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## Appeal Decision

Inquiry opened on 30 July 2014

Site visits made on 1 August and 30 October 2014

**by Keith Manning BSc (Hons) BTP MRTPI**

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

**Decision date: 3 December 2014**

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**Appeal Ref: APP/Y3425/A/14/2217578**

**Land between Ashflats Lane and A449 Mosspit, Stafford ST18 9BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Milwood Land (Stafford) Ltd against the decision of Stafford Borough Council.
  - The application Ref 13/19524/OUT, dated 23 October 2013, was refused by notice dated 21 February 2014.
  - The development proposed is residential development for up to 320 dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural and Preliminary Matters

2. The inquiry sat on 30 and 31 July 2014, before being adjourned to be completed, sitting also on 28 and 29 October 2014. I conducted two separate accompanied site visits, the first to look at the site and its surroundings, the second to look at the proposed access, specifically.
3. The appellant supplied a document list sub-divided into three sections a-c. I have utilised this to list what are effectively all core documents referred to as necessary under the appropriate sub-division and Roman numeral. Documents submitted during the course of the inquiry are referenced ID1, ID2 etc.
4. The application is in outline form with all matters reserved save for access. The master plan accompanying the application is purely illustrative.
5. The description of the proposed development changed between application and appeal reflecting, inter alia, the Council's original request to remove reference to the number of dwellings. As a consequence of discussions and agreements during the course of the inquiry, I adopt the above description for the purposes of this decision. The proposed development necessarily includes the demolition of Lawford House to accommodate the access works.
6. The Residents' Action Group is a Rule 6 party.
7. A completed planning obligation in the form of a S106 planning agreement dated 28 October 2014 was submitted at the inquiry. It variously provides for 30% Affordable Housing, 'Targeted On Site Additional Open Space', Travel Plan arrangements and a financial contribution in respect of its monitoring and review, financial contributions in respect of; sports facilities, transport strategy

- implementation contributions, mitigation measures relevant to the Cannock Chase SAC and primary and secondary education.
8. A Statement of Common Ground concerning planning matters (PSoCG)<sup>1</sup> was agreed between the Council and the appellant. The Ash Flats Residents' Action Group ('the Action Group'), a Rule 6 party, was not party to the agreed matters therein.
  9. Prior to the resumption of the adjourned inquiry, a Statement of Common Ground concerning highways matters (HSoCG)<sup>2</sup> was agreed between the Staffordshire County Council (SCC) and the appellant. Again, the Action Group was not party to this.
  10. Highways matters are not in contention between the Council and the appellant. However, bearing in mind the Action Group's request that I should determine the appeal as if the application had been made to the Secretary of State in the first instance, and its obvious concern in respect of the proposed access, I requested that the appellant should make highways expertise available to the inquiry and that the relevant witness should attend my second site visit. An officer of the SCC, the highways authority, also made himself available at the appropriate time.
  11. A supplementary proof of evidence by the appellant's planning witness was circulated shortly before the resumption of the inquiry, but this was formally withdrawn by the appellant at resumption and I place no weight on its content.

### **Main Issues**

12. I consider the main issues to be as follows:-

- Would the proposed development accord with the intentions of the development plan, or would it harmfully conflict with and undermine those intentions?
- If the latter is the case, are there material considerations that, potentially, would outweigh the conflict with the development plan?
- Does the Council have an adequate supply of housing land?
- Are there any other matters, including those raised by third party objectors, which would affect the conclusions to be drawn on any of the above issues?
- On balance, does the proposed development represent sustainable development for the purposes of the National Planning Policy Framework?

13. I canvassed these issues at the inquiry and the parties were in broad agreement that they encompassed the relevant considerations.

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<sup>1</sup> ID1

<sup>2</sup> ID12

## Reasons

### *The site and its surroundings and the proposed development*

14. The site is described in detail in the PSoCG but in brief comprises a low-lying area of essentially rural land bounded at the southern extremity of Stafford town by the M6 and the West Coast main railway line to form an elongated triangle of countryside abutting the main urban area in the vicinity of Moss Pit. Although pastoral in appearance, it cannot be described as tranquil, being heavily dominated by the constant and pervasive influence of the M6, which is periodically supplemented by the passage of trains along the main railway. It is traversed by a public footpath which links Ashflats Lane to the A449 via a rail footbridge and Acton Gate. The latter includes a ribbon of housing development along the main road but immediately to the south the land between the railway and the A449, as far as Junction 13 of the M6, is dominated by warehousing and other commercial development.
15. The residential area associated with Ashflats Lane and Barnbank Lane at the northern end of the appeal site contains houses of varying age and is pleasantly suburban in character. The A449 (Mosspit) rises from the housing at Acton Gate towards a bend in the road which accommodates a bridge over the railway and then falls past Lawford House towards the junction with Barnbank Lane. Between Lawford House and Barnbank Lane, the junction with Gravel Lane provides one of the access routes into the residential area to the north.
16. The illustrative masterplan indicates how the proposed development would fit into this context. Emergency access only for vehicles would be provided off Ashflats Lane; whereas the regular vehicular access to the site would be via a priority junction between Gravel Lane and the bridge over the railway, facilitated by the demolition of Lawford House and earthworks to achieve the correct levels at the junction, where the A449 is elevated relative to the proposed housing to the south. Between the proposed housing and the M6 a linear mound would be raised, topped by an acoustic fence and a narrower feature to mitigate sound would be created alongside the railway. A balancing lake would be created at the southern extremity of the appeal sit together with an associated area of habitat for biodiversity. An additional area of land controlled by the appellant outside the application site and outside the Council's administrative boundary (defined by the Pothooks Brook in this locality) is indicated as "potential additional open space".
17. Although it is clear that a significant part of the circa 13.8 hectare site would necessarily be devoted to the mitigation of disturbance potentially caused by the railway and more particularly the M6, I have no specific evidence to suggest that 320 dwellings could demonstrably not be accommodated in an acceptable fashion within the balance of the site, i.e. the net developable area, bearing in mind the range of densities which can be contemplated within usual parameters. I consider the reserved matters process would be perfectly adequate to ensure an acceptable standard of development within the ceiling of 320 dwellings applied for, precisely because it is an upper limit and not a fixed number. In the context of a potential reserved matters application and the 'without prejudice' discussion of potential planning conditions which took place, the appellant agreed that a maximum of four storeys would be an acceptable

