerging Core Strategy targets over that time. Although housing completions are showing signs of increasing since the end of the moratorium, they remained substantially below both the RSS and emerging Core Strategy

¹² Core Document 46

targets in the most recent year 2013/14, with a shortfall of 159 dwellings and 193 dwellings respectively.

25. Although Stratford-on-Avon was subject to a housing moratorium between 2006 – 2011, it is apparent that, even against the lower targets set in the RSS during this period, there has been a record of persistent under delivery, which has continued following the end of the moratorium. I acknowledge that this view differs to that of my colleague in his Report to the Secretary of State on a previous appeal within this District (Ref. APP/J3720/A/11/2163206). However, that Decision was made by the Secretary of State around 2 years ago and there remains an under delivery of housing against the targets within the District. As such, in order to reflect Government guidance in The Framework which seeks to boost significantly the supply of housing, by providing a realistic prospect of achieving the planned supply and ensuring choice and competition in the market for land, I consider that the requirement for a 20% buffer now applies in this District.

Supply

26. In terms of the supply, the Council considers that 3,934 dwellings should be included, compared to the appellants' figure of 3,418 dwellings. While both the Council and appellants agree that dwellings under construction; dwellings with planning permission (outline and full); remaining Local Plan allocations; dwellings with a resolution to grant planning permission; and, stalled sites, are all components that comprise part of the supply, the inclusion of Class C2 uses (elderly persons' residential homes) and windfalls are disputed by the appellants. Furthermore, with the exception of dwellings under construction, there is disagreement between the appellants and the Council as to the number of dwellings to be included in each of these components. I consider each of these matters below.

Class C2 Uses

27. Government guidance in paragraph 3-037 of the PPG says that older people have a wide range of different housing needs, ranging from suitable and appropriately located market housing to residential institutions (Use Class C2). It goes on to say that local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement. Paragraph 3-037 of the PPG does not set out how local planning authorities should count housing provided for older people against their housing requirement. It does state, however, that the approach taken, which may include site allocations, should be clearly set out in the Local Plan. No such approach is set out in the existing development plan or the emerging Core Strategy.
28. The appellants consider that Class C2 uses should not be included within the supply until the approach to be adopted has been fully examined as part of the Local Plan process. The Council's Policy Advice Note provides an explanation of how the Council's housing land supply is calculated, including its approach to dealing with Class C2 uses. It states in paragraph 11 that accommodation in residential institutions comprises bedrooms as opposed to dwellings and as such the number of bedrooms provided cannot necessarily be used as a proxy for the number of dwellings. It goes on to say that for older people it is necessary to judge the extent to which an increase in care accommodation would lead to the release of existing housing onto the market, thus contributing

to a net increase in supply. The Council considers it appropriate to apply a reduction of one third to reflect the fact that a proportion of care spaces (beds) would not be occupied by single people, but by individuals whose partners still occupy the family home, thus not releasing a home onto the market. However, I am not satisfied that substantial evidence has been provided to support such a reduction or that this approach has been adequately tested. While I concur with both the Council and the appellants that housing provided for older people, including residential institutions in Use Class C2, should be counted against the housing requirement, the approach to be taken should be determined as part of the Local Plan process.

Windfall Allowance

29. The Council has included a windfall allowance of 240 dwellings (large and small sites excluding residential gardens) in the last 3 years of its supply at a rate of 80dpa. The Council's Policy Advice Note refers to an analysis of completions which it states shows that the District has achieved a consistent supply of homes from windfall sites in previous years and that analysis of commitments shows that this trend is continuing at a high level. The Council states that it has mapped the supply of housing from windfall sites and the pattern of distribution which, coupled with the nature and number of historic settlements in the District, suggests that there is capacity, and therefore a likelihood, that windfall rates will continue to be relatively high. The appellants consider, however, that there is no case in Stratford-on-Avon to add to the supply with a significant additional element of windfall, since large site windfall provision is not consistent and reliable due to policy considerations and small site windfall is already allowed for within the overall supply figure, thereby resulting in double counting.
30. It is apparent that the inclusion of an allowance for windfall sites within the supply will be debated at the forthcoming examination into the emerging Core Strategy, when the full extent of local circumstances will be considered. Paragraph 3-024 of the PPG says that a windfall allowance may be justified in the 5 year supply if a local planning authority has compelling evidence as set out in paragraph 48 of The Framework. Paragraph 48 says that any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment (SHLAA), historic windfall delivery and expected future trends, and should not include residential gardens. The Glossary in Annex 2 to The Framework defines windfall sites as sites which have not been specifically identified as available in the Local Plan process and would normally comprise previously developed sites that have unexpectedly become available.
31. From the evidence before me, it is apparent that within Stratford-on-Avon windfall provision has traditionally provided a significant percentage of the housing supply. However, although I acknowledge that the Council has excluded 'super-sized' sites (99+ homes) and replacement dwellings from its calculations of the windfall allowance, and only applies the windfall assumption in the last 3 years of the 5 year period to avoid double counting, I am concerned that there is a heavy reliance on past performance. I note the appellants' assessment of windfall sites already granted permission or under construction on small sites of less than 10 dwellings, which currently exceed the expected completions on windfall sites over the next 5 years. Furthermore, I am not satisfied that the Council has provided compelling evidence to support its inclusion of an additional 240 dwellings on windfall sites within the 5 year

housing land supply. On this basis, I do not consider that a windfall allowance should be included within the housing land supply.

Sites with Planning Permission

32. The main difference between the Council and the appellants in respect of dwellings with outline or full planning permission relates to the deduction applied for non-implementation. The former favours a 5% deduction, while the latter prefers a 10% deduction. In addition, with regards to the sites with outline planning permission, the Council considers that a larger proportion of dwellings would be delivered on a site on land to the west of Shottery. The appellants therefore consider that a total of 1,533 dwellings (684 + 849) should be included within the supply, compared to 1,712 dwellings (721 + 991) included by the Council.
33. The Council considers that a 5% deduction reflects local circumstances and the buoyant housing market within the District. The appellants, on the other hand, refer to other appeal Decisions where Inspectors and the Secretary of State have accepted a lapse rate of 10% to ensure a robust 5 year supply figure. There is no evidence before me relating to past take up rates. As such, I consider that the more cautious approach should be used in this case with a 10% deduction applied in order to ensure that the housing land supply figures are robust and boost significantly the supply of housing in the District. This would also reflect the deduction figure used for the remaining Local Plan allocations, dwellings with a resolution to grant planning permission and stalled sites.
34. With regards to the Shottery site, the Council has added in a further 150 dwellings from this site within its supply calculations, making a total of 450 dwellings to be delivered on this site within this time. I note that there will be 2 private developers and an affordable housing provider on site and that the developer suggests that up to 615 units are achievable within 5 years. The Council suggests that, given the size of the site and the number of housebuilders involved, it would be reasonable to assume that 30 dwellings per quarter would be achievable. The appellants consider that the number of dwellings included within this site should only be increased by a maximum of 50 dwellings. In my opinion, the number of units included within the supply by the Council is overly optimistic and a more cautious approach should be taken with regards to this site. I concur with the appellants' view that an increase of around 50 dwellings would more accurately reflect the likely build out rates on this site, having regard to the presence of 2 developers and an affordable housing provider on site. I therefore consider that the appellants' figures for dwellings with full and outline planning permission should be used for the purposes of the housing land supply calculation.

Local Plan Allocations

35. The Council has included a site at Friday Furlong within the housing land supply calculation as it is a Local Plan allocation which was previously omitted from the housing land supply calculation in error and the Phase 2 element of the allocated site was given a resolution to grant planning permission, subject to a Section 106 Agreement, in April 2014. The Section 106 Agreement is nearing completion and the Council considers that it could be delivered within 5 years. A deduction of 10% has been applied, which gives a total of 55 dwellings included within the housing supply. The appellants disagree that the site

should be included as the site has been problematic over a number of years and was not granted planning permission, or had a resolution to grant, before the end of March 2014.

