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## Appeal Decision

Inquiry held on 2 - 4 September 2014

Site visit made on 2 September 2014

by **I Jenkins BSc CEng MICE MCIWEM**

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

Decision date: 24 November 2014

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**Appeal Ref: APP/J3720/A/14/2216615**

**Land off Dovehouse Drive, Wellesbourne, Warwickshire**

- 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 Persimmon Homes South Midlands against the decision of Stratford on Avon District Council.
  - The application Ref 13/03173/FUL, dated 6 December 2013, was refused by notice dated 28 March 2014.
  - The development proposed is the erection of 80 dwellings with children's play area, public open space, surface water attenuation basin and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 80 dwellings with children's play area, public open space, surface water attenuation basin and associated works at land off Dovehouse Drive, Wellesbourne, Warwickshire in accordance with the terms of the application, Ref 13/03173/FUL, dated 6 December 2013, subject to the conditions set out in the attached Schedule of Conditions.

### Procedural matters

2. The Council and appellant have confirmed that, prior to the determination of the application by the Council; the number of dwellings proposed was reduced by agreement from 81 to 80. This change is reflected in the decision and summary information set out above.
3. On the 4 July 2014 the Council wrote to the Planning Inspectorate seeking an extension to the deadline for the submission of Inquiry proofs of evidence until 8 August 2014. This was to allow the latest housing land supply position statement, which the Council expected to publish on 6 August 2014 and considered to be a material consideration, to be taken into account before the proofs were submitted. The Planning Inspectorate confirmed its agreement to that request on 11 July 2014. Subsequently, on the same day the Council wrote to the Planning Inspectorate to confirm that it did not intend to provide any evidence at the Inquiry in support of its 2 reasons for refusal, which relate to: the effect of the proposal on the character and appearance of the local landscape; and, whether the appeal site is a sustainable location for the proposed development, with particular reference to accessibility.
4. On the 7 August 2014 the Council submitted in evidence its *Five Year Housing Land Supply Calculation Summary-as of 31 March 2014 (Revised)*, dated 5

*August 2014 and Policy Advice Note, August 2014*, which conclude that the Council is able to demonstrate in excess of 5 years of deliverable sites. I will refer to these documents jointly using the abbreviation HLS. However, it confirmed its view that this should be afforded only limited weight in the planning balance and it did not change the Council's revised position that the benefits of the scheme in terms of providing market and affordable housing outweigh the concerns raised in its reasons for refusal. Furthermore, it indicated that it would provide a planning witness at the Inquiry to deal with the HLS evidence and if its 5 year housing land supply position is disputed by the appellant, it reserved the right to cross-examine the appellant's evidence relating to such matters. Also on the 7 August 2014, the appellant submitted the Inquiry proofs for its witnesses, which included evidence in support of its view that the Council could not demonstrate a 5 year supply of housing land, a position cited in favour of the scheme. The *Statement of Common Ground (SoCG)*, signed by the Council on 12 August 2014 and by the appellant on 13 August 2014, confirms that the findings of the Council's HLS are disputed by the appellant. On the 20 August 2014 the Council received from the appellant a rebuttal proof addressing the HLS.

5. At the start of the Inquiry, I indicated that whilst, on the basis of the material submitted, I considered the main issues related to the Council's reasons for refusal, there were a number of other matters upon which I expected to be informed, including housing land supply.
6. In its submissions at the start of the Inquiry the Council re-confirmed that it did not intend to defend the appeal and to that end would not call any witnesses. It considered that the issue as to whether there is a 5 year housing land supply is not a material consideration that, as a matter of planning judgement, should carry any significant weight in this appeal. It re-stated its view that the benefits of the scheme outweigh the harm that it would cause and that planning permission should be granted whether there is evidence of a demonstrable 5 year housing land supply or not. Consequently, the Council suggested that in this particular appeal it is not necessary for me to come to a concluded view upon whether it is able to demonstrate a 5 year supply of deliverable housing sites. I indicated that the question as to whether the Council is able to demonstrate a 5 year supply of deliverable sites is a material consideration and as such I would reach a view upon it.
7. During my opening announcements, a number of interested parties<sup>1</sup> confirmed that they had not seen a copy of either the SoCG or the appellant's rebuttal proof. I made copies available. Furthermore, following opening submissions on the first day, I adjourned the Inquiry to allow those interested parties to have an opportunity to look through the documents and consider whether they needed more time to prepare to deal with the evidence and consequently wished to request a further adjournment. Upon resumption of the Inquiry the interested parties confirmed that they did not wish to request a further adjournment. Nevertheless, I confirmed that I would adjourn early on the first day and delay cross-examination of the appellant's housing land supply witness until the second day, thereby allowing interested parties a further opportunity to prepare to deal with that evidence should they wish to do so.

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<sup>1</sup> None of them were Rule 6 parties with reference to the Town and Country Planning Appeals (Determination by Inspectors)(Inquiries Procedure)(England) Rules 2000 (as amended).

8. Before the evidence resumed on the second day, the Council requested an adjournment to another day in order that it could arrange for a witness to rebut the appellant's housing land supply evidence. It indicated that when the appellant's rebuttal proof was received, its advisors on housing land supply were not available and so it had not had sufficient time to prepare to deal with it. Furthermore, the Council suggested, until the Inquiry, it had not appreciated that I may not share its view that no more than limited weight should be attributed to this matter when determining the appeal. The appellant objected to the Council's request on the basis that none of these matters could reasonably be said to have come as a surprise to the Council.
9. I gave the following ruling. The question of whether the Council is able to demonstrate a 5 year supply of deliverable sites is an important material consideration to which, the *National Planning Policy Framework* (the Framework) makes clear, I must have regard. It is a matter to be considered in the planning balance in this case, which may therefore influence the outcome. This could not reasonably be said to have come as a surprise to the Council, not least as it requested an extension to the deadline for the submission of its Inquiry proofs in order to include evidence on its updated HLS. However, in the event, it decided not to submit any proofs of evidence. Instead the Council chose to rely on its HLS; it indicated that a witness would be available to deal with that evidence and the Council may choose to cross-examine the appellant on housing land supply matters. It is reasonable to expect that the Council would have anticipated that its claim with respect to '5 year supply' would be disputed at the Inquiry, given that the appellant had maintained throughout that there is no 5 year supply of housing land. The appellant did dispute the Council's position, a matter recorded in the SoCG, and submitted a rebuttal proof in response to the HLS, in a timely manner, in advance of the Inquiry. It is reasonable to expect that this would also have been anticipated by the Council and it would have made arrangements to ensure that it would be in a position to deal with that evidence at the Inquiry without delay, potentially through the witness that it had indicated would be available to deal with the HLS. Under the circumstances, I considered that the Council's request for an adjournment was unreasonable and unjustified and so I refused it.
10. In response, the Council confirmed that whilst it would continue to rely on its HLS, it would not call any witnesses to give evidence on the matter nor would it cross examine the appellant's housing land supply witness. When the evidence resumed, none of the other interested parties who objected to the scheme took the opportunity to cross-examine the appellant's housing land supply witness.
11. On the second day of the Inquiry, the South Warwickshire NHS Foundation Trust (SWFT) sought to submit new evidence in support of its case for a contribution to be made by the scheme towards the provision of acute and planned healthcare services. As the submission dealt with a relevant matter that was not covered elsewhere, I accepted it into evidence. However, in order to allow the appellant a reasonable opportunity to respond to this new evidence, I determined that it would be necessary to adjourn the Inquiry. It was agreed that any further submissions on this matter could be dealt with by written representations and a timetable was established for that purpose. I confirmed that, providing I saw no need to resume the Inquiry, having considered those representations I would close the Inquiry in writing. There were no objections to that course of action. Therefore, having dealt with

all other matters, I adjourned the Inquiry on 4 September 2014 and following receipt of written representations concerning the matters raised by SWFT, the Inquiry was closed in writing on the 6 October 2014.