constraint upon its ambition to achieve a development up to the specified ceiling.

18. I am conscious that the Inspector who heard objections to the previous (2001) Local Plan in effect considered the appeal site to be outside the confines of the town and part of the countryside.<sup>3</sup> Although the Inspector's concern was specifically with a smaller area of land within the appeal site, the meaning is clear and, as a statement of geographical fact I have no reason to disagree. However, I am also conscious that the M6 and the railway are in themselves dominating linear features that sharply define the whole of the appeal site by forming significant boundaries between it and the largely rural area beyond.

*Accordance with the development plan*

19. The Plan for Stafford Borough 2011-2031 (PSB) was adopted on 19 June 2014 shortly before the inquiry opened. The Site Allocations Development Plan Document (SADPD), which will complement the PSB to complete the planning framework for the Borough, has yet to be adopted.<sup>4</sup> Nevertheless, the PSB has replaced all saved policies of the Stafford Borough Local Plan 2001.
20. The Council's original decision to refuse the application was made while those saved policies were still extant and it is common ground that policy HOU3 of the former local plan and the former Residential Development Boundaries defined therein are no longer part of the development plan and are not relevant to this appeal decision. I have no reason to take a different view.
21. It is also common ground that the former local plan policy HOU3 has no equivalent replacement in the PSB, albeit the policy referred to as Spatial Principle 7 (SP7) addresses the intended location of new development, including new housing development.
22. Paragraph 35 of the Inspector's report on the PSB records that the level of housing provided for therein is not intended as a maximum figure, which might constrain other sustainable and acceptable developments from coming forward. This principle forms part of the common ground between the Council and the appellant.<sup>5</sup>
23. The full range of PSB policies considered relevant by the Council and the appellant is set out in Section 4 of the PSoCG and I specifically refer to these only to the extent that is necessary for the purposes of this decision.
24. It seems to me that the main area of contention between the Council and the appellant in respect of the proposal vis-à-vis the development plan and its intentions centres on SP7, the former alleging conflict and the latter claiming accordance.
25. It is an issue which must therefore be directly confronted in some depth, as the newly adopted development plan is the starting point and accordance with it would (following the statutory requirement reflected in paragraph 14 of the Framework) trigger the presumption in favour of sustainable development and require that permission be granted for the proposed development, unless material considerations were to indicate otherwise.<sup>6</sup>

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<sup>3</sup> Doc 6 paragraphs 6.16.1 – 6.16.4

<sup>4</sup> ID1 paragraph 6.g.

<sup>5</sup> Ibid. paragraph 6.d.

<sup>6</sup> National Planning Policy Framework – footnote 10

26. Conversely, in line with the duty imposed by Section 38(6) of the Planning and Compulsory Purchase Act 2004, conflict with the newly adopted PSB would require rejection of the appeal unless material considerations (including national policy set out in the Framework) were to indicate otherwise.
27. The Council sought to argue that the proposed development fails to meet the relevant criteria set out in the second part of SP7, a policy which, inter alia, anticipates the current time lag between adoption of the PSB and the subsequent adoption of the SADPD and, where relevant, neighbourhood plans.<sup>7</sup> Prior to the establishment of Settlement Boundaries (within which most new development is to be confined<sup>8</sup>) these same criteria are to be used to assess the acceptability or otherwise of individual proposals such as the development at issue in this case.
28. In respect of the second part of the policy, the Council offers no argument that the proposal fails to comply with any of the listed criteria a) to j) save for criterion f) and criterion i), which respectively concern the special character of areas and the loss of locally important open space or other community facilities. However, this is largely a matter of submission rather than evidence.
29. Criterion f) seeks to protect the special character of areas and refers specifically, albeit not exclusively, to important open spaces and views, designated heritage assets and locally important buildings. There is no evidence to suggest that any such specific features that have in any formal document been identified by the Council would be adversely impacted upon by the proposed development. As I have noted, the area around the application site is visually pleasant insofar as it is an agreeable mix of suburban and rural. It is also locally distinctive in the way that places are by virtue of having their own particular mix of topography, buildings and vegetation. However, the use of the term in a policy of this nature must to my mind denote something out of the ordinary which would be adversely affected, in principle, by change in the form of new development, as opposed to ensuring that such change is executed in a manner which observes normal standards of acceptable design and development.
30. Any other interpretation would result in the policy effectively blocking much new development in the context of a development plan which plainly intends to accommodate significant growth, including the use of greenfield sites for this purpose. Moreover, the policy as drafted is not inconsistent with the intentions of the Framework, which itself highlights that development and consequential change is acceptable unless recognised important characteristics and protective designations should prevail to prevent such change. I have no compelling evidence to suggest that the characteristics of the appeal site are in themselves sufficiently special to prevent, in principle, needed development properly executed.
31. Likewise, criterion i) to my mind sets a bar that is sufficiently high to demand some formal recognition and the view cannot be taken that open agricultural land is necessarily regarded as de facto locally important open space. If that were the case, the development of such land would almost invariably conflict with the policy criterion. Nor do I consider it can realistically be argued that the appeal site performs a separation between development on the southern