36. Given that this site is a Local Plan allocation it should be included within the supply figures. The fact that it now has a resolution to grant full planning permission, subject to a Section 106 Agreement, increases the likelihood that it will be developed within the next 5 years and, as such, I concur with the Council's view that an allowance for 55 dwellings should be included within the overall supply.

Dwellings with a Resolution to Grant Planning Permission

37. The Council considers that 457 dwellings should be included within the supply, which have a resolution to grant planning permission, with a 10% deduction applied for non-implementation. The appellants, however, consider that this figure should be 433 dwellings, with a 10% deduction applied. The differences relate to the inclusion of sites at Dudfield Nursery and Long Marston. The Council considers that both sites are achievable within the 5 years, while the appellants do not.
38. I understand that the Long Marston site is part of a larger development which is currently being built out with completions. There is, therefore, no evidence to indicate that this later phase would not follow within the next 5 years. With regards to the Dudfield Nursery site, there is no evidence before me to show that this development on a brownfield site could not be completed within the next 5 years.
39. I am satisfied, therefore, that the Council's figure of 457 dwellings should be used within the supply for the purposes of the housing land supply calculation.

Stalled Sites

40. The appellants consider that 72 dwellings, including a 10% deduction for non-implementation, should be included within the housing supply figures on stalled sites. The Council considers, however, that this figure should be 90 dwellings, including a 10% deduction for non-implementation. The difference relates to planning permission being granted for a greater number of dwellings than previously granted on the Cattle Market site, Alcester Road, Stratford-on-Avon. The Council anticipates that, given the amount of money that has already been invested on this site, it would be built out quickly and that this is the developer's intention. I also note that there is a condition attached to the grant of planning permission on this site (Appeal Ref. APP/J3720/A/13/2205108) which requires that the development begin not later than 18 months from the date of the Decision (07/05/14). From the evidence before me, I am satisfied that the correct figure to use in respect of the stalled sites is that of 90 dwellings put forward by the Council, which would more accurately reflect the current position in respect of the Cattle Market site.

Conclusion in Respect of Housing Land Supply

41. For the purposes of this appeal and in advance of the detailed Examination of full objectively assessed need included within the emerging Core Strategy, I have used the housing requirement put forward by the Council in its emerging Core Strategy of 540dpa (2,700 for the 5 year period) as the full objectively assessed need. On this basis, I concur with the Council's approach which says

that the target number of dwellings that should have been delivered from the start of the plan period in 2011 to the start of the 5 year period in 2014 is 1,620 (540dpa x 3). The number of completions from the start of the plan period to 2014 is stated by the Council as being 847 dwellings (2011/12 + 2012/13 + 2013/14 is 133 + 327 + 387). This gives a shortfall from the first 3 years of the plan period of 773 dwellings (1,620 – 847). The 5 year requirement (2,700 + 773 = 3,473) plus a 20% buffer (695) would equate to a requirement of 4,168 dwellings (834dpa).

42. In terms of supply, I consider that the Council's figure of total supply should be adjusted to reflect the removal of the windfall allowance and the use of the appellants' figures for dwellings with full and outline planning permission (684 and 849 dwellings respectively) which incorporate a 10% deduction for non-implementation and a smaller increase in the number of dwellings expected to come forward on the site on land to the west of Shottery. This would give a total supply of 3,515 dwellings (1,380 + 684 + 849 + 55 + 457 + 90), including Class C2 uses. If Class C2 uses were excluded from the supply, the supply would fall to 3,350 dwellings (3,515 – 165).
43. From the evidence before me, it is apparent that when Class C2 uses are included, a shortfall of 653 dwellings exists (4,168 – 3,515), and that this shortfall increases to 818 dwellings (4,168 – 3,350), when Class C2 uses are excluded from the supply. This equates to a housing land supply of 4.21 years and 4.02 years respectively.
44. I conclude, therefore, that irrespective of whether or not Class C2 uses are included within the housing land supply, a shortfall is still evident. The Council cannot therefore demonstrate a 5 year supply of deliverable housing land. I have afforded this matter substantial weight in my consideration of this appeal.

Character and Appearance

45. The appeal site is located adjacent to the western edge of the village of Hampton Lucy, within open countryside. To the east of the appeal site is residential development, which comprises a collection of cul de sacs known as The Langlands, Hithersand Close, Farther Sand Close and The Close. Further residential development is located to the south, along Stratford Road. To the north and west the land is in agricultural use. To the south of the appeal site, on the other side of Stratford Road, is a playing field and children's play area. The appeal site slopes gently upwards from Stratford Road and is currently overgrown.
46. Hampton Lucy Parish Council and the Neighbourhood Planning Group, along with many local residents, are concerned about the impact of the proposed development on the character and appearance of the area. In particular, they are concerned about the rapid change of scale proposed, which they say would be at odds with the historic and organic growth of the settlement and would not be conducive to maintaining the social well being of the community.
47. Government guidance in paragraph 57 of the Framework says that it is important to plan positively for the achievement of high quality and inclusive design for all development. Paragraph 58 says that decisions should aim to ensure that developments will function well and add to the overall quality of the area; optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green

and other public space as part of developments) and support local services and facilities; respond to local character and history, and reflect the identity of local surroundings and materials; and are visually attractive as a result of good architecture and appropriate landscaping.

48. The appellants submitted a Design and Access Statement¹³ for the proposed development as part of the planning application. This Statement includes an assessment of the site and the surrounding area, along with details of the proposed design from conceptual schemes, through public consultation meetings with the Parish Council and local residents, to the final scheme for submission to the Council for consideration. It indicates how the style of the elevational treatment and appearance of the proposed dwellings, along with the design and materials used, would take direct reference from features and elements found on existing buildings in the settlement of Hampton Lucy. From the evidence before me, I am satisfied that the proposed development would provide a well designed, landscaped layout which would incorporate an appropriate mix of dwellings of a scale and density appropriate to its village setting.
49. Policy CS.16 of the emerging Core Strategy identifies Hampton Lucy as a Category 4 Local Service Village, where approximately 10 – 25 homes would be required. The Council identified, through its SHLAA process, that the appeal site exists, is available and is capable of accommodating development without undue harm to the character and setting of the village. I note that the suggested yield for the appeal site in the SHLAA was 28 units, but that the Panel commented that 28 units would be too many for the character of the village and suggested that 8 units would be more appropriate on a reduced site. Therefore the yield was adjusted to reflect the Panel's comments. I acknowledge Hampton Lucy Parish Council and the Neighbourhood Planning Group's statement at the Inquiry that there are other smaller sites available within and on the edge of the village which could accommodate small numbers of housing. However, no other site was identified in the SHLAA as being capable of meeting the need.
50. The appellants say that the proposed development would increase the settlement size by around 19% and that this would not be dissimilar to other increases in the size of the village which occurred when the neighbouring Langlands development was brought forward in the 1980s, which represented an 18% increase at that time, and when the local authority housing off Stratford Road was developed, which represented a 19% increase at that time. Hampton Lucy Parish Council and Neighbourhood Planning Group dispute the latter of these which they say represented an 8% increase due to the demolition and replacement of 12 existing dwellings.
51. Although the proposed development would represent a significant addition to the village, the scale of the development proposed would accord with that proposed in the emerging Core Strategy and with the previous development at The Langlands. Furthermore, from the evidence before me, the appeal site represents the most appropriate place within Hampton Lucy to accommodate the housing required in the emerging Core Strategy. The proposed development would include a mix of house types which would be appropriate to the village. The appeal site, although on the western edge of the village, is

¹³ Core Document 6d

within walking distance of the centre of Hampton Lucy with good access to the public house, village hall, primary school and church, along with the children's play area on Stratford Road. There is no evidence before me to suggest that the design, nature or amount of development proposed at the appeal site would be detrimental to social cohesion. Indeed, in my opinion, residents of the proposed development would be likely to interact with existing occupiers in a similar way to those living within The Langlands development.