12. At the Inquiry, the Council and the appellant submitted an agreement, dated 1 September 2014, pursuant to section 106 of the *Town and Country Planning Act 1990* (s106 A1), which contained a number of typographical errors. With the agreement of those present at the Inquiry, a corrected version of the section 106 Agreement, dated 16 September 2014, was submitted during the course of the adjournment, prior to the close of the Inquiry (s106 A2). In addition, the submissions made in response to the SWFT evidence by the appellant included a Unilateral Undertaking (UU), dated 15 September 2014. I have had regard to the submitted planning obligations when considering the appeal.

### **Application for costs**

13. At the Inquiry an application for costs was made by the appellant against Stratford-on-Avon District Council. This application is the subject of a separate Decision.

### **Main Issues**

14. Whilst the Council chose not to defend its reasons for refusal at the Inquiry, a number of other interested parties continued to object to the scheme on the same grounds. I consider that the main issues in this case are: the effect of the proposal on the character and appearance of the local landscape; whether the appeal site is a sustainable location for the proposed development, with particular reference to accessibility; and, the effect on housing land supply and housing.

### **Reasons**

#### ***Character and appearance***

15. The largest part of the appeal site comprises a single pastoral field, which is currently accessed at its northwestern corner from Loxley Road along a short narrow strip of land. Residential development within Dovehouse Estate, a large residential estate that marks the southwestern edge of development within Wellesbourne, abuts the eastern boundary of the appeal site field and wraps around the majority of its northwestern boundary separating it from Loxley Road. Whilst the site itself is situated outside the settlement within the open countryside, it is not the subject of any other formal landscape designation. Beyond the southwestern boundary of the site, which is enclosed by a hedgerow and a number of substantial trees, is a grassed field and Chadley House. The southeastern boundary of the site is also enclosed by a hedgerow. This boundary together with the southern side of the Dovehouse Estate, is separated from Wellesbourne Wood, which occupies rising ground to the south, by a strip of agricultural land comprising a number of fields. In this locality the northern boundary of the Feldon Parkland Special Landscape Area, which the *Stratford-on-Avon District Council Core Strategy Proposed Submission version, June 2014* (CSe) seeks to re-establish under CSe Policy CS.12, is coincident with the northern Boundary of Wellesbourne Wood.
16. Whilst neighbouring properties on the Dovehouse Estate have views across the site, which I have no doubt are valued by the residents of those dwellings,

established hedgerows along its northern and eastern boundaries greatly restrict views of the site from the neighbouring estate roads, such as Dovehouse Drive and Oxford Way. There are no public vantage points to the south from which the site is clearly visible. Furthermore, as a result of planting along the Loxley Road approaches to the site and the intermediate position of some of the housing on Oxford Way, visibility of the site from Loxley Road is very limited. The same can be said in relation to vantage points beyond the airfield to the northwest of Loxley Road. It appears to me that, as a result of the growth of vegetation around the site, visibility of the site from the surroundings has reduced since an appeal related to residential development of the appeal site was dismissed in 1999, Ref. APP/J3720/A/98/297636. The circumstances are materially different.

17. The appeal site forms part of Land Cover Parcel (LCP) W08 identified by the *Stratford-on-Avon District Landscape Sensitivity Assessment, 2011* (LSA). This LCP comprises the land between Dovehouse Estate and Wellesbourne Wood as well as an area of land to the southwest of the estate, which includes the appeal site and a number of fields beyond Chadley House. The LSA indicates that this LCP has a character that compares favourably with the more open arable landscapes around the settlement and that housing development is therefore considered inappropriate. I consider that this could reasonably be said to be the case in relation to the eastern section of LCP W08, which is visible from the A429, and the western section of the LCP, which is visible from Loxley Road. However, in my judgement, it does not accurately represent the appeal site, which is more visually enclosed, not least by housing along 2 boundaries and planting along the other 2. The appeal site does not encroach upon the more open strip of agricultural land that separates the southern edge of the settlement from Wellesbourne Wood and the proposed Feldon Parkland Special Landscape Area. Consequently, in relation to the appeal site, I give little weight to the LSA finding that the character of the land compares favourably with the more open arable landscapes around the settlement and that housing development is therefore considered inappropriate. I also give little weight to the rejection of the site within the Council's *Strategic Housing Land Availability Assessment Review 2012*, as it resulted from the same LSA finding.
18. The proposal includes the erection of 80 dwellings, which, in common with the neighbouring estate, would include a mix of dwelling types and sizes. It would be accessed from existing estate roads, along Oxford Way and Dovehouse Drive. As a result of its layout and scale, the proposal would appear as a well integrated and relatively modest extension to the existing pattern of development. Furthermore, subject to the use of good quality external materials, which could be ensured by condition, the proposed buildings would harmonise with the existing built environment hereabouts, which is characterised for the most part by relatively modern housing. In these respects it would accord with the aims of the *Warwickshire Landscape Guidelines* (WLG) as regards reinforcing the historic pattern and conserving the local vernacular character of the settlement as well as the aims of Policy DEV.1 of the *Stratford-on-Avon Local Plan Review 1996-2011* (LPr) and the *Wellesbourne Village Design Statement*.
19. The scheme would involve the development of a greenfield site, which would extend built development into the countryside thereby harming its character and appearance hereabouts. However, given the limited visibility of the site

from public vantage points and its close relationship to existing development within the settlement, the harm would not extend to the wider countryside. Furthermore, this harm could be mitigated to an extent through the provision of landscaping, secured by condition, in keeping with the aims of the WLG. In this way it would be possible to reinforce the screening provided by planting along the western site boundary. Furthermore, the proposed provision of a substantial area of open space in the southern section of the site would provide a gradual transition between the proposed housing and the open countryside. It would also provide a publicly accessible location from which the wider countryside, including views towards Wellesbourne Wood and the proposed Feldon Parkland Special Landscape Area, could be appreciated by larger numbers of people than at present.