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<sup>7</sup> PSB explanatory text paragraph 6.65

<sup>8</sup> Ibid. paragraph 6.64

- fringe of Stafford in the vicinity of Ash Flats Lane and the residential and commercial development at Acton Gate that is recognised to be of overriding importance. I have no evidence of any strategic policy to that effect.
32. Bearing in mind the key diagram for Stafford town in the PSB, the appeal site does appear relevant to the green infrastructure network referred to in policy N4 of the PSB. However, I have been presented with no clear evidence that it is to be site-specifically protected as such in its entirety. Moreover, I am conscious that part k. of that policy requires that all new development to which the central concept of the policy is relevant is to be set within a “well designed and maintained attractive green setting” and I see no reason in principle why development on the scale proposed in this instance could not achieve that end, especially if the necessary mitigation of potential disturbance from the motorway and railway were to be designed with that in mind.
33. For these reasons, I do not consider the proposal would conflict significantly or unacceptably with the intentions underlying criteria f) and i) of SP7. Nor do I have any cogent evidence to demonstrate unacceptably harmful conflict with any of the other criteria listed in this part of the policy.
34. However, policies are to be taken as a whole in the context of the development plan as a whole and the listed criteria are but one part of that exercise. I therefore consider it necessary to interpret SP7 by reference to all its relevant parts and, in the first instance, the contextual cross-reference to other parts of the PSB is influential to the extent that Spatial Principles SP2, SP3 and SP4 (all agreed to be relevant in the PSoCG) articulate the plan’s intention to apportion development between settlements with boundaries ultimately drawn to accommodate it accordingly. The first paragraph of SP7 specifically singles out housing development in this context.
35. It can reasonably be inferred from SP2 and SP3 read together that, for sustainability, the County town of Stafford should accommodate the bulk of the total quantum of development planned for to 2031 and SP4 is specific in the case of housing development that year on year around 70% of the Borough’s requirements should be met there, the aim being to thereby achieve 7,000 new completions in Stafford of the 10,000 new dwellings required overall.
36. I am of course conscious that the housing requirement is not to be regarded as a ceiling and that the plan’s strategy would not be undermined if Stafford, as the top settlement in the “Sustainable Settlement Hierarchy” improved upon the planned performance, in contrast to the trend identified by the Council which tended to undermine the intentions of the previous local plan, as explained in paragraphs 6.41 – 6.45 of the PSB. On the face of it, the intention to re-balance the distribution of housing in favour of Stafford Town weighs in favour of the proposal at issue and, furthermore, it is very clear that to accommodate its needs, including at Stafford, the Council is accepting of the fact that greenfield sites will have to be developed for housing.
37. Nevertheless, the final paragraph of SP7 reflects the intention of the Framework that, within the context of the important policy objective to boost significantly the supply of housing, the effective use of brownfield land is to be encouraged. This is a core principle of the Framework and the logical corollary, which finds expression in that final paragraph of SP7, is to discourage the unnecessary use of greenfield sites. This is stated in the following clear terms:-

*"Development proposals should maximise the use of brownfield redevelopment sites within the Borough's town and villages to reduce the need for greenfield sites. Only where insufficient sites on previously developed land, in sustainable locations, are available to meet new development requirements should greenfield sites be released." (The emphases are mine.)*

38. This, it seems to me, is a fundamental tenet of the strategic plan for the Borough of Stafford, the PSB, recently examined and found to be sound in the context of relevant national policy expressed in the Framework. That finding in itself is a material consideration of critical importance in support of the principle.
39. The principle is plainly free-standing and applies perforce to the development at issue even though settlement boundaries are not yet defined and all the criteria a) to k) of policy SP7 can, in my view, be satisfied by it.
40. In other words, the final paragraph is not simply a well-intentioned wish added in for its own sake; it is central to the success of the policy and the plan as a whole (as is clear from the intention to re-use brownfield land where possible listed under point i. in the Spatial Vision statement of the PSB). It is not, however, as was confirmed to me at the inquiry<sup>9</sup>, a sequential approach (i.e. 'brownfield first'). Indeed, given the early reliance on the largely greenfield Strategic Development Locations (SDLs), the PSB would be internally contradictory if it was intended to be deployed in that way. Rather it is, on its face, a clear preference for the use of brownfield land for development. Moreover, it is a clear preference that is now enshrined as a policy principle of the adopted development plan and I am obliged to follow it in this case unless it is demonstrably the case that insufficient brownfield sites are available in sustainable locations to meet the plan's development requirements.
41. Patently, the plan's development requirements cannot be met on brownfield land alone. If that were the case, the PSB would not be promoting SDLs that are to serve a very significant proportion of the development needs of Stafford Town and the borough as a whole. However, the PSB must be taken as a whole and it makes specific provision to meet its total requirements for Stafford Town, i.e. 7,000 dwellings and 90 hectares of employment land,<sup>10</sup> inter alia by identifying SDLs to the west, north and east of the town.
42. In the case of housing the March 2013 balance of dwellings required in Stafford Town<sup>11</sup> to meet the plan's intentions, after a 10% discount had been applied to existing commitments, stood at 5,233.
43. Policies identified as Stafford 2, 3 and 4 (SDLs north, west and east of the town) respectively provide for 3,100 dwellings, 2,200 dwellings and 600 dwellings so as to provide for a total of 5,900 new homes, comfortably meeting the requirement for the town as a whole, overwhelmingly on land that is classified greenfield (and assessed as not being of sufficient environmental value to be ruled out by the intention behind point i. of the Spatial Vision). These strategic allocations have been made because it is necessary to do so if the PSB strategy, including that for Stafford Town itself, is to be delivered.