52. I conclude, therefore, that the proposed development would not harm the character and appearance of the settlement of Hampton Lucy.

Agricultural Land

53. The appeal site extends to around 2.02ha. The appellants commissioned an Agricultural Land Classification (ALC)¹⁴ of the appeal site, which indicated that it is ALC Grade 3a. This is disputed by Hampton Lucy Parish Council, who consider that the appeal site is ALC Grade 2. To support this view, the Parish Council refers to the neighbouring agricultural land, which is used for intensive salad and vegetable cropping, and to the published 1:250,000 series Provisional ALC Map, in the absence of recent (post 1988) ALC survey data for the appeal site, which shows the area of interest as lying within an area shown as a mixture of Grade 2 and 3 land¹⁵. I note, however, that the latter map is designed to give an indication of land quality at a strategic level and, consequently, is not suitable for site specific assessments, for which a more detailed field survey may be needed. Such a survey has been undertaken by the appellants and, in the absence of any substantial evidence to the contrary, it is apparent that the appeal site constitutes Grade 3a agricultural land which, nevertheless, represents some of the best and most versatile agricultural land. Hampton Lucy Parish Council and Neighbourhood Planning Group, along with many local residents are concerned about the loss of this best and most versatile agricultural land if the proposed dwellings are constructed.
54. Government guidance in paragraph 112 of The Framework says that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. It goes on to say that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The appeal site is currently overgrown and not actively farmed. However, this would not preclude the appeal site from being used for agricultural purposes in the future. Indeed, the intensive use of the neighbouring land to the north for salad and vegetable cropping indicates that the fields to the west and north of Hampton Lucy are currently productive.
55. At the Inquiry the Neighbourhood Planning Group indicated that there are a number of small sites where new housing could be accommodated in the village and within the wider Parish. However, I note the SHLAA Review 2012 which indicates that there may be one broad location for further growth around the settlement on land to the west of the village, to the north of Stratford Road. From the evidence before me, it is apparent that, given the extent of

¹⁴ Agricultural Land Classification, undertaken by Soil Environment Services Limited, August 2014 (Appendix 44 to Mr Fenwick's Proof of Evidence)

¹⁵ Email from Kayleigh Cheese, Planning Advisor, Natural England (Document 13 appended to Dr Dunkerton's Proof of Evidence)

best and most versatile agricultural land around Hampton Lucy, along with the limited number of sites for housing within the confines of the village, an area of agricultural land would have to be developed if the Council's housing targets within the emerging Core Strategy are to be met.

56. I conclude, therefore, that only limited weight can be afforded to the loss of the best and most versatile agricultural land in this case.

Community Infrastructure

57. The Council's first reason for refusal stated that the financial contribution proposed towards education infrastructure provision would not satisfactorily mitigate for the proposed development and notwithstanding the financial contribution towards acute and community healthcare services, the new residents of the proposed development would not have adequate access to GP facilities. However, it confirmed at the Inquiry that it would not be defending this reason for refusal. Nevertheless, Hampton Lucy Parish Council and Neighbourhood Planning Group, along with many local residents expressed concern about the impact of the proposed development on the village primary school and the GP surgery in Wellesbourne.
58. In terms of education, Warwickshire County Council is the Local Education Authority (LEA) for the area. Hampton Lucy benefits from a primary school within the settlement (Hampton Lucy Church of England Primary School), which is a small rural school with a half a form of entry. The LEA confirms that it is full in most year groups and is forecast to be completely full in Key Stage 1 from 2015. Space is very limited and the school has to teach Nursery and Reception classes together in a cramped building separate to the main school. The LEA states that it would not be possible to admit any further children from any developments in the area, with the school in need of a separate Reception classroom to enable it to reorganise and admit further pupils.
59. The LEA calculates that the proposed development would generate a primary school pupil yield of 4 and, given that there is no space for any children from the development at Hampton Lucy Primary School, requires that a financial contribution of £46,748 be made by the appellants for the purpose of providing, extending, improving or otherwise altering facilities or services for primary education at Hampton Lucy Primary School or such other primary schools which are in the catchment area or priority area of the appeal site. This sum is included within the submitted Section 106 Agreement. As such, I am satisfied that the proposed development would not lead to an undue burden being placed on the existing village primary school.
60. With regards to healthcare, following the determination of the planning application, the South Warwickshire NHS Foundation Trust informed the Council that it has decided to no longer pursue Section 106 contributions for developments of less than 50 dwellings. As such, it confirmed that it no longer requested a contribution in relation to the proposed development. The local GP surgery is Hastings House Medical Practice in Wellesbourne. In response to the planning application the Practice stated that its current premises are already running at full capacity and do not comply with the latest NHS design guidelines which is affecting efficient service delivery leading to the Practice to consider various options for the future. It confirmed that only with the delivery of a new primary care facility could future healthcare services for the projected increase in population be met. However, funding for primary healthcare

provision is within the remit of NHS England and the Practice is currently discussing this option with NHS England. Finally, the Practice confirmed that it would be pleased to accept patients from any growth in population with NHS England support.

61. Although the Practice in Wellesbourne is running at full capacity, it has made it clear that it is looking at the development of a new primary care facility to meet the increasing demand for its services and to comply with the latest NHS design guidelines. NHS England has a responsibility to provide services and facilities where they are needed. It is apparent that the South Warwickshire NHS Foundation Trust has set a threshold for new developments of 50 dwellings above which developers would be expected to make a contribution towards healthcare services if appropriate. The proposed development falls below this threshold and as such the South Warwickshire NHS Foundation Trust is not seeking a financial contribution in this case. At the Inquiry it was stated that some residents of the village use GP surgeries in Stratford-on-Avon. It is apparent, therefore, that there are alternative surgeries in the local area. Although the Practice in Wellesbourne is running at full capacity, it is clearly seeking to expand and, in the absence of any objection from the South Warwickshire NHS Foundation Trust, I am satisfied that the healthcare requirements of future occupiers of the proposed development could be satisfactorily accommodated in the local area.
62. I conclude, therefore, that the proposed development would not harm the community infrastructure.

Sustainable Development

63. Paragraph 7 of The Framework sets out the 3 dimensions to sustainable development: economic, social and environmental and paragraph 8 says that the roles performed by the planning system in this regard should not be undertaken in isolation, because they are mutually dependent. It goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system, which should play an active role in guiding development to sustainable solutions. At the heart of The Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. Paragraph 14 of The Framework says that for decision taking this means approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework taken as a whole, or specific policies in The Framework indicate development should be restricted.
64. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