20. An interested party has indicated that local residents have recently made representations to the Council suggesting that the proposed boundary of the Feldon Parkland Special Landscape Area be extended to include the appeal site. However, I have not been provided with any compelling justification for such a modification, which is not supported by the CSe. Furthermore, the former Feldon Parkland Special Landscape Area designation, the subject of LPr Policy EF.2 which was not saved, did not extend beyond the edge of the wood hereabouts. Under these circumstances, I give little weight to the suggestion.
21. Whilst the proposal would result in the loss of agricultural land, in my judgement, this particular parcel of land does not make a significant contribution to the distinctiveness of the local area and consequently the resulting harm would be limited.
22. I conclude overall that the proposal would cause limited harm to the character and appearance of the local landscape, and in this respect it would conflict with LPr Policy PR.1 insofar as it seeks to ensure, where possible, that development enhances the quality and character of the area as well as the aim of the Framework as regards enhancement of the local environment. The proposal would also conflict with LPr Policy CTY.1, although not relied on by the Council. However, this Policy seeks to resist development in the countryside on the basis that Government policy requires the countryside to be protected for its own sake. That approach was not carried forward into the Framework and, as a result of this lack of consistency, I give this conflict with LPr Policy CTY.1 little weight.

### **Accessibility**

23. The Framework gives encouragement to the location of development where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The SoCG indicates that Wellesbourne is one of the largest settlements, outside of Stratford-upon-Avon Town, within the district and it contains a range of community, retail, service and employment facilities. CSe Policy CS.15 identifies it as a suitable location for housing development.
24. The shortest pedestrian route from the appeal site to Wellesbourne centre, as well as the Primary School beyond, appeared to me to be reasonably safe and pleasant, notwithstanding that some short sections of footway are relatively narrow. However, based on the walking distances set out in the SoCG and those estimated by objectors, the distances involved are likely to be greater than the preferred maximum walking distances for town centres and schools set out in the *Guidelines for Providing for Journeys On Foot* produced by The

Institution of Highways & Transportation (IHT). Nevertheless, the site is a short distance from a number of bus stops on Dovehouse Drive, which are served by buses travelling to and from Wellesbourne centre and a wider area. It appears that the pick up times would not be convenient for children travelling from the site to the Primary School and so, in my view, it is likely that the majority of those trips, albeit a limited proportion of the overall number of trips likely to be associated with the proposed dwellings, would be by car. However, the service is reasonably regular at other times and would provide an alternative means of reaching other facilities in Wellesbourne centre for a relatively low fare. In the absence of any evidence to show that these services are likely to be curtailed in the future, I give little weight to the concerns raised in that respect. There is no dispute that the proposed development would be likely to result in increased use of those services to some extent, which to my mind, would increase the likelihood that they would be maintained.

25. I give little weight to the potential development of a large food store on the Wellesbourne Distribution Park, on the opposite side of Loxley Road from the appeal site, for which the Council has granted planning permission, as there is no guarantee that it will proceed. However, although many of the local facilities are situated around Wellesbourne centre, a supermarket, recreational facilities and employment at Wellesbourne Distribution Park are much shorter walking distances from the site.
26. I consider overall, that there are a number of notable limitations as regards the accessibility of facilities from the site on foot, due to the distances involved. However, some facilities are within reasonable walking distances and where walking is likely to be impracticable, local bus services would provide an alternative to car use in many cases. Therefore, a range of facilities and services would be reasonably accessible from the site by modes of transport other than the private car. Future residents of the site without cars, which may include some elderly people, would not be unduly isolated. The use of non-car modes of transport could also be encouraged through the implementation, secured by condition, of the *RPS Residential Travel Plan* submitted in support of the application. Furthermore, in the event that residents choose to travel by car to the facilities within Wellesbourne, the distances travelled would be fairly minimal, due to the location of the site at the edge of the settlement. Whilst a number of local residents have expressed concerns about the impact of traffic associated with the proposal on the highway network, those concerns are not supported by any data. I give greater weight to the view of the Highway Authority, who, having had regard to the appellant's Transport Assessment, is satisfied that, even with future growth and development, the capacity of the network is likely to be adequate and the scheme would not significantly increase the risk of accidents.
27. I conclude on balance that, in relation to accessibility, the site would be a reasonably sustainable location for residential development, in keeping with the aims of the Framework and LPr Policy DEV.4. In this respect the scheme would not conflict with the aims of CSe Policy CS.15.

### ***Housing land supply and housing***

28. Whilst LPr Policy STR.2 made provision for new housing up to 2011, that provision is now time expired and so the Policy is out of date. I consider that

the same can be said of LPr Policies STR.1 and CTY.1 insofar as they were designed to meet housing needs up to 2011<sup>2</sup>. In this context, I give these policies little weight. In circumstances such as these, where there is no provision for housing within the Development Plan that can be relied upon, the housing requirement is the full, objectively assessed need<sup>3</sup>.

29. The Council considers that the district housing requirement set out in the CSe of 10,800 dwellings over the period 2011-2031, which would equate to 540 dwellings per annum, represents an objective assessment of housing needs over that period. Based on that requirement, the HLS indicates that the Council is able to demonstrate a supply of deliverable sites equivalent to 5.4 years. The appellant disputes this position and challenges the Council's assumptions in relation to, amongst other things, the buffer to be applied with reference to paragraph 47 of the Framework and the windfall allowance in the five-year supply with reference to paragraph 48 of the Framework.

*Buffer*

30. The appellant argues that there has been a persistent under delivery of housing and so, with reference to Paragraph 47 of the Framework, allowance should be made for a 20% buffer when calculating the 5 year requirement rather than the 5% assumed by the HLS.
31. The HLS indicates that when completions are compared against the housing requirements set out in the LPr 2001-2011/the CSe 2011-2014 the Council failed to deliver in 9 of the 13 years between 2001/02 and 2013/14. Against the requirements of the *West Midlands Regional Spatial Strategy (including phase 2 revision recommendations)* (WMRSSr), there was a shortfall in 6 of the 13 years.
32. When considering whether there has been a persistent under supply, the *Planning Practice Guidance* (PPG) indicates that the factors behind persistent under delivery may vary from place to place. It is legitimate to consider a range of issues, such as the effect of imposed housing moratoriums and the delivery rate before and after any such moratoriums.
33. The HLS confirms that a housing moratorium was introduced in 2006, as the rate of development experienced between 2001 and 2006 had significantly exceeded that envisaged under the Regional Spatial Strategy. However, it indicates that following the introduction of the moratorium completions fell short of the annual requirements derived from the WMRSSr from 2008/9 to 2012/13. Compared against the housing requirements set out in the LPr 2001-2011/the CSe 2011-2014 completions fell short from 2006/07 onwards. Although the moratorium ended in 2011 the effects were still felt in 2011/12 and 2012/13, due to the 'time-lag' between obtaining planning permission and completion of homes. Completions in 2012/13 and 2013/14 fell significantly short of the requirements of the CSe and only rose marginally above the requirements of the WMRSSr in 2013/14.
34. In my judgement, there has been a persistent under delivery of housing. Furthermore, the HLS acknowledges that in hindsight, it is arguable that the

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<sup>2</sup> Ref appeal decisions APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426 as well as APP/J3720/A/13/2202961.

<sup>3</sup> *Gallagher Homes Limited and Lioncourt Homes Limited v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin).



moratorium might have ended sooner. In light of the emphasis placed by the Framework on the need to boost housing supply, I consider that the application of a 20% buffer is necessary in the circumstances before me.