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<sup>9</sup> Inspector's question to Mr Stoney

<sup>10</sup> Tables at paragraphs 6.53 and 6.58 respectively of the PSB

<sup>11</sup> Table at paragraph 6.53 of the PSB

44. Hence, despite a preference for using brownfield land for development needs, substantial greenfield development is anticipated and planned for. Against that background the suggestion that, in the context of the Framework intention to significantly boost the supply of housing, and the recognition that the requirements for Stafford are not to be regarded as a maximum, further greenfield development on the edge of the town, notably at the appeal site, would not be significantly harmful in policy terms appears, at first sight, credible. However, I consider that to be a superficial interpretation of the PSB and national policy.
45. My reasons are as follows: First, despite its emphasis on housing delivery, the Framework promotes an explicitly plan-led system and the PSB has just been adopted following thoroughgoing independent examination. It is the single most important articulation of planning policy locally. The fact that the PSB is but one part of the eventual completed development plan does not diminish its importance or relevance. Case law is clear on that point.<sup>12</sup>
46. Secondly, the recognition that the housing requirement is not a ceiling is an essentially permissive stance. Exceeding the requirement is clearly optional. If, for example, a large brownfield windfall materialised which would blight the local area if left undeveloped, there would be no good policy reason not to welcome housing development, if that were an appropriate solution in all other respects. The same cannot be said of greenfield development over and above what is needed to satisfy the PSB requirements. That in my view is the clear meaning of the final paragraph of policy SP7. It cannot be the intention of the plan to facilitate the development of greenfield land without any form of policy restraint, even pending the adoption of the SADPD and neighbourhood plans. It would be contrary to the intentions of the plan on its face and those of the Framework in any event, which seeks to accommodate development generally whilst, inter alia, boosting housing supply, in a plan-led fashion at the same time as making effective use of brownfield land resources.
47. The fact of the matter is that the insufficiency of brownfield sites in Stafford to accommodate planned requirements has been addressed through the PSB itself, for the duration of the plan period at least, by the allocation of the SDLs. Further, unforeseen development of brownfield land within Stafford would simply serve to boost housing supply further without offence to the PSB strategy, whereas unnecessary use of greenfield land resources would not sit well with the intentions of the strategy. On the contrary, it would tend to undermine those intentions, especially if it were to be on a significant scale.
48. This conclusion begs the question of the correct yardstick against which to measure "insufficient" for the purposes of the final paragraph of SP7. In my view logic dictates that it can only be the provisions of the PSB itself, on its own terms and not the Framework requirement to maintain a five year supply of deliverable housing sites, which is a separate, albeit material, matter.
49. My reasons for concluding thus are straightforward. First, the policy is not exclusively concerned with making housing land available, or necessarily available within five years; it applies to all development needs, furthermore over a 20 year period. The application of the development plan policy should not therefore be confused in the first instance by erroneously focusing on the

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<sup>12</sup> Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government [2014] EWHC 754 (See discussion set out in paragraphs 42-64)



important material consideration of the Framework's intentions in respect of deliverability of housing land over any particular five year period. (This could, in theory, be varied at any time during the currency of the adopted plan in any event.) The crucial question is: Does the plan make adequate provision for its new development requirements in sustainable locations, such that additional land (including greenfield land if necessary) is not required to satisfy its basic requirements?

50. The answer in this case, certainly as far housing is concerned, is plainly 'yes'. The plan makes 'available', in the sense it intends, sufficient housing land for Stafford Town (and the Borough as a whole). That is not just my conclusion, but clearly, and importantly, that of the Inspector who examined the PSB. Had he not concluded thus, he would not have found the plan to be sound in the terms required by the Framework.
51. Given that the PSB provides in that sense for sufficient housing land and that the needs of Stafford Town specifically are satisfied by it, then (irrespective of any additional brownfield sites that may well contribute acceptably to the achievement of housing delivery to 2031 in excess of the basic requirement) further greenfield land release in Stafford is not, in principle, necessary and is not therefore permitted by the terms of policy SP7.
52. The PSB Inspector was careful to eschew spurious precision as regards the housing development trajectory, as is evident from paragraph 39 of his report,<sup>13</sup> and the SDLs appear to be generous in aggregate. However, the latter point simply serves to reinforce the conclusion that further greenfield land release for housing in Stafford Town is not necessary for the purposes of the PSB and, although the proposed development is not on the scale proposed at the SDLs, neither would it be a small or relatively insignificant increment of greenfield housing development. On the contrary, it would represent a substantial deployment of greenfield land resources over and above what is currently required or allocated in the plan period.
53. For the above reasons I have no hesitation in concluding that the proposed development does not accord with the intentions of policy SP7 or the development plan as a whole and that it would, moreover, harmfully conflict with and undermine those intentions.
54. In drawing that conclusion, I am conscious that the Inspector who determined a recent appeal at Gnosall<sup>14</sup> found that the greenfield housing development proposed in that case accorded with the criteria of the second part of SP7 but did not explicitly address the final paragraph and I am not party to any submissions that may have been put to him in that respect. In any event, Gnosall is identified as a Key Service Village in policy SP4 which seeks to distribute 12% of the total housing requirement to such locations and, in the context of more than 500<sup>15</sup> new housing sites being required in the eleven Key Service Villages, less development is anticipated in those that are constrained by Green Belt, compensated by more in those such as Gnosall, which are not. Moreover, it is also clear from explanatory paragraph 6.40 of the PSB that such villages will generally have to experience most new development required outside the existing built up areas.