65. There is no dispute between the Council and the appellants that the proposed development would be sustainable. However, Hampton Lucy Parish Council and Neighbourhood Planning Group, along with many local residents dispute this. In particular, they refer to the limited public transport services and village facilities.
66. In terms of the economic role, the proposed development would provide employment in the construction of the scheme, which would offer opportunities in the short term to local people. Furthermore, the future occupiers of the proposed development would offer longer term support to the local economy, including the public house, along with wider economic benefits to the District, given the site's proximity to 3 principal centres of employment locally, including Stratford-on-Avon town centre, the Wellesbourne Industrial Estates and Jaguar Land Rover at Gaydon, as well as through Council Tax revenues and expenditure in the local area. In addition, a New Homes Bonus of around £245,974 would be payable to the District and County Councils.
67. With regards to the social role, the proposed development would provide 25 dwellings, of which 9 would be affordable. I acknowledge the local housing survey carried out by the Neighbourhood Planning Group, which identifies the type of properties required in the village. However, it is apparent that the Council is unable to demonstrate a 5 year supply of deliverable housing land and there is an identified high level of need for affordable housing in the District as a whole. I am satisfied, therefore, that the proposed development would go some way to meeting the needs for such housing in this area. Furthermore, the proposed development would increase the local population which would help to sustain local services in the village, including the public house, village hall, church and primary school, and increase participation in community and social activities.
68. Finally, in terms of the environmental role, the proposal would involve the loss of agricultural land. However, I have afforded the loss of this agricultural land limited weight in my determination of this appeal. Furthermore, I consider that the design quality of the proposed development, along with the inclusion of substantial elements of open space and landscaping, would represent an environmental gain, which, in addition to the social and economic gains detailed above, would represent a sustainable form of development.
69. I acknowledge the concerns of local residents about the inclusion of Hampton Lucy as a Category 4 Local Service Village in the emerging Core Strategy, along with the limited public transport services and village facilities. However, as well as assessing each settlement for the presence and comparative quality of 3 key services – general store, primary school and public transport – the size of the settlement has been applied by the Council as the overriding factor by which a settlement has to have at least 100 dwellings to be identified as a Local Service Village regardless of the presence of key services. The emerging Core Strategy is promoting a dispersed approach to development which includes provision for some new housing in villages across the District, including an allowance for small-scale development in the Local Service Villages to help meet the needs of these communities, to provide some scope for new households to move into them and to help support the services they provide. From the evidence before me, it is apparent that the proposed development would satisfy the aims of the emerging Core Strategy in this respect.

70. I conclude, therefore, that the proposed development would represent a sustainable form of development, having regard to local and national policy.

Other Matters

71. Hampton Lucy Parish Council and Neighbourhood Planning Group, along with many local residents and other interested parties have raised a number of other matters. One of their main concerns relates to flooding and drainage. During the course of the Inquiry a video was played which showed the impact of pluvial flooding on the appeal site in the form of water run off from the adjacent farmland to the north.
72. The appellants submitted a Flood Risk Assessment¹⁶ (FRA) as part of the planning application, which was later updated¹⁷. No objections were received from Severn Trent Water, the Environment Agency or Warwickshire County Council's drainage team in respect of flood risk and drainage matters. Following concerns raised by local residents in respect of pluvial flooding the appellants propose to construct an infiltration trench as part of the proposed development, which would run around 288m along the northern boundary and wrap around and continue along parts of the western and eastern boundaries of the appeal site. The infiltration trench would be stone filled and around 1m wide, with a depth of around 2m. Its purpose would be to intercept overland flows and protect properties from the risk of pluvial flooding. Its proposed design, including the back up system, is shown on Drawing No. AAC5003 Option 2 Rev. C¹⁸. I acknowledge the concerns of third parties with regards to flooding on the appeal site. However, I am satisfied, from the evidence before me, including that provided orally and in writing at the Inquiry by Mr Turner on behalf of the appellants, that the proposed infiltration trench would be sufficient to intercept overland flows from the fields to the north and, subject to its continued maintenance to ensure that the trench is kept silt free, it would be capable of delivering betterment. This matter could be controlled by a planning condition.
73. With regards to drainage, the appellants included a Drainage Strategy within the FRA. Following a Preliminary Site Investigation Report and comments from the Environment Agency, additional soakaway testing was completed in October 2013. The results of this demonstrated that ground conditions would be suitable to utilise infiltration based drainage for the whole appeal site and Indicative Micro Drainage calculations have been completed to demonstrate that soakaways would be suitable. The appellants submitted the results to Warwickshire County Council and it confirmed that the surface water drainage strategy by the use of soakaways would be acceptable. From the evidence before me, I am satisfied that the proposed on site drainage system would be suitable to accommodate flows up to and including the 1 in 100 year + 30% rainfall event. This matter could also be controlled by a planning condition.
74. The matter of prematurity has been raised by third parties. However, the emerging Core Strategy is yet to be examined and I have afforded it limited weight during my consideration of the appeal, having regard to the guidance in paragraph 216 of The Framework. Furthermore, the Neighbourhood Plan has yet to be prepared, with work not set to begin until Spring 2015. Hampton

¹⁶ Core Document 6h

¹⁷ Core Document 12

¹⁸ Core Document 18

Lucy is identified as a Local Service Village with the potential to accommodate between 10 and 25 dwellings in the emerging Core Strategy and the appeal site is identified in the SHLAA as being the best location for housing development in Hampton Lucy. As such the proposed development would be consistent with the emerging Core Strategy in any event.

Conclusions

75. From the evidence before me I have concluded that the Council cannot demonstrate a 5 year supply of deliverable housing land. Paragraph 49 of The Framework says that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Furthermore, it was agreed at the Inquiry that the policies for the supply of housing are out of date.
76. It is apparent that the proposal would represent a sustainable form of development. Paragraph 14 of the Framework states that at its heart is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision taking. For decision taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework as a whole; or specific policies in The Framework indicate development should be restricted.
77. Although the proposed development would lead to the loss of some best and most versatile agricultural land, I have afforded its loss limited weight in this case.
78. In my opinion, the lack of a 5 year supply of deliverable housing land is a material consideration of substantial weight in this appeal. I have considered all the other matters raised by Hampton Lucy Parish Council and Neighbourhood Planning Group and third parties including the volume of objections from local residents; the proposed housing mix; highway and pedestrian safety; the scale of the development; the greenfield nature of the appeal site; opportunities for residential development on brownfield sites within a few miles of Hampton Lucy; and, the loss of existing hedgerows. However, given that the proposal would not harm the character and appearance of the settlement of Hampton Lucy or community facilities and would represent a sustainable form of development, along with the need to boost significantly the supply of housing in the District, I consider that this would outweigh the loss of this agricultural land. As such, I conclude that the appeal should be allowed.

Conditions

79. The Council and the appellants submitted an agreed list of draft conditions¹⁹ at the Inquiry. In addition to the standard time limit condition, the agreed list includes 22 conditions. Hampton Lucy Parish Council and Neighbourhood Planning Group submitted a list of 9 matters²⁰ at the Inquiry, which they

¹⁹ Document 26

²⁰ Document 29

consider should be included within any conditions. I have had regard to the advice in the PPG²¹ when considering these conditions.

80. A condition which sets out the approved plans would be reasonable for the avoidance of doubt and in the interests of proper planning. Conditions which require the submission and approval of sample materials to be used in the construction of the external surfaces of the dwellings, soft and hard landscaping details and a scheme for the protection of trees, along with their implementation, would be necessary to safeguard the character and appearance of the area. Hampton Lucy Parish Council and Neighbourhood Planning Group is concerned about the trees and hedges on the other side of Stratford Road. The requirement for the submission and approval of a scheme for the protection of trees during construction would safeguard any trees to be retained within the site as well as those trees outside the site whose Root Protection Areas (RPAs) (as defined in British Standard BS 5837 (2012)) fall within the site.
81. A requirement that the development be carried out in accordance with the approved Flood Risk Assessment, along with the submission and approval of a Drainage Maintenance and Management Strategy, and the submission and approval of a scheme for the disposal of sewerage, would safeguard the development from the risk of flooding and protect the environment. The condition relating to the Drainage Maintenance and Management Strategy should include a specific reference to the infiltration trench and soakaways, for the avoidance of doubt. A condition which requires the development to be carried out in accordance with the recommendations of the Phase 1 Habitat Survey would be necessary to safeguard protected species.
82. Details of all external light fittings and external light columns including their predicted luminance levels would be necessary to safeguard the living conditions of local residents and to prevent light pollution. Hampton Lucy Parish Council and Neighbourhood Planning Group have requested that any lighting scheme should not produce light pollution. The imposition of this condition would enable the assessment of luminance levels from all external light fittings and external lighting columns. A condition which requires the submission and approval of a scheme for the provision of energy from on site renewable sources and/or a 'fabric first' design sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development would be reasonable to safeguard the environment.
83. A condition requiring the submission and approval of detailed plans and sections showing existing and proposed site levels, along with proposed finished floor levels would be necessary to safeguard the character and appearance of the area. The submission and approval of a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes at the site would be reasonable in the interests of the safety of future occupiers. A requirement that a Management and Maintenance Plan for the site is submitted and approved would be necessary to safeguard the character and appearance of the area, in the interests of highway safety and to ensure satisfactory living conditions for future occupiers. A condition requiring that highway works and improvements shown on Drawing No. JNY7970-01 be

²¹ Circular 11/95: The Use of Conditions in Planning Permissions has been largely superseded by the Planning Practice Guidance, with the exception of Appendix A (Model Conditions)

completed would be necessary in the interests of highway and pedestrian safety.