*Windfall allowance*

35. Paragraph 48 of the Framework indicates that local planning authorities may make an allowance for windfall sites in the 5 year supply, if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and expected future trends, and it should not include residential gardens.
36. The HLS identified commitments figure of 3,951 dwellings includes an allowance for windfalls at a rate of 80 dwellings per annum. The HLS indicates that the assumed rate arises from analysis the Council has carried out on historic completions/commitments associated with windfall sites. Furthermore, it is applied over only the last 3 years of the 5 year period on the basis that windfalls earlier in the period are already likely to be accounted for in a separate category of sites with planning permission. However, the Council's *Strategic Housing Land Availability Assessment Final Report February 2008* suggests for similar reasons that a windfall allowance should not be included for small sites in the first 5 year period. A view reinforced by the appellant's analysis<sup>4</sup>. The *Strategic Housing Land Availability Assessment Review 2009* did not include a windfall allowance at all within the next 5 year period. Furthermore, full details of the analysis that lies behind the derivation of the 80 dwellings per annum figure, including the period over which it has been assessed, are not included with the HLS. Looking forward, the Council suggests that windfall rates are likely to continue to be relatively high due to the number of historic settlements in the District that tend to have relatively spacious built forms, which provide opportunities for infilling. However, no details have been provided of this spatial analysis to allow the assertion to be tested. The windfall assumptions set out in the CSe have yet to be tested at examination and so I give them little weight. I consider that, in this case, there is an absence of any compelling evidence to support the windfall allowance relied on in the HLS and so it should be discounted from the calculation.

*Full, objectively assessed need*

37. The district housing requirement set out in the CSe of 10,800 dwellings over the plan period equates to 540 per annum. I note that the housing provisions of the CSe, to which there are objections, have yet to be tested at examination. Furthermore, the CSe provision is at the lower end of the range of 540 to 600 dwellings per annum supported by the *Coventry and Warwickshire Joint Strategic Housing Market Assessment, November 2013* (SHMA), which identifies a mid-range value of 570 dwellings per annum as the assessed need; an uplift from the bottom of the range in the interests of supporting economic growth and improving housing affordability.

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<sup>4</sup> Proof Bateman paras 7.9-7.25.

38. An independent review of the SHMA undertaken by Environmental Resources Management in December 2013<sup>5</sup>, commissioned by the Council, concluded that whilst the lower end of the range could be supported, the proposed uplift to 570 dwellings per annum could not be justified given the uncertainty associated with the economic outlook. However, the appellant relies on a figure of 20,342 new dwellings for the full, objectively assessed need for the period 2011-2031. This is based on the output from a Chelmer model run, undertaken by Pegasus Planning Group Limited, using 2012 sub-national population projections (2012 SNPP), amended to mitigate in part the suppression of migration likely to have resulted from the recession. This scenario also takes account of the economic growth predictions of Cambridge Econometrics in November 2013, which suggest that growth would be significantly higher than assumed by the SHMA. I consider that as the 2012 SNPP are likely to have been depressed by the recession adjustments are necessary when looking forward and account should be taken of the economic recovery. However, the reliability of the overall analysis undertaken for the appellant was cast into doubt by the misunderstanding of the appellant's housing supply witness concerning headship rates, which emerged at the Inquiry.
39. Based on the evidence before me, which includes a SHMA assessed need of 11,400 (570x20) and the evidence of the appellant that the economy is improving at a faster rate than assumed by the SHMA, I consider it unlikely that the full, objectively assessed need for the district would be less than 10,800 dwellings over the period 2011-2031. If the Council's HLS calculations, based on a requirement for 10,800 dwellings over the period, are adjusted to take account of my findings in relation to the buffer and the windfall allowances, the identified supply of 3,681<sup>6</sup> falls well short of the 5 year requirement plus buffer of 4,168<sup>7,8</sup>. It follows therefore, that the Council has not demonstrated a 5 year supply of housing sites. In these circumstances, the Framework indicates that relevant policies for the supply of housing should not be considered up to date.
40. Paragraph 14 of the Framework indicates that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Even if the Council could demonstrate a 5 year supply, I have indicated above that LPr Policies STR.1 and CTY.1 should still be considered out of date insofar as they restrict housing supply and the paragraph 14 test would apply. This is consistent with the position taken by the Council in its submissions at the start of the Inquiry, to the effect that in this case this test applies whether or not a 5 year supply exists.
41. I have had regard to the concern that the proposal would lead to the housing provision made by the CSe for Wellesbourne being exceeded. However, the appeal proposal represents only a small proportion of the number of dwellings identified by the CSe as being required in the plan period in the main rural

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<sup>5</sup> Update to Review of Housing Requirements for Stratford-on-Avon District Council.

<sup>6</sup> HLS page 2 of 3, commitments within 5 year period of 3,951 minus windfall allowance of 240 = 3,681.

<sup>7</sup> HLS page 2 of 3,  $((10,800/4) + \text{shortfall of } 773) * 1.2 = 4,168$ .

<sup>8</sup> The appellant's position with respect to the appropriate buffer and whether a windfall allowance should be included were set out in the appellant's original housing land supply proof and not for the first time in its rebuttal to the HLS.

centres, which include Wellesbourne. Furthermore, the objections to the CSe housing provisions have not yet been the subject of an examination in public. Consequently, there is a significant degree of uncertainty with respect to the final level of provision that will be supported in Wellesbourne and the district over the plan period, although, as I have indicated the district requirement is unlikely to be lower than the 10,800 dwellings set out in the CSe. Against this background, in my view, the proposed development is not so substantial that to grant permission would undermine the plan making process nor have I been provided with any compelling evidence to show that its cumulative effect would be significant in that context. Under the circumstances, refusal of planning permission on the grounds of prematurity would not be appropriate.

42. I conclude that whilst the proposal would conflict with Development Policies for the supply of housing, they are out of date, and so I give that matter little weight. The appeal proposal would make a valuable contribution towards housing land supply in the district and in light of the emphasis placed by the Framework on the need to ensure an adequate supply of housing land, this weighs heavily in favour of the scheme.

#### *Affordable housing*

43. A continuing need for the provision of new affordable housing in the district is confirmed by *The Stratford-on-Avon Strategic Housing Market Assessment Update, January 2013* for the period 2012-2017 and by the *Coventry & Warwickshire Joint Strategic Housing Market Assessment Final Report, November 2013* in relation to the period 2013-3031. The proposal would make provision for affordable housing at a level of 35% of the total amount of residential floor area provided on site, which the Council has confirmed equates to 25 of the proposed housing units. This accords with the requirements of key principle MHN2 set out in the Council's *Supplementary Planning Document-Meeting Housing Needs in Stratford-on-Avon District, July 2008* and the aims of LPr Policy COM.13, which accords with the aims of the Framework insofar as it seeks to ensure that identified affordable housing need is met. It is also consistent with the aims of CSe Policy CS.17, although I give this little weight as it has not yet been the subject of examination. The s106 A2 submitted by the appellant would secure the proposed Affordable Housing units and I am content that this obligation meets the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the statutory tests). The appeal scheme would make a valuable contribution towards meeting the need for affordable housing in the district.