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<sup>13</sup> CD a vii

<sup>14</sup> ID17

<sup>15</sup> Table at 6.53 apportions new provision of 537 housing plots to Key Service Villages

55. The situation addressed by the Inspector in that case was therefore materially different from that prevailing in this case and conflict with the policy only arises, as I have explained, in those situations where the development of greenfield land is unnecessary to the objects of the plan. In my judgement the two situations are not therefore directly comparable and my colleague's finding of compliance with SP7 in no sense requires me to reach the same conclusion in this case. The policy must be applied with discrimination according to the circumstances of the settlement in the PSB hierarchy.

#### *Material considerations*

56. Although I have concluded that there is clear conflict with the intentions of the development plan, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that this appeal be determined in accordance with the development plan unless material considerations indicate otherwise.
57. National policy in the form of the Framework, and guidance in the form of Planning Practice Guidance (PPG) are self-evidently material considerations of significant weight. Therefore, whilst the development plan, including its housing figures, spatial strategy and intended settlement hierarchy and apportionment of development requirements between settlements is, and must remain, the starting point, its influence on the outcome of this appeal is necessarily tempered by these considerations, and others, including the Government's growth agenda.
58. The weighing of material considerations in the context of the policies set out in the Framework and the guidance of the PPG is fundamental to determining whether or not the proposed development should proceed. The planning balance must address the economic, social and environmental dimensions of sustainable development, the presumption in favour of which is set out in paragraph 14 of the Framework.
59. Whether or not that presumption is engaged, in a case such as this, where I have concluded that there is clear conflict with the development plan, depends on whether or not relevant policies are out-of-date. For housing developments that assessment encompasses the important consideration of whether or not the local planning authority can demonstrate a five-year supply of deliverable housing sites.<sup>16</sup>
60. For these reasons I conclude, notably because the land availability situation is in dispute, that there are material considerations which have the potential to outweigh the conflict with the development plan I have identified. Whether or not they should do so is a matter I return to in the planning balance following my assessment of the full range of main considerations, including the housing land situation.

#### *Housing land supply*

61. PPG advises that... *"Up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption [of a development plan], in a way that cannot be replicated in the course of determining individual applications and appeals."*

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<sup>16</sup> Framework paragraph 49

62. On the other hand, PPG goes on to advise that... *"Demonstration of a five year supply is a key material consideration when determining housing applications and appeals. As set out in the National Planning Policy Framework, a five year supply is also central to demonstrating that relevant policies for the supply of housing are up-to-date in applying the presumption in favour of sustainable development."*
63. Housing land availability for the purpose of applying national policy is frequently portrayed by participants in appeal proceedings as an absolute; i.e. simply a matter of fact. In my experience it is not. It necessarily involves informed judgements about the prospects for a multiplicity of sites and that judgemental factor can be very significant in situations where, as here, reliance is placed on a small number of large allocations. The circumstances of this particular inquiry, and the arguments put, necessitate a detailed and unavoidably discursive consideration of practice, principle and probability.
64. The first footnote to paragraph 47 of the Framework defines deliverability for the purposes of five year supply and the starting assumption is that sites with planning permission are deliverable unless there is clear evidence that schemes will not be implemented within five years. This can only mean built out as permitted, because "implementation" of permission in a legal sense requires simply a material start that effectively secures permission indefinitely. Allocations and, where evidence is supportive, windfalls, may also be included in the supply.
65. In this case, the PPG advice regarding examination of the land supply in the context of the adoption of a development plan is especially pertinent. The conclusions of the Inspector who examined the PSB are unequivocal. Paragraph 39 of his June 2014 report is as follows....
- "Although SBC cannot currently demonstrate a 5-year supply of housing land, this will be rectified when the Plan is adopted, particularly with the allocation of the SDLs, as confirmed in the latest housing trajectory [MM104]; regular updating of the housing trajectory and 5-year supply will help to ensure that the Plan is effective. The revised housing trajectory is only intended as a broad estimate of timescales for housing delivery, using information provided by developers to estimate delivery rates at specific sites."*
66. Paragraph 40 indicates that, on the basis of evidence, the proposed housing provision, including the SDLs on which significant reliance is placed, is sustainable, viable and deliverable. It notes that the first 5-year period will be boosted by a 20% increase in housing supply land supply, identifying sites for over 3,100 dwellings during this initial period. It also notes, amongst other things, that no allowance is made for windfall sites, and some commitments are discounted by 10%. This, he concluded, gave further flexibility.
67. In short, he reported that he was confident that, upon adoption of the PSB (as it happened, promptly, in the same month) the Council would have a robust five-year supply of deliverable housing sites to cater for objectively assessed needs through the medium of an adopted development plan. In the absence of truly compelling evidence to the contrary, it would not be for me to take an alternative view.
68. In any event, the content and tenor of the PPG advice I have quoted above discourages the constant questioning of such findings in appeal proceedings

notwithstanding the clear importance of maintaining a five-year supply once established, a necessity clearly recognised by the PSB Inspector in paragraph 39 of his report, which refers to regular updating. Moreover, paragraph 47 of the Framework itself, in seeking to boost significantly the supply of housing, advocates that local planning authorities should..... "*identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing requirements.....*" (The emphasis is mine.)