84. A condition requiring the laying out and substantial construction of the roads serving the development, prior to its occupation, would be reasonable in the interests of highway safety. The submission and approval of a Construction Method and Transport Management Statement would be necessary to safeguard the living conditions of local residents and in the interests of highway safety. Hampton Lucy Parish Council and Neighbourhood Planning Group have suggested that traffic routing, working hours and flags advertising the development need to be controlled. A requirement for the submission and approval of a scheme for the routing of construction vehicles and the hours of construction work, along with the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, are included in this condition. Conditions requiring that all new dwellings shall achieve a minimum rating of Level 3 Code for Sustainable Homes and that a minimum of 50% of all new dwellings shall be designed and built to meet the Joseph Rowntree Foundation's 'Lifetime Homes' standards would be reasonable in the interests of providing a sustainable development.
85. The provision of a water butt, for each dwelling that has a downpipe, and 3 bins for the purposes of refuse, recycling and green waste, for each dwelling, would be reasonable to safeguard the environment and in the interests of sustainability. A condition requiring that details of any temporary buildings, compounds, structures or enclosures required in connection with the development should be submitted and approved, would be reasonable to safeguard the character and appearance of the area. A condition requiring that a site investigation of the nature and extent of contamination affecting the site, along with any necessary remediation, would be reasonable to safeguard the health of future occupiers.
86. Hampton Lucy Parish Council and Neighbourhood Planning Group have raised a number of other matters to be considered. In terms of pedestrian access to the village, I note that the appellants have tried, unsuccessfully, to negotiate with an adjacent landowner to provide a more direct pedestrian access to the centre of the village from the proposed development. To impose a condition requiring a footpath link, which would be reliant on works on land not controlled by the appellants and which has no real prospect of being provided would be unreasonable. As such, it would not pass one of the 6 tests in paragraph 206 of The Framework.
87. With regard to the reinstatement and repair of Stratford Road up to the main road, due to damage from heavy vehicles, and money for effective traffic calming measures along Stratford Road, neither of these improvements has been sought by the Highway Authority. Indeed, in my opinion, neither is needed to make the development acceptable in planning terms and, as such, would fail the test of necessity. Finally, Hampton Lucy Parish Council and Neighbourhood Planning Group also request that the appellants liaise with Valefresco over timings and details of vehicle movements and possible interference with the farm work in the adjacent fields. Given the nature of these matters, I am not satisfied that such conditions would be necessary to make the development acceptable in planning terms, sufficiently precise or reasonable in all other respects. As such, they would not pass 3 of the 6 tests.

Section 106 Agreement

88. The appellants submitted a Deed of Agreement²² under Section 106 of the Town and Country Planning Act 1990, which includes a number of obligations to come into effect if planning permission is granted. I have considered these in the light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. I have also had regard to the Council's Statement addressing the application of the statutory requirements in Regulation 122 of the CIL Regulations to the planning obligations, submitted prior to the Inquiry.
89. Policy IMP.4 of the Local Plan Review says that planning permission will only be granted where proper arrangements have been put in place to secure the provision of the full range of physical and social infrastructure necessary to serve and support the development proposed. It goes on to say that planning obligations will be sought through negotiation with developers where these would secure provision, either on or off site, of the necessary physical and/or social infrastructure. The obligations within the Section 106 Agreement relate to the following matters:
90. *Affordable Housing*: Policy COM.13 of the Local Plan Review says that in order to maximise the supply of affordable housing as a proportion of overall housing supply all proposals involving residential development on allocated and windfall sites will be expected to provide a proportion of affordable housing, where in the case of a settlement with a population fewer than 3,000, such as Hampton Lucy, the development would comprise either 10 or more dwellings and/or involve a site of 0.4ha or more of land. Paragraph 6.12.2 of the reasoned justification to this policy indicates that, based on the 1999 Housing Needs Survey, which was updated in February 2002, the Council has approved a target of 35% of housing on qualifying sites that should be provided as affordable housing. This is supported by the Council's Meeting Housing Needs Supplementary Planning Document (SPD), adopted in July 2008, which states in MHN2 that the minimum of 35% on site affordable housing provision will be sought from every site to which Policy COM.13 applies. This would equate to 9 affordable dwellings on the appeal site, given that the proposed development would include the construction of 25 dwellings in total. The Section 106 Agreement would include the provision of 9 affordable dwellings on the appeal site. Given the level and nature of the need for affordable housing in the District, I am satisfied that this obligation would pass the statutory tests.
91. *Library*: Local authorities have a duty under the 1964 Public Libraries and Museums Act to provide a comprehensive and efficient public library service to all who live, work or study in the area. Warwickshire County Council is seeking a financial contribution of £5,014 towards the provision, extension, alteration and improvement of library and information facilities including the provision of books, computer equipment and other media in the nearest library to the appeal site at Wellesbourne and/or in relation to the Mobile Library which visits the village. The contribution is determined by a formula used by the County Council which is based on the Public Library Service Standard and the need to provide a comprehensive Library Service measured by those standards. In the case of the proposed development the sum requested is based on a unit cost per person of £71, with around 71 people generated by the proposed housing

²² Document 19

mix. The Section 106 Agreement would include a financial contribution of £5,014 for the purposes of providing, extending, altering or improving library and information facilities including the provision of books and other media for Hampton Lucy. Given that the proposed development would result in an increase in the population of Hampton Lucy and that these residents would have requirements for a library service, I am satisfied that this obligation would pass the statutory tests.

92. *Public Right of Way:* Policy RW5b of the Warwickshire Local Transport Plan 2011-2026 seeks improvements, both within a development site and in the surrounding area, where the development is likely to lead to an increase in use of the local network or where the development impacts on the existing network. Furthermore, Policy LUT3 promotes sustainable development and seeks developer contributions, where appropriate, to provide for pedestrian facilities, amongst other things, to serve new development. Finally, Policy W9 encourages measures that enable good accessibility by pedestrians to, from and within new developments and, where appropriate, will secure funding from developers towards wider improvements to the pedestrian network. Policy COM.9 of the Local Plan Review says, amongst other things, that negotiations will be carried out with developers for contributions where a development generates a need for improved pedestrian or cycle facilities outside the development site.
93. Warwickshire County Council has requested a financial contribution of £1,650 towards improvements to public rights of way within a 1.5 mile radius of the appeal site. It states that this would mitigate for the increase in the Highway Authority's maintenance liability resulting from the increase in use of local public rights of way by new residents from the proposed development. The improvements would include upgrading stiles to gates and path surface improvements. The amount requested has been calculated based on the estimated length of public rights of way within a 1.5 mile radius of the proposed development, the estimated cost of improvements to this network, the estimated cost per resident based on residency figures for local wards, and the estimated number of future residents for the proposed development. The Section 106 Agreement includes a financial contribution of £1,650 for the purpose of improvements to public rights of way within a 1.5 mile radius of the appeal site. Given that the proposed development would result in an increase in the population of Hampton Lucy and that these residents would be likely to use the public rights of way within a 1.5 mile radius of the appeal site, which would result in increased wear and tear, I am satisfied that this obligation would pass the statutory tests.
94. *Sustainable Travel Packs:* Policy LUT3 of the Warwickshire Local Transport Plan promotes sustainable development and seeks developer contributions, where appropriate, to provide for travel packs to serve new developments, amongst other things. The County Council has requested a contribution of £1,250 (£50 per dwelling) to provide a sustainable travel pack for each dwelling and to promote sustainable travel in the local area. The Section 106 Agreement includes a financial contribution of £1,250 for the purpose of purchasing sustainable transport information packs. Given the nature of the proposed dwellings and their village location, I am satisfied that the provision of sustainable travel information in the form of Travel Packs, along with the funding of local sustainable travel/energy promotion, would assist future occupiers in making sustainable transport choices and inform them of

opportunities for recycling and energy saving. I am satisfied, therefore, that this obligation would pass the statutory tests.