#### *New homes bonus*

44. The addition to the district's housing stock resulting from the proposal would also result in a grant from central government to the Council of around £600,000. This also adds to the weight in favour of the scheme.

### **Other matters**

#### *Flood risk, drainage and water supply*

45. A number of local residents have expressed the concern that the proposal would increase the risk of flooding in the area. However, the Environment Agency has not objected to the appeal scheme. Furthermore, the site is located in Flood Zone 1, as designated by the Environment Agency, where the

Framework indicates that residential development is acceptable in principle. The Flood Risk Assessment, submitted in support of the application, takes account of the potential effects of climate change and identifies a number of measures to ensure that the proposed development would be flood resilient and that it would not increase flood risk elsewhere. These would include the provision of a Sustainable Drainage System (SUDS) within the site, incorporating an attenuation basin in its northeastern corner. The SoCG indicates that by capturing run-off from higher land to the south, which flows across the appeal site, and by restricting off-site flows, the scheme would assist in alleviating existing flooding problems that have occurred in Oxford Way. A combination a condition and the s106 A2 would secure the provision and maintenance of SUDS. In addition, I agree with the Council that it would be possible to ensure that an appropriate system for foul drainage would be provided through the imposition of a condition. I am satisfied therefore, that the scheme would be appropriately drained and it would not increase the risk of flooding elsewhere, in keeping with the aims of LPr Policies PR.7 and DEV.7.

46. The water company with responsibility for water supply and the local wastewater treatment works has confirmed that it does not object to the scheme. Under these circumstances, I give little weight to the concerns raised by others that the wastewater treatment works may not have sufficient capacity to accommodate flows likely to arise from the appeal scheme and in respect of the adequacy of local water supply infrastructure to meet future demands.

#### *Ecology*

47. The SoCG confirms that the site does not have any national, regional or local significance with respect to habitats. Furthermore, there is no objection to the scheme from Natural England. The Council has confirmed that, having had regard to concerns raised by local objectors with respect to the level of supporting ecological information, the County Council's Ecologist, who advises the Council, considers that: the site is of low ecological value; the survey work undertaken was adequate; the risk to protected species is low; and, ecological interests can be satisfactorily safeguarded through the imposition of conditions. I have not been provided with any compelling evidence to the contrary and note that the majority of the existing boundary vegetation would be unaffected by the scheme. Furthermore, I share the view of the Council that the proposed provision of open space and an attenuation pond, together with additional planting around the boundaries of the site, which could be secured by condition, would be likely to enhance the biodiversity value of the site, in keeping with the aims of LPr Policies EF.6 and EF.7 as well as the Framework. I conclude it is likely that the effect of the proposal on ecology would be acceptable.

#### *Living conditions of local residents*

48. The proposed development of the appeal site would be likely to diminish, to some extent, the privacy, light and outlook enjoyed by residents of existing properties that share a boundary with the site. However, the SoCG confirms that the proposed layout meets the Council's planning guidelines with regard to separation distances and I have not been provided with any compelling evidence to the contrary. Under these circumstances, the resulting living conditions, with particular reference to privacy, light and outlook, would be

unlikely to be any worse than could be reasonably expected within modern housing estates.

49. The proposed children's play area would be set well apart from existing properties on the other side of a number of the proposed dwellings. Under these circumstances, noise arising from play activity would be, in my view, unlikely to cause any significant increase in the levels of disturbance experienced by existing residents. Whilst construction activity would be likely to cause some disturbance, it would be time limited. The LF Acoustics Limited reports<sup>9</sup>, provided by the appellant, indicate that traffic noise associated with the proposal would be unlikely to result in any significant adverse effect on existing residents living close to the proposed site accesses.
50. I consider overall that the proposal would not cause undue harm to the living conditions of residents of existing dwellings neighbouring the site, a view shared by the Council. Furthermore, it would be possible to adequately safeguard the living conditions of future residents of the site from noise arising from the local airfield through the imposition of a condition to ensure that the proposed dwellings are constructed in a manner that provides satisfactory internal conditions.
51. I conclude that the scheme would ensure appropriate levels of amenity for future residents of the site as well as the occupants of neighbouring properties and in these respects it would accord with the aims of LPr Policy DEV.1.

*Loss of agricultural land*

52. The proposal would result in the loss of an area of 'best and most versatile' agricultural land, which the Framework seeks to safeguard. Whilst this weighs against the scheme, given the limited size of the site, I give it only moderate weight.

*Miscellaneous matters*

53. I give little weight to the concern that the proposal may set a precedent that could be used to support greenfield development further to the south/southwest. I have not been provided with any evidence to show that any such applications have been made to the Council. In any event, each case must be considered primarily on its own merits and in any future case it would remain open to the Council to show that harm would be caused.
54. I give no weight to the concern that the proposal may adversely affect local property values. The planning system does not exist to protect the private interests of one person against the activities of another. The basic question is not whether owners or occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
55. Whilst my attention has been drawn to a number of appeal decisions related to other sites, in my view, none are directly comparable to the proposal. In relation to appeal decision Ref. APP/J1860/A/13/2199166, the Inspector considered that the site contained features of visual and historic interest that resulted in a landscape of exceptional quality, whereas the landscape in the

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<sup>9</sup> LF Acoustics Ltd reports dated 11 and 12 March 2014.

case before me is unexceptional. Appeal Ref. APP/C3105/A/13/2208385 involved a scheme involving 200 residential units, which the Inspector found would cause significant harm to the setting of Listed Buildings. Similar circumstances would not result from the scheme before me. The circumstances associated with appeal Ref. APP/J3720/A/98/297636, which did concern the appeal site, differ not only in terms of the visibility of the site from the surroundings, but also the relevant planning policy framework.

#### *Conclusion*

56. In my judgement neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusions on the main issues.

#### ***Planning obligations***

57. LPr Policies DEV.6 and IMP.4, in keeping with the aims of the Framework, require that proper arrangements for the full range of physical and social infrastructure necessary to support developments should be secured. Furthermore, the Framework makes clear that planning obligations should only be sought where they meet the statutory tests referred to earlier. In this context, I give no weight to s106 A1, which the main parties confirmed contained a number of errors. I turn now to the provisions made by s106 A2.

#### *Libraries*

58. Local authorities have a duty under the *Public Libraries and Museums Act 1964* to provide a comprehensive and efficient library service to all who live, work or study in the area. The increase in the population of Wellesbourne that would result from the proposal would be likely to place additional demands on local library services and a contribution is sought towards library services to allow that impact to be mitigated. A standard formula is used by Warwickshire County Council to calculate the level of contribution required, which is based upon Public Library Service Standards set by the Department of Culture, Media and Sport and gives rise to a calculated contribution of £13,648.33. The s106 A2 makes provision for this contribution. Under these circumstances, I consider that this obligation meets the statutory tests, a matter not disputed by others.