69. For the reasons set out below, I consider it reasonable to conclude, as a matter of practice, that it is too early to assess with any reliable degree of precision whether or not the Council in this instance is failing in its endeavour to maintain a five year supply. The Annual Monitoring Reports should reveal the reality of the situation in due course, moving forward from the base established, in effect, at March 2014, albeit retrospectively addressed in the context of the newly adopted PSB, through the Council's document calculating the five year supply as at 31 March 2014.<sup>17</sup> (This was published in June 2014.)
70. The Inspector who determined an appeal at Cold Meece<sup>18</sup> since the PSB was adopted considered that, given the PSB had only recently been adopted...
- "it is not entirely unreasonable to expect a settling in period during which the Council's policies and new site allocations will begin to take effect. This is particularly so given the step change in housing delivery which the Council is seeking to achieve. Therefore whilst dwellings may not yet be being completed and offered for sale on some of the larger sites, based on the information before me, it seems reasonable to expect that this will occur during the five year period. Furthermore the publication of an updated land supply statement is evidence that the Council are actively monitoring the situation and is willing to keep the supply of housing under review so as to identify additional sites if necessary in order to address any shortfall."*
71. Those observations are, in my view, apposite. It is important not to lose sight of the fact that, at its core, the Framework promotes a genuinely plan-led system, within which an important object is to boost significantly the supply of housing to meet objectively assessed needs. In default of those needs being delivered through the medium of an up-to-date development plan, paragraph 14 enables decisions on planning applications to be taken in the context of the broader policy embodied in the Framework taken as a whole, including, through paragraph 49, the granting of permission for housing in circumstances where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
72. However, ad hoc reappraisals, by any party, outside the regular annual monitoring promoted by the Framework in the context of a plan-led system are not in my view encouraged or endorsed by PPG insofar as it continually emphasises annual monitoring in the context of plan-led supply. In other words, the statement within it that "*Demonstration of a five year supply is a key material consideration when determining housing applications and appeals*" is a statement that needs to be understood in its proper context, i.e. the Framework and the PPG taken together and as a whole. The latter also states that... "*the National Planning Policy Framework sets out that locally authorities should identify and update annually (My emphasis) a supply of specific*

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<sup>17</sup> CD a xvii

<sup>18</sup> ID18

*deliverable sites sufficient to provide five years worth of housing against their requirements. Therefore local planning authorities should have an identified five year supply at all points during the plan period.* (Also my emphasis) *Housing requirement figures in up-to-date adopted local plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted local plans which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs."*

73. Thus identified needs in recently adopted local plans should not be lightly set aside but it is clear also that identified supply at the time of adoption should be accorded considerable weight and should not be lightly discounted. I conclude thus because the PPG not only advises that consideration of five year supply can be considered and examined prior to adoption in a way that cannot be replicated in consideration of applications and appeals but precedes the point about the five year supply being a key material consideration with the words "By taking a thorough approach on an annual basis, local planning authorities will be in a strong position to demonstrate a robust five year supply of sites." (My emphasis.)
74. Moreover, under the question "How often should an assessment be updated?" the PPG says "The assessment of sites should be kept up-to-date as part of local authorities monitoring report and should be updated yearly." (my emphasis)
75. It does go on to say that... "It should only be necessary to carry out a full re-survey of the sites/broad locations when development plans have to be reviewed or other significant changes make this necessary (e.g. if a local planning authority is no longer able to demonstrate a five year supply of specific deliverable sites for housing)" but the latter circumstance is to my mind, given the context provided by PPG, clearly set in the context of annual monitoring rather than ad hoc review by any party, whether by the local planning authority itself or an individual applicant or appellant. Conceivably, events such as the unexpected refusal of permission on an allocated site critical in itself to the on-going supply may conspire to indisputably transform the land supply situation indicated in any particular annual assessment. This would necessitate a fundamental re-appraisal prior to the next one, but a function of the relevant trajectory would be to indicate sensitivity to such an occurrence and the Council in this case has not recorded any such radical disruption to the trajectory from 31<sup>st</sup> March 2014 taking on board the adopted PSB.
76. On its face, the term "at all points during the plan period" must, clearly, in a literal sense require a five year land supply to be demonstrated at any particular point in any given year. However, given the heavy emphasis on annual and essentially plan-led monitoring in the PPG, commencing with a sound adopted plan, and bearing in mind the timescale of plans, the clear inference is that annual monitoring to demonstrate a robust five year supply should indicate a clear probability that at any point in the forthcoming year pending the next review, there will in reality be a five year supply. This appears to me common sense. Development management on a day-to-day basis would become all but impossible if the five year supply, which is intrinsically dynamic and approximate, had to be continuously, as opposed to

periodically, updated and re-assessed. Moreover, the flow off and flow on to the record of land availability of sites (albeit lapse of permission per se need not lead to automatic exclusion) and new permissions, quite apart from changing assumptions and aspirations by developers and landowners in response to immediate circumstances, has the potential to vary the supply in either direction at any point in time. This is a characteristic that could potentially lead to what could be seen as capricious decision making between systematic and methodologically consistent annual assessments. That would not be in accordance with Framework intentions regarding predictability and efficiency.<sup>19</sup>