95. *Open Space Provision – Children’s Play:* Policy COM.4 of the Local Plan Review sets out the standards of open space that will be sought and includes children’s play areas to a minimum of 0.8ha per 1,000 population in settlements such as Hampton Lucy. Policy COM.5 says that where there is a deficiency in public open space in terms of Policy COM.4, new residential development should make provision to meet the needs which would be generated by that development. It goes on to say that where this cannot be provided within the site, a contribution towards open space provision in the locality or for the upgrading of existing facilities will be sought. It then sets out the minimum standard of 10sqm per person (1ha per 1,000 population) of incidental open space, which should consist of children’s play areas and informal areas for quiet relaxation, which would be expected to be incorporated in proposals for residential development. The Council’s Supplementary Planning Guidance (SPG) Provision of Open Space, adopted in March 2005, sets out the methodology for calculating open space provision and the level of developer contributions.
96. I note the Council’s revised formula for calculating public open space requirements for new residential development within small scale settlements such as Hampton Lucy which seeks open space for children’s play to a standard of 2,400sqm per 1,000 population for informal children’s play and 600sqm per 1,000 population for equipped children’s play. I also acknowledge the Council’s PPG17 Open Space, Sport and Recreation Assessment – update, Addendum Report, published in June 2012, which identifies a surplus of children and young people’s play facilities within the settlement of Hampton Lucy totalling 0.04ha or 400sqm.
97. The Council has calculated, using its revised formula, that the amount of open space required by the proposed development would be 165sqm for informal children’s play and 41sqm for equipped children’s play. The proposed development would provide in excess of the required 165sqm of informal children’s play area on site. Given the surplus of children and young people’s play facilities in the settlement of Hampton Lucy, the Council did not seek the provision of an area for equipped children’s play on the appeal site. However, the Council considers that the future residents of the proposed development would be likely to put additional wear and tear on the existing children’s equipped play area, which is sited in close proximity to the appeal site, on the other side of Stratford Road. As such, the Council requires a financial contribution of £4,510 towards the maintenance of the existing equipped children’s play area. This has been calculated by multiplying the figure for the maintenance of such areas (£110 per sqm) by the calculated requirement of equipped children’s play area to serve the appeal site (41sqm).
98. The Section 106 Agreement includes obligations for the provision, maintenance and transfer of the on site open space and a financial contribution of £4,510 towards the provision, upgrade or maintenance of public open space which might reasonably be used by the residents of the proposed development. Although there is a surplus of equipped children’s play area within the settlement of Hampton Lucy, given its close proximity to the appeal site and the nature of the dwellings proposed, it is likely that children from the appeal site would use the existing facility on Stratford Road leading to increased wear

and tear of the facility. As such, I consider that a financial contribution towards its future maintenance would be reasonable. Given the nature of the proposed development and the likely demands of future occupiers of the proposed dwellings, I am satisfied that the obligations in relation to the provision, maintenance and transfer of on site open space and the financial contribution to the maintenance of off site public open space would pass the statutory tests.

99. *Open Space Provision – Youth and Adult:* Policy COM.4 of the Local Plan Review sets out the standards of open space that will be sought and includes children's play areas to a minimum of 0.8ha per 1,000 population in settlements such as Hampton Lucy. Policy COM.5 says that where there is a deficiency in public open space in terms of Policy COM.4, new residential development should make provision to meet the needs which would be generated by that development. It goes on to say that where this cannot be provided within the site, a contribution towards open space provision in the locality or for the upgrading of existing facilities will be sought. It then sets out the minimum standard of 10sqm per person (1ha per 1,000 population) of incidental open space, which should consist of children's play areas and informal areas for quiet relaxation, which would be expected to be incorporated in proposals for residential development. The Council's Provision of Open Space SPG sets out the methodology for calculating open space provision and the level of developer contributions.
100. I note the Council's revised formula for calculating public open space requirements for new residential development within small scale settlements such as Hampton Lucy which seeks open space for adult and youth to a standard of 4,400sqm per 1,000 population for active public open space and 600sqm per 1,000 population for incidental public open space. I also acknowledge the Council's PPG17 Open Space, Sport and Recreation Assessment – update, Addendum Report, which identifies an undersupply of youth and adult active playing pitch provision (junior football pitches, cricket and mini football pitches) within Wellesbourne and Kineton, which is the sub area relating to Hampton Lucy, totalling 3.6ha or 36,000sqm.
101. The Council has calculated, using its revised formula, that the amount of open space required by the proposed development would be 302sqm for active youth and adult use and 41sqm for incidental youth and adult use. The proposed development would provide in excess of the 41sqm required for incidental youth and adult use on site. However, no provision would be made on site for the active youth and adult use. The Council has calculated that, based on the population generated by the proposed development, a financial contribution of £7,550 would be required in lieu of on site provision to be used towards redressing the identified under supply of youth and adult pitch provision in the Wellesbourne and Kineton sub area. However, the Council considers that the requested contribution should be proportionate and should not be used to overcome the deficit, but only to provide facilities to accommodate the additional demand that the development would generate. On this basis, the Council states that there are currently around 3,600 dwellings in the Wellesbourne and Kineton sub area, with the proposed development of 25 dwellings representing a 0.69% increase. By applying 0.69% to 36,000sqm gives a requirement for 248.4sqm. As such, the Council calculates that, as the cost of off site provision is £25 per sqm, a financial contribution of £6,210 (248.4 x 25) would be required in this case.

102. The Section 106 Agreement includes obligations for the provision, maintenance and transfer of the on site open space and a financial contribution of £6,210 towards the provision of youth and adult active provision which might reasonably be used by the residents of the proposed development. Given the significant under supply of youth and adult pitch provision in the Wellesbourne and Kineton sub area, along with the demand for such facilities likely to be generated by future occupiers of the proposed dwellings I consider that a financial contribution towards the off site provision of such facilities would be reasonable. Furthermore, given the nature of the proposed development and the likely demands of future occupiers of the proposed dwellings, I am satisfied that the obligations in relation to the provision, maintenance and transfer of on site open space would be fairly and reasonably related in scale and kind to the proposed development. As such, these obligations would pass the statutory tests.
103. *Highway – Traffic Regulation Order (TRO) Works:* Policy DEV.4 of the Local Plan Review says that new or improved access arrangements to serve development will be treated as an integral part of the overall layout and their design will be required to meet a number of criteria. Policy IMP.5 says that each planning application will be assessed to gauge the level and form of contribution towards transport related facilities required as a result of the development, taking a number of factors into account. Policy LUT9 of the Warwickshire Local Transport Plan seeks developer contributions where appropriate for improving the local and surrounding highway and transport network, as well as ensuring new development is not accessed to the detriment of the existing highway. It goes on to say that developers will be required to enter into suitably worded agreements through Section 106 of the Town and Country Planning Act 1990.
104. The County Council requires a financial contribution of £10,000 for the design, advertisement, processing and issuing of the required TROs which would enable the extension of the existing 30mph limit along Stratford Road beyond the entrance to the proposed development, in the interests of highway safety. The Section 106 Agreement includes a financial contribution of £10,000 for the purpose of providing funding towards pedestrian enhancements and traffic management measures in Hampton Lucy. Given the location of the proposed access and the number of dwellings that would be served by it, I am satisfied that the extension of the 30mph speed limit beyond the entrance to the proposed development would reduce speeds in the vicinity, which would be beneficial to highway and pedestrian safety along Stratford Road. I consider therefore that this obligation would pass the statutory tests.
105. *Education:* The Education Authority calculates that the proposed development of 25 dwellings on the appeal site would generate a pupil yield of 4 primary school age pupils. Hampton Lucy benefits from a primary school within the settlement, which is a small rural school and is full in most year groups and is forecast to be completely full in Key Stage 1 from 2015. As a result, the Education Authority requests a financial contribution of £46,748 towards the provision of a further 4 places for the anticipated yield from the proposed development. The costings utilised by the County Council are based on guidance issued by the Department for Education. The Section 106 Agreement includes a financial contribution of £46,748 for the purpose of providing, extending, improving or otherwise altering facilities or services for primary education at Hampton Lucy Church of England Primary School or such

other primary schools which are in the catchment area or priority area of the appeal site. Given that there would be no possibility of admission for primary school age children from the proposed dwellings to the village school and the likely pupil yield from the development I consider that this obligation would pass the statutory tests.