#### *Footways*

59. Policy RW5b of the *Warwickshire Local Transport Plan 2011-2026* (LTP) indicates that where a development is likely to lead to an increase in use of the local rights of way network, the County Council will seek improvements in the surrounding area. This approach is consistent with the aim of the Framework to promote sustainable modes of transport. On these grounds Warwickshire County Council has requested a contribution towards the maintenance and improvement of the local public rights of way network within a 1.5 mile radius of the site in the sum of £6,656.21. I understand that this radius has been chosen, as in the County Council's experience, it reflects the distance typically travelled by dog walkers, who are the most frequent users of public rights of way surrounding residential developments. I accept that the proposed development would be likely to give rise to an increase in the use of the public rights of way local to the appeal site and a consequent increase in the need for maintenance activity. The County Council approaches the calculation of such

sums using a standardised approach, which gives rise to a cost per resident of £35.71 and takes account of the likely maintenance cost of public rights of way within the catchment area, based on length and condition, as well as the population within the catchment area. Against this background, I consider that the rights of way contribution of £6,656.21 secured by the s106 A2 meets the statutory tests, a matter not disputed by others.

#### *Sustainable travel packs*

60. LTP Policy LUT3 indicates that the County Council will promote sustainable development and seek developer contributions, where appropriate, to provide travel packs to serve new developments. To that end the County Council seeks a contribution of £4,000, based on: a standard rate per dwelling of £50, which arises from the costs of providing travel packs and funding other initiatives to promote sustainable travel in the local area; and, the number of dwellings proposed. In my judgement, the contribution is necessary to ensure that new residents understand the sustainable transport choices available to them, such as the public transport services I have already referred to, and to encourage them to limit their dependence on the private car. Against this background, I consider that the sustainable travel contribution of £4,000 secured by the s106 A2 meets the statutory tests, a matter not disputed by others.

#### *Open space*

61. The Council has undertaken an Open Space Audit for the District which identifies an undersupply in youth and adult playing pitch provision in the area local to the appeal site. LPr Policy COM.5 indicates that where there is a local deficiency new development should make provision to meet the needs that would be generated by the development. Where this cannot be provided on site, a contribution towards open space provision in the locality or for upgrading of existing facilities will be sought. I accept that future residents of the appeal site would have a need for such facilities, which would not be provided on site, and given the undersupply of facilities in the area a contribution towards the provision of additional facilities would be necessary.
62. Under these circumstances, the Council seeks a contribution of £19,980 towards the provision of facilities elsewhere in the local area. This sum is calculated on the basis of the percentage increase in the local population likely to result from the proposal, which is applied to the identified deficit in the locality to derive an area of youth and adult playing pitch provision that it would be reasonable to expect the proposal to fund. A standard cost of £25/m<sup>2</sup> for the provision of youth and adult active facilities, which is set out in the Council's *Supplementary Planning Guidance-Provision of Open Space, March 2005*, is then applied to give the required sum. Against this background, I consider that the off-site open space contribution of £19,980 secured by the s106 A2 meets the statutory tests, a matter not disputed by others.

#### *Healthcare*

63. SWFT has requested a contribution of £82,388.58. Whilst the Inspector who dealt with appeal Ref. APP/J3720/A/13/2202961, suggested that it would be appropriate for a CIL charging regime to include a tariff for providing new infrastructure, such as hospital wards, that is not what is proposed here. SWFT has confirmed that the contribution is not intended to meet costs of

additional healthcare infrastructure required as a result of future population growth and an ageing population, the capital cost of which it expects to be met by Government loan. Instead it indicates that the sum is based on an estimated annual cost per head of population of various SWFT activities, such as outpatient appointments, together with an estimate of the increase in population that would result from the proposal leading to an increased activity cost. Using this methodology Appendix 3 attached to its letter dated 4 September 2014 indicates that a contribution of only £81,388.58 would be required and not the higher value requested.

64. In any event, SWFT has indicated that the contribution is required to allow it to provide the necessary increase in capacity to maintain its acute healthcare service levels, whilst accommodating the demand for its services arising from the proposed dwellings in the first year of occupation. It indicates that the contribution is needed to address a time limited funding gap, which arises as it is paid retrospectively for the activities it has delivered in the previous year. Based on the evidence presented, it appears that SWFT would be recompensed the following year for part, if not all, of the activity based expenditure it incurs, as a result of the first year of occupation of the proposed dwellings. This suggests that, if the requested contribution were to be made by the appellant, the activities referred to would be funded twice. No mechanism has been identified which would enable the appellant to recoup any part of the contribution towards activities that are subsequently also funded by other means. The appellant has suggested that SWFT may be able to secure a loan to meet the identified funding gap requirements, which it indicates are relatively short term in nature. Whilst I have had regard to the evidence submitted by SWFT concerning current funding arrangements, I have not been provided with any compelling evidence to show that this is not an avenue open to it.
65. Based on the evidence presented, I am not convinced that the contribution identified by SWFT is necessary to make the development acceptable in planning terms or that it meets the other statutory tests. Under these circumstances, I give no weight to the UU which makes provision for a contribution of £82,388.58.

#### *Other matters*

66. The appellant has not made provision for contributions towards improvements in local medical, leisure or parking facilities. The Council has confirmed that a requirement for such contributions can not be justified in this case and I have not been provided with any compelling evidence to the contrary.
67. Whilst I note the dissatisfaction voiced by a number of interested parties concerning the service provided by the local doctor's surgery, with particular reference to waiting times, the Council has confirmed that levels of service are a matter for that commercial organisation address.

#### *Conclusion*

68. I conclude that the proposal would make adequate provisions for the infrastructure necessary to support development, in accordance with the aims of LPr Policies IMP.4 and DEV.6.



### **Conditions**

69. The SoCG identifies 28 conditions, which the Council considers should be imposed in the event of the appeal being allowed and planning permission granted.
70. In addition to the normal commencement condition, a condition would be necessary, for the avoidance of doubt and in the interests of proper planning, to ensure that the development would be carried out in accordance with the approved plans. Conditions would also be necessary to control the manner in which the site is drained, in order to manage flood risk and protect the environment from pollution. A condition would also be necessary, in the interests of public safety, to ensure adequate infrastructure is provided within the site for fire-fighting purposes.
71. Conditions would be required to ensure that the works is carried out in accordance with a previously approved Construction Method Statement, to control the erection of temporary structures and the hours of work, in the interests of safeguarding the living conditions of neighbouring residents. For the same reason, conditions would be required to secure the provision of obscured glazing in the east facing first floor windows of the dwellings on plots 11, 21 and 60 as well as to prevent the addition of window openings to the roofs of the dwellings on plots 1-4, 12-20 and 61-65. In order to safeguard the living conditions of future residents of the appeal site, a condition would be necessary to ensure that the building envelope of the proposed buildings is designed in a manner that secures a satisfactory internal noise environment and another to secure the provision on site of adequate children's play space.
72. In the interests of the character and appearance of the locality, conditions would be necessary to safeguard existing planting and to control: the materials used in the external surfaces of the proposed dwellings; boundary treatments; the manner in which the site is landscaped; and, light pollution.
73. Conditions would be required in the interests of promoting sustainable development: to provide facilities for domestic waste management and water conservation; to secure the implementation of a travel plan that encourages non-car modes of transport; to limit energy usage; and, to ensure that the proposed dwellings achieve a minimum rating of level 3 of the Code for Sustainable Homes and at least 50% of them meet the Joseph Rowntree Foundation's 'Lifetime Homes' standards.
74. Although, as indicated by the *Archaeological Desk Based Assessment June 2013*, the site is unlikely to contain anything of more than local significance, a condition is necessary to secure those interests through a programme of archaeological investigation. In the interests of biodiversity, conditions would be necessary to ensure that a contingency plan is in place to safeguard the interests of protected species in the event, albeit unlikely, of any being affected by the works and to ensure that the site is landscaped in a manner that enhances its ecological value.
75. At the Inquiry, the Council and the appellant agreed that a previously suggested condition which refers to the protection of off-site highway drainage is not necessary. I have not been provided with any compelling evidence to the contrary.