77. The appellant asserts that there is no basis in the Framework or PPG for the Inspector who determined the Cold Meece appeal endorsing a settling in period following the adoption of a plan. However, the tenor and content of the PPG advice analysed above is, to my mind, strongly supportive of such an approach. It seems to me that, as a matter of principle and common sense, an adopted plan must be given an opportunity to show it is working before corrective measures are introduced in response to monitoring evidence which demonstrates they are needed. It is the logical corollary of rigorous examination of the statutory plan followed by adoption and regular monitoring thereafter.
78. In this case, the development plan is neither absent nor silent and, bearing in mind that it has so recently been found to be sound and adopted, the burden of proof on appellants to demonstrate that relevant policies are out-of-date is to my mind a heavy one. I accept that the plan is as yet incomplete, but that does not negate its immediate relevance to the proposed development at issue, which, for reasons previously detailed, I consider to be in conflict with its intentions. In such circumstances, the Council, local people, landowners, developers and others should reasonably expect it to be deployed as a *"practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency"*.<sup>20</sup>
79. In short, in the period between adoption and the first annual post-adoption review of housing land availability in Stafford, at least, there can only sensibly be a working assumption that (unless something radical has happened to frustrate the planned-for delivery of housing, or there is compelling empirical evidence that, for example, it is unreasonable to expect the large sites relied upon to deliver at broadly the assumed rates in the circumstances of the relevant region or housing market area, over the relevant period) the anticipated trajectory holds good.
80. This inquiry amply illustrates the difficulties (recognised in PPG, as previously indicated) of attempting to depart from such reasonable reliance on a sound and recently adopted plan and systematic annual monitoring of the type anticipated and advocated by the Framework and PPG. Moreover, I am not satisfied, given the above context, that it is demonstrably the case that the Council does not have a five year deliverable supply of housing land at the present time, notwithstanding that considerable information purporting to contradict the Council's own conclusions in that respect has been adduced and that the appellant notes the broad trajectory examined for the purposes of the

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<sup>19</sup> Framework paragraph 17

<sup>20</sup> Ibid.

PSB ran from April 2013, whereas the current monitoring year commenced in April 2014.

81. In outline, the position is as follows: In general, I am satisfied that the Council's approach to the 20% buffer it applies and the Sedgefield approach is logical and correct. The intention of such a buffer is to compensate in a robust fashion for past under-delivery and the Sedgefield approach aims to eliminate that failing within the first five years of the plan period. The picture would be artificially distorted and inconsistent with that adopted for the purposes of the PSB if an alternative approach were to be deployed. As a matter of best practice, as the appellant points out, the buffer is generally to be applied first but in this case, bearing in mind the compensatory factors (considered below) in respect of the likely reality of land supply, I do not consider this to be critical. It is perhaps regrettable that the Council's land supply as at 31<sup>st</sup> March 2014 was not made available until June and perhaps understandable that the appellant was inclined to focus on what was known by the summer of this year. Nevertheless, the consequence of such an approach is that like is not being compared with like and the information degenerates into little more than a series of snapshots of a dynamic set of circumstances as opposed to systematic measurement and calibration of the land supply situation at a regular annual date, as the Framework and PPG clearly intend.
82. That said, it is necessary for the purposes of this appeal to form a view as to the current situation and the Council's statement of five year land supply as at 31<sup>st</sup> March 2014 seems to me an appropriate starting point. The Council reasonably accepts that some inaccuracies regarding particular small sites suggests a reduction in that component of around 8% over and above the 10% discount applied across the board in that category and that the large sites component ought reasonably to be reduced by approximately 1.75% (on the basis of information emerging since March 2014.) It is noteworthy that a 10% discount is already applied to large sites where specific information from developers is unavailable, but I see no justification for doing so in those instances where the Council is in receipt of relevant information from the developer. The SDLs are potentially more problematic because they are by definition very large sites that are prone to unforeseen delays as a consequence of unexpected interruptions to necessary infrastructure provision, market capacity factors which may vary over time and phasing provisions that may not materialise as planned owing to these and other factors.
83. Nevertheless, although there is a wealth of correspondence from varying sources focusing on particular difficulties at particular times, there is little in the way of detached systematic consideration of delivery rates over a sustained period on comparable schemes in the region and therefore the Council has little option other than to rely on the best estimates of developers' representatives which can differ from other such estimates, obtained at different times and through different channels but nevertheless adduced for the purposes of the inquiry. Moreover, such information, which is typically hedged by qualifications, rarely has the status of commitment in the manner of contracted projects. Such contradictory estimates, judgements and assertions, which include soft information such as reported telephone conversations, are of limited utility in appeal proceedings. The limitations of such evidence only serve to underline the desirability and wisdom of reliance primarily on the more rounded assessments and broader understanding which can be distilled from

the examination of the development plan itself, certainly in the early days following the conclusion of that process.