Karen L Baker

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ian Ponter <i>of Counsel</i>	Instructed by Mr Macer Nash, Solicitor for the Council
He called	
Mrs Philippa Jarvis	Principal of PJPC Limited (Planning Consultancy)
BSc(Hons) DipTP MRTPI	

FOR THE APPELLANTS:

Mr Jeremy Cahill QC	Instructed by Mr Keith Fenwick, Alliance Planning, on behalf of Charles Church Developments Limited
He called	
Mr Christopher May	Director of Pegasus Planning Group
BA(Hons) MRTPI	
(presented the evidence prepared by Mr Anthony Bateman BA(Hons) TP MRICS MRTPI MCMi MIOd FRSA)	
Mr Joe Turner HNC	Senior Engineering Manager, Persimmon Homes Limited
Mr Keith Fenwick	Director of Alliance Planning
BA(Hons) TP MRTPI	

FOR THE HAMPTON LUCY PARISH COUNCIL AND NEIGHBOURHOOD PLANNING GROUP:

Dr John Dunkerton	Hampton Lucy Parish Council
Mrs Jacqueline Williams	Neighbourhood Planning Group

INTERESTED PERSONS:

Councillor Peter Richards	Ward Member
Mr Nicholas Butler	Warwickshire Branch of the Campaign to Protect Rural England (CPRE)
Mrs Sue Main	Chair of Hampton Lucy Parish Council
Mr Chris Schroeder	Member of the Hampton Lucy Housing Action Group
Mr L Michael Woodman	Langlands Association
Mrs Angela Chedham	Stratford Road Residents Group
Mr Clive Letchford	Local Resident
Mr Alan Scaife	Local Resident
Mr Tony Horton	Stratford-on-Avon District Council
	(Conditions/Section 106 Session only)
Mrs Kate Tait	Charles Church Developments Limited
	(Conditions/Section 106 Session only)

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of Appearances on behalf of the appellants, submitted by the appellants
- 2 Core Documents CD39b, 39c, 39d, 39e, 39f, 39h and 39j, submitted by the appellants
- 3 Copy of Mrs Williams' presentation to the Inquiry, submitted by Mrs Williams
- 4 Copy of Dr Dunkerton's Slide Show, submitted by Dr Dunkerton
- 5 List of Agreed Draft Conditions, submitted by the appellants
- 6 Costs application on behalf of the appellants, submitted by the appellants
- 7 Opening submissions on behalf of the appellants, submitted by the appellants
- 8 Opening submissions on behalf of the Council, submitted by the Council
- 9 Report on the Stratford-on-Avon District Core Strategy Proposed Submission Document – Analysis of Formal Representations to the Cabinet on 8 September 2014, submitted by the appellants
- 10 2012-based Sub-National Population Projections and Economic Forecasts: Implications for Housing Need in Coventry and Warwickshire, dated September 2014, prepared by GL Hearn Limited, submitted by the appellants
- 11 Neighbourhood Plan File, submitted by Mrs Williams
- 12 Statement by Councillor Peter Richards, submitted by Councillor Richards
- 13 Statement By Mr Nicholas Butler, on behalf of the Warwickshire Branch of the CPRE, submitted by Mr Butler
- 14 Statement by Mrs Sue Main, Chair of Hampton Lucy Parish Council, submitted by Mrs Main
- 15 Statement by Mr Chris Schroeder, on behalf of the Hampton Lucy Housing Action Group, submitted by Mr Schroeder
- 16 Statement by Mr L Michael Woodman, on behalf of the Langlands Association, submitted by Mr Woodman
- 17 Statement by Mrs Angela Chedham, on behalf of Stratford Road Residents' Group, submitted by Mrs Chedham
- 18 Statement by Mr Clive Letchford, local resident, submitted by Mr Letchford
- 19 Section 106 Agreement, submitted by the Council
- 20 Statement by Mr Nick Mauro, Director of Valefresco, submitted by Mr Schroeder
- 21 Statement by Mr Clive Letchford, local resident, submitted by Mr Letchford
- 22 Qualifications and experience of Mr Christopher May, submitted by the appellants
- 23 Qualifications and job title of Mr Joe Turner, submitted by the appellants
- 24 Note by Mr Joe Turner in response to points raised in evidence by Mr Schroeder, submitted by the appellants
- 25 Table 1: Flood Zones extract from the Planning Practice Guidance, submitted by the appellants
- 26 Revised list of draft conditions, submitted by the Council
- 27 Neighbourhood Plan Designation application consultation responses, submitted by Mrs Williams
- 28 5 Year Housing Land Supply Note prepared by Mrs Philippa Jarvis and Mr Christopher May, submitted by the Council
- 29 List of suggested conditions, submitted by Hampton Lucy Parish Council and the Neighbourhood Planning Group
- 30 Closing Statement on behalf of Hampton Lucy Parish Council, submitted by Dr Dunkerton
- 31 Closing Statement on behalf of the Neighbourhood Planning Group, submitted by Mrs Williams
- 32 Closing Submissions on behalf of the local planning authority, submitted by

- the Council
- 33 Closing Submissions on behalf of the appellants, submitted by the appellants

APPLICATION PLANS

- A1/1 Site Location Plan (Drawing No. 12-1323/L)
- A1/2 Scheme Proposals (Drawing No. 011-rev K)
- A1/3 Street Scenes (Drawing No. 013rev E)
- A1/4 2060 Elevations (Plot 1) (Drawing No. 12-1323/22-4B)
- A1/5 2210 Elevations (Plot 2) (Drawing No. 12-1323/24-4B)
- A1/6 2210 Elevations (Plot 3) (Drawing No. 12-1323/24-3B)
- A1/7 1779-4B 6P House (Plots 4, 7 & 8) (Drawing No. 12-1323/021B)
- A1/8 2060 Elevations (Plot 5) (Drawing No. 12-1323/22-3B)
- A1/9 2060 Elevations (Plot 6) (Drawing No. 12-1323/22-2B)
- A1/10 1565 Plans and Elevations (Plot 9) (Drawing No. 12-1323/020-1B)
- A1/11 1565 Plans and Elevations (Plot 10) (Drawing No. 12-1323/020-2B)
- A1/12 2 Bed 3P Bungalow Plan and Elevations (Plot 11) (Drawing No. 12-1323/028-1)
- A1/13 2 Bed 3P Bungalow Plan and Elevations (Plot 12) (Drawing No. 12-1323/028-2A)
- A1/14 80 – 3 Bed 4 Person Affordable Planning Drawing (Plots 13-15) (Drawing No. 80.3B4P_Planning Rev A)
- A1/15 663 Audley (Plots 16 & 17) (Drawing No. C 663)
- A1/16 876 Blickling (Plots 18 -19) (Drawing No. C 876)
- A1/17 1123-3B 5P House (Plot 20) (Drawing No. 12-1323/023-1C)
- A1/18 1123-3B 5P House (Plot 21) (Drawing No. 12-1323/023-2C)
- A1/19 3 Bed 5P Bungalow Plans and Elevations (Plots 22 & 23) (Drawing No. 12-1323/012-1A)
- A1/20 2210 Elevations (Plot 24) (Drawing No. 12-1323/24-2B)
- A1/21 2060 Elevations (Plot 25) (Drawing No. 12-1323/22-5B)
- A1/22 2060 Plans (Drawing No. 12-1323/22-1)
- A1/23 2210 Plans (Drawing No. 12-1323/24-1)