## **Conclusions**

76. The proposal would have a detrimental effect on the character and appearance of the local landscape, contrary to the aims of LPr Policies PR.1 and CTY.1. Furthermore, it would result in the loss of an area of 'best and most versatile' agricultural land, which the Framework seeks to safeguard. However, in light of the limited harm associated with these matters, I give them only moderate weight.
77. The Council has not demonstrated a 5 year supply of housing land in this case. In these circumstances, the Framework indicates that relevant policies for the supply of housing, which includes LPr Policies STR.1 and CTY.1, should not be considered up to date. Furthermore, with reference to paragraph 14 of the Framework, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
78. Turning to the benefits of the scheme. In summary, the appeal site is a reasonably sustainable location, with particular reference to accessibility. Furthermore, the proposal would make valuable contributions towards meeting the needs of the district as regards housing land supply and affordable housing. In light of the emphasis placed by the Framework on the need to ensure the provision of adequate supplies, these matters weigh heavily in favour of the scheme. The proposed public open space would make a contribution towards the health and well-being of the local community. The new homes bonus associated with the proposal also weighs in its favour and construction jobs associated with the proposed development would be likely to have a positive effect on the local economy. In addition, the scheme has the potential to improve biodiversity within the site.
79. In my judgement, having had regard to the social, economic and environmental aspects of the scheme, the benefits would significantly and demonstrably outweigh the adverse impacts and the proposal would amount to sustainable development. It follows that planning permission should be granted.
80. Even if the Council had been able to demonstrate a 5 year supply of housing land, I consider that in the particular circumstances of this case, the conflicts with the Development Plan together with the limited harm arising from the proposal in other respects would still be outweighed by the benefits of the scheme, such that it would amount to sustainable development for which planning permission should be granted. This is consistent with the view of the Council, in its submissions at the start of the Inquiry, that the planning merits of the proposal would indicate that planning permission should be granted in this case whether there is evidence of a 5 year housing land supply or not.
81. For the reasons given above, I conclude on balance that the appeal should be allowed.

*I Jenkins*

INSPECTOR

## Schedule of 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 unless otherwise required by conditions attached to this permission: planning layout SK-003 rev I; proposed site sections 16889/116A; street scenes 16889/115; garage plans (double garage) 16889/114; garage plans (single garage) 16889/113; garage plans (single garage gable end) 16889/112; house types-L4 4 bed AFF 16889/111; house types-L3 and S3 3bed AFF 16889/110A; house types-L2 2 bed AFF 16889/109A; house types-Winster 16889/108; house types-Roseberry 16889/107; house types-Rufford 16889/106; house types-Penshaw 16889/105; house types-Leicester 16889/104A; house types-Hatfield 16889/103; house types-Hanbury 16889/102; house types-Chedworth 16889/101A; house types-Alnwick 16889/100; and site location plan 16889/1000.
- 3) No development shall take place until details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme shall have regard to the recommendations set out in the *RPS Flood Risk Assessment: Proposed Residential Development on land off Loxley Road, Wellesbourne*, dated 29 November 2013 and the details shall include: a strategy demonstrating the management of overland flows within the site from off-site sources; details of any surcharging volumes and flows rates and appropriate mitigation measures; and, details of how the scheme shall be maintained and managed after completion. The scheme shall be implemented in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved.
- 4) No development shall take place until details of a scheme for the disposal of sewage, including an implementation plan, have been submitted to and approved in writing by the local planning authority and thereafter the scheme shall be implemented in accordance with the approved details.
- 5) No development shall take place until details of a scheme for the provision of a water supply and fire hydrants for fire fighting purposes at the site, including an implementation plan, has been submitted to and approved in writing by the local planning authority and thereafter the scheme shall be implemented in accordance with the approved details.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;

- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and,
  - viii) details of the access routes to the site to be used by construction traffic.
- 7) No construction works shall be carried out within the site and no deliveries shall be taken at or despatched from the site outside the hours of 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on Sundays, Bank or Public Holidays.
- 8) No development shall take place until samples and trade descriptions of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority details of boundary treatments to be erected. These details shall include a plan (at a minimum scale of 1:500) showing the position of all proposed boundary treatments and annotated or accompanied by a schedule specifying the type, height, composition and appearance of the boundary treatments throughout the site and an installation programme. The approved boundary treatments shall be completed in accordance with the programme agreed in writing with the local planning authority and thereafter retained in that form.
- 10) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: planting plans; written specifications; a schedule of plants noting species, plant sizes and proposed numbers; accurately plotted existing landscape features such as trees and hedges to be retained; accurately plotted existing landscape features such as trees and hedges to be removed; existing and proposed finished levels or contours; hard surfacing materials; car parking layouts; other vehicle and pedestrian access and circulation areas; and, an implementation programme. The works shall be carried out in accordance with the approved details.
- Any planting which within a period of 5 years from the completion of the development dies, is removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 11) Prior to the first occupation of each dwelling hereby approved the developer shall provide 3 bins, in accordance with the Council's bin specification, for the purposes of refuse, recycling and green waste for

the use of the residents of that dwelling. The bins shall thereafter be retained for that purpose.

- 12) No development shall take place until details 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 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 details shall include an implementation programme. The scheme shall be implemented in accordance with the approved details and retained as operational thereafter, unless otherwise agreed in writing by the local planning authority.
- 13) The dwellings hereby approved shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 14) A minimum of 50% of the dwellings hereby approved shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards.
- 15) No dwelling hereby approved, that has a rainwater downpipe, shall be first 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. The water butt shall thereafter be retained as installed.
- 16) Notwithstanding the provisions of Part 4 of Schedule 2 of the *Town and Country Planning (General Permitted Development) Order 1995* (or any other 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. The works shall thereafter only be carried out in accordance with the approved details.
- 17) Prior to the occupation of the first dwelling hereby approved details of a scheme for the specification and siting of play equipment within the children's play area shown on the approved plans shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to the occupation of 50% of the dwellings hereby approved and shall be retained as installed thereafter.
- 18) The development hereby approved shall be implemented in accordance with the Tree Protection Measures set out within the Arboricultural Impact Assessment prepared by JR Consultancy Services Ltd, received by the local planning authority on the 23 December 2013.
- 19) No development shall take place (including site clearance) until a protected species contingency plan (PSCP) has been submitted to and approved in writing by the local planning authority. The PSCP shall include details of working practices that shall be followed during the construction phase of the development hereby permitted to safeguard the interests of protected species and any mitigation measures that shall be

implemented in the event that any protected species are found within the site. The plan shall be implemented as approved.