Appendix 1 – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 12-1323/L; 011-rev K; 013rev E; 12-1323/22-4B; 12-1323/24-4B; 12-1323/24-3B; 12-1323/021B; 12-1323/22-3B; 12-1323/22-2B; 12-1323/020-1B; 12-1323/020-2B; 12-1323/028-1; 12-1323/028-2A; 80.3B4P_Planning Rev A; C 663; C 876; 12-1323/023-1C; 12-1323/023-2C; 12-1323/012-1A; 12-1323/24-2B; 12-1323/22-5B; 12-1323/22-1; and, 12-1323/24-1.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted and a schedule detailing where the samples of the materials are to be used on a plot by plot basis have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the soft landscaping details that have been submitted with the planning application, no works or development, including site clearance, shall take place until full details of a soft landscaping scheme have been submitted to and approved in writing by the local planning authority. The details shall include:
 - a) Planting plans;
 - b) Written specifications;
 - c) A schedule of plants noting species, plant sizes and proposed numbers;
 - d) Existing landscape features such as trees and hedges to be retained;
 - e) Existing landscape features such as trees and hedges to be removed; and,
 - f) A timetable of landscaping implementation.

All planting, seeding or turfing comprised in the approved soft landscaping scheme shall be carried out in accordance with the agreed timetable; and if, within a period of 5 years from the completion of the development, any of the soft planting is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, it shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 5) Prior to the commencement of development hereby permitted, details of the hard landscaping shall be submitted to and approved in writing by the local planning authority. Hard landscape details shall include:
 - a) Existing and proposed finished floor levels, including details of any grading and earthworks;
 - b) The means of accommodating changes in level, for example through steps, retaining walls and ramps;

- c) The type, design, colour, bonding pattern and manufacturer of any hard surfacing materials, samples of which shall be submitted for approval when required by the local planning authority;
- d) The position and design of all site enclosures and boundary details;
- e) External lighting details;
- f) Other vehicular and pedestrian areas; and,
- g) Minor artefacts and structures including, for example, street furniture, refuse areas and signage.

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

- 6) No site clearance or building operations of any type shall commence or equipment, machinery or materials be brought onto the site until a scheme for the protection of trees has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) The submission of a Tree Protection Plan and appropriate working methods;
 - b) The provision of protective fencing around any retained tree within the site and around those trees outside the site whose Root Protection Areas (RPAs) (as defined in British Standard BS 5837 (2012)) fall within the site; and,
 - c) Details of the erection of protective fencing in accordance with Clause 6.2 of BS 5837.

The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, nor anything be attached to or supported by a retained tree and no fires shall be lit within 10m of the nearest point of the canopy of the retained trees within or adjacent to the site, without the written approval of the local planning authority.

- 7) The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment produced by RPS, dated 24 October 2013, and Drawing No. AAC5003 Option 2 Rev. C.
- 8) The development hereby permitted shall not commence until a Drainage Maintenance and Management Strategy, to include details of the long term maintenance regime for the infiltration trench and soakaways, has been submitted to and approved in writing by the local planning authority and thereafter the site will be maintained and managed in accordance with the agreed Strategy. The following strategy mitigation measures shall also be secured by the development as part of the approved Strategy:

- a) The proposed on site drainage system will be suitable to accommodate flows up to and including the 1 in 100 year + 30% rainfall event; and,
 - b) All surface water drainage will be discharged to soakaways.
- 9) No part of the development hereby permitted shall commence until a scheme for the disposal of sewerage has been submitted to and approved in writing by the local planning authority and thereafter no part of the development shall be first occupied until the approved works have been carried out.
- 10) The development hereby permitted shall be carried out in accordance with the recommendations of the Phase 1 Habitat Survey, dated May 2013, which requires the provision of bat/bird boxes. Details of, and a timetable for, such provision shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling and thereafter implemented in accordance with such approved details and timetable.
- 11) No part of the development hereby permitted shall commence until details of all external light fittings and external light columns, including isolux diagrams demonstrating predicted luminance levels within and adjacent to the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 12) No part of the development hereby permitted shall commence until a scheme for the provision of energy from on site renewable sources and/or a 'fabric first' design sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development above that of current Building Regulations at the time of commencement has been submitted to and approved in writing by the local planning authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the first occupation of the development or alternatively in accordance with a phasing scheme which has been agreed in writing by the local planning authority, and shall thereafter be retained in place and in working order at all times unless otherwise agreed in writing with the local planning authority.
- 13) No part of the development hereby approved shall commence until detailed plans and sections showing existing site levels, proposed site levels and proposed finished floor levels of the dwellings have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 14) No part of the development hereby permitted shall commence until a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes at the site has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 15) The development hereby permitted shall not be occupied until a Management and Maintenance Plan for the site, detailing who is

responsible for managing and maintaining the roads, parking areas, incidental landscaping, garden areas, public open space and any other land shown within the site, has been submitted to and approved in writing by the local planning authority. The management and maintenance of the site shall thereafter be carried out in accordance with the approved plan.

- 16) The development hereby permitted shall not be occupied until the works and improvements shown on Drawing JNY7970-01 contained within the Transport Statement prepared by RPS, dated 23 July 2013, relating to the public highway footways; the access to the site; and, the relocation of the 30mph speed limit signs and associated road markings, have been completed in accordance with the details shown on the plan.
- 17) The development hereby permitted shall not be occupied until the roads servicing the development have been laid out and substantially constructed.
- 18) No development shall take place, including any works of site clearance, until a Construction Method and Transport Management Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the site clearance and construction period. The Statement shall provide for:
 - a) The hours of construction work and deliveries;
 - b) The parking of vehicles of site operatives and visitors;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used in constructing the development;
 - e) The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - f) Wheel washing facilities;
 - g) Measures to control the emission of dust and dirt;
 - h) A scheme for storage, recycling and/or disposing of waste resulting from site clearance and construction works; and,
 - i) A scheme for the routing of all construction vehicles.
- 19) All dwellings shall achieve a minimum rating of Level 3 Code for Sustainable Homes. A final Code Certificate shall be issued certifying that a minimum of Code Level 3 has been achieved for all dwellings prior to the occupation of the final dwelling.
- 20) A minimum of 50% of all dwellings shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards.
- 21) No dwelling that has a downpipe within the development hereby permitted shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child proof lid and connected to the downpipe.
- 22) Each dwelling hereby permitted shall not be occupied until 3 bins for the purposes of refuse, recycling and green waste have been provided, in accordance with the Council's bin specifications.

- 23) Notwithstanding the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no buildings, compounds, structures or enclosures which are required temporarily in connection with the development hereby permitted shall be placed or erected on the site or adjacent land until details have been submitted to and approved in writing by the local planning authority and shall thereafter only be sited in accordance with the approved details.
- 24) No development shall take place until a site investigation of the nature and extent of contamination affecting the site has been carried out by a suitably qualified and experienced person, in accordance with a methodology based on a Phase I assessment and conceptual site model for the site, in accordance with BS 10175. The site investigation methodology and its results shall be made available to the local planning authority before any development begins. If, during the site investigation, any contamination is found a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

The development hereby permitted shall not be brought into or continue in use unless and until any approved remediation measures have been carried out and a Validation or Post-remediation Report, produced by a suitably qualified and experienced person, has been submitted to and approved in writing by the local planning authority.