- 20) No development shall take place (including site clearance) until a combined ecological and landscape management plan has been submitted to and approved in writing by the local planning authority. The plan shall have regard to the recommendations set out in the JB Consultancy Services Ltd *Phase 1 Habitat Survey*, July 2013 and shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens, as well as an implementation programme. The approved plan shall thereafter be implemented as approved, unless otherwise agreed in writing by the local planning authority.
- 21) No development shall take place until details of all street lighting 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.
- 22) The *RPS Residential Travel Plan* (TP), received by the local planning authority on the 23 December 2013 and which sets out measures to promote sustainable forms of travel to and from the site, shall be implemented prior to the occupation of the first dwelling hereby approved. It shall be monitored and reviewed thereafter in accordance with the details set out in the TP for a period of not less than 5 years. A copy of the findings of each annual monitoring review shall be submitted to the local planning authority for monitoring purposes within 2 months of each annual monitoring review.
- 23) No development shall take place until details have been submitted to and approved in writing by the local planning authority to show how the building envelope of the dwellings hereby approved shall be constructed to provide sound attenuation against external noise, so as to achieve the following internal noise levels in habitable rooms either with windows open or with windows closed and other means of ventilation provided:
  - 1) living rooms (07:00 hrs - 23:00 hrs) 35 dB LAeq
  - 2) bedrooms (23:00 hrs – 07:00 hrs) 30 dB LAeqThe works shall be carried out in accordance with the approved details.
- 24) No development shall take place within the site until the appellant or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 25) Before the first occupation of the dwellings hereby approved on plots 11, 21 and 60 shown on approved plan SK-003 rev I the first floor windows on the east facing elevation shall be fitted with obscured glazing (minimum level 3 obscured glass) and shall be permanently retained in that condition.
- 26) Notwithstanding the provisions of the *Town and Country Planning (General Permitted Development) Order 1995* (or any order revoking and re-enacting that Order with or without modification), no dormer windows or roof lights shall be constructed on the dwellings hereby approved on

plots 1-4, 12-20 and 61-65 shown on approved plan SK-003 rev I and no side or rear extensions and/or outbuildings shall be erected or constructed on plots 12-20 shown on approved plan SK-003 rev I without the express grant of planning permission.

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## APPEARANCES

### FOR THE APPELLANT:

Mr P Goatley Of Counsel	Instructed by Pegasus Planning Group Limited
He called	
Mr N Edwards BA(Hons) Dip LA CMLI	FPCR Environment and Design Limited
Mr A Bateman BA(Hons) TP MRICS MRTPI MCMi MIoD FRSA	Pegasus Planning Group Limited
Mr D Onions BA (Hons) Dip TP MRTPI	Pegasus Planning Group Limited
K Tait (conditions/obligations only)	Persimmon Homes South Midlands

### FOR THE LOCAL PLANNING AUTHORITY:

Mr T Comyn Of Counsel	Instructed by Stratford-on-Avon District Council
He called	
Mr J Singh (conditions/obligations only)	Stratford-on-Avon District Council
Mr J Careford (conditions/obligations only)	Stratford-on-Avon District Council

### INTERESTED PERSONS:

Councillor D Close	Wellesbourne and Walton Parish Council
Councillor D Johnston	Wellesbourne Ward Stratford-on-Avon District Council
Mr J Morgan	Interested party
Professor L Davis	Interested party
Mr D Breakell	Interested party

## DOCUMENTS

- 1 Letters notifying interested persons of the appeal and Inquiry arrangements.
- 2 Correspondence in response to the appeal notifications.
- 3 Appeal decision APP/J3720/A/98/297636.
- 4 Drawing no. 16889/110A.
- 5 Section 106 agreement dated 1 September 2014.
- 6 Council's statement addressing the requirements in regulation 122 of the CIL Regulations.
- 7 Extract from Hansard, dated 30 June 2014.
- 8 Appeal decisions APP/C3105/A/13/2208385 & APP/J1860/A/13/2199166.



- 9 Statement Councillor D Close.
- 10 Council's opening statement.
- 11 Appellant's opening statement.
- 12 Statement of Mr J Morgan.
- 13 Statement of Professor L Davis.
- 14 Statement of Mr D Breakell.
- 15 Site notice photographs.
- 16 Appeal decisions APP/G0908/E/11/2152403, APP/T2405/A/11/2164413, APP/J3720/A/12/2185727, APP/B1605/A/11/2164597 & APP/J3720/A/12/2176743.
- 17 Plans showing proposed supermarket site.
- 18 Photo of the appeal site.
- 19 Extract from the Warwickshire Landscapes Guidelines.
- 20 Stratford-on-Avon District Landscape Sensitivity Assessment.
- 21 Extract SHLAA Review 2012, Final Report.
- 22 Dartford Borough Council v Secretary of State for Communities and Local Government and Landhold Capital Limited [2014] EWHC 2636 (Admin).
- 23 Statement Councillor D Johnston.
- 24 Statement South Warwickshire NHS Foundation Trust.
- 25 Email from NHS England to the Council, dated 11 August 2014.
- 26 Stratford-on-Avon District Council Core Strategy Proposed Submission version, June 2014.
- 27 Extract SHLAA Review 2012, Final Report – Wellesbourne plan.
- 28 Revised Council's statement addressing the requirements in regulation 122 of the CIL Regulations.
- 29 Appeal decision APP/Q4625/A/11/2157515.
- 30 Extract Warwickshire Local Transport Plan 2011-2026
- 31 Extract Coventry & Warwickshire Joint Strategic Housing Market Assessment Final Report, November 2013.
- 32 Extract GL Hearn Strategic Housing Market Assessment Update, January 2013.
- 33 Stratford-on-Avon District Meeting Housing Needs-Supplementary Planning Document, July 2008.
- 34 Stratford-on-Avon District Council PPG17 Audit and Playing Pitch Strategy, April 2011.
- 35 Supplementary Planning Guidance-Provision of Open Space.

- 36 Appellant's closing submissions.
- 37 Appellant's costs application.
- 38 Council's response to the appellant's costs application.
- 39 Letter from South Warwickshire NHS Foundation Trust to the Inspector, dated 4 September 2014.
- 40 Letter from Pegasus Planning Group Limited to the Planning Inspectorate, dated 15 September 2014.
- 41 Email from the Council to the Planning Inspectorate, dated 22 September 2014 (s106 A2).
- 42 Letter from South Warwickshire NHS Foundation Trust to the Planning Inspectorate, dated 25 September 2014.
- 43 Letter from Pegasus Planning Group Limited to the Planning Inspectorate, dated 29 September 2014.

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