84. Empirical evidence can subsequently expose trends and events that may not have been foreseen when the relevant assumptions and judgements by all concerned were made. These may indicate either faster or slower rates of delivery than anticipated, with consequences for the five-year land supply and in terms of corrective responses if this is shown to be faltering. In my experience, development plan allocations can be made in the spirit of hopefulness as far as timing is concerned, achieving the spatial outcome sought over a longer timescale than originally hoped for, often due to circumstances outside the local planning authorities' control, and a healthy scepticism is therefore sometimes warranted in reviewing claims of timely delivery.
85. However, from all I have seen, heard and read, including the report of the PSB examination, I consider Stafford's revised claims articulated in the paper produced for the inquiry<sup>21</sup> outside the annual monitoring framework (i.e. taking account of events since March 2014) and in response to the document submitted by the appellant<sup>22</sup> to be as reasonably realistic as can be expected in the absence of empirical evidence, including market focused assessments over an adequate period of time, to the contrary. And it is noteworthy that a variety of planning permissions and reserved matters applications in the SDLs are contemporaneously being granted and considered and development is already commencing, albeit in a small way in the current year, in the northern and eastern SDLs. Certainly there appears to be no lack of developer enthusiasm.
86. While I accept that all sites are important in the context of five year land supply, the submissions regarding evidence to the effect that some of the Council's small sites records are or could be erroneous regarding commencement or even lawfulness given the need to discharge conditions and the claimed absence of records thereof adds little to my understanding, in that verification would impractically involve visiting all such disputed sites and interrogating all disputed records in a forensic fashion. The more practical approach would be the narrowing down of areas of factual disagreement on the basis of agreement between the parties that plainly did not occur.
87. There are matters yet to be addressed in the Council's monitoring of the 5 year supply if improved consistency and transparency are to be achieved year on year as the five-year supply is monitored and it seems irrational not to include a windfall element given the Council's track record in that respect, or indeed, from henceforth, a C2 element given the advice of the PPG in that respect. While I therefore understand the appellant's criticism that the Council apparently now seeks to introduce such elements in an attempt to reinforce its claim, in the face of challenge, that there is a five year supply, I do not accept that such elements may be discarded as immaterial for present purposes. The fundamental intention of the five year requirement is to consistently prevent needed house-building in any particular area being frustrated by lack of a range opportunity to accommodate a variety of house-builders and market sectors in a variety of locations. The fact that the Council for its own reasons conservatively chooses not to include such a contribution in its annual statement but nevertheless seeks to add it in on an ad hoc basis in response to

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<sup>21</sup> ID4

<sup>22</sup> Appendix X to Mr Stoney's proof of evidence



an ad hoc challenge does not negate its potential contribution, albeit I accept that an approach which is as consistent, comprehensive and as transparent as possible is to be preferred.

88. More fundamentally, however, the fact that the appellant's detailed review of material relevant to the Council's five year land supply is based on what is apparently known or conjectured at various dates in the summer of 2014 makes a true comparison between Mr Stoney's Appendix X and the Council's March 2014 assessment impossible, albeit the Council's response to that seems to me a proportionate and reasoned response. Cognisance of those criticisms levelled by the appellant which the Council felt to be justified reduces the supply from the 5.43 year supply calculated at 31 March 2014 to 5.3 years supply over the period August 2014 – July 2019.
89. However, as I have noted, like is not being compared with like and bearing that factor in mind and also that the intention of a five year supply, as I have also noted, is to prevent frustration of the market; it seems legitimate to me, in attempting to divine the reality of the situation in the context of an ad hoc exercise to depart from the strict constraints of the Council's chosen methodology and consider urban sites deemed 'deliverable' from the Strategic Housing Land Availability Assessment (SHLAA) of 2013 in the manner suggested by the Council's paper submitted at the inquiry.<sup>23</sup> This source of supply is not precluded by the Framework or PPG in circumstances where such sites have a tradition of coming forward and is confined to the Stafford urban area and excludes any such sites elsewhere in the Borough. If added to the Council's agreed reduction in this context to 3,547 plots (c5.3 years supply) this would increase it back to c5.6 years supply ( $3,547 + 225 = 3772$ :  $3772/672 = c5.6$ ). This to some extent mitigates the "loss of headroom" claimed by the appellant's planning witness in relation to small and large sites with planning permission.<sup>24</sup> Unquantified C2 development would also tend to push the supply in the same direction, albeit there is no sense of the magnitude of that legitimate component of supply.
90. In practice, therefore, I consider the reality of whether or not there is a five year supply of deliverable housing turns on the likely performance of the SDLs. Inevitably, this is to a degree speculative and imprecise. Moreover, it goes directly to the conclusions of the Inspector who endorsed the PSB for adoption on the basis that the SDLs were a major component in addressing the Council's need to identify a five year supply.
91. Despite the Council's apparent reservations, there is no evidence to suggest that the developers involved in the SDLs regard the proposed development as in any way threatening to their delivery and, as I have noted, there appears to be a notable enthusiasm for and confidence in their ability to progress them, as is it appears from submissions to the PSB examination hearing.<sup>25</sup>
92. I have carefully considered the PSB Inspector's report and in this context those sections which address the 4 SDLs are particularly relevant. Paragraph 58 sets the scene and paragraphs 61 – 85 and 86 – 100 respectively encompass his conclusions regarding the three Stafford SDLs and the smallest one identified at Stone. Paragraph 68 is particularly pertinent and includes the observation

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<sup>23</sup> ID5

<sup>24</sup> Appendix x to evidence of Mr Stoney

<sup>25</sup> Doc 21 submission on behalf of Hallam Land re Stone SDL

that... *"there is little conclusive evidence which suggests that the anticipated timescales for delivering these SDLs are unduly optimistic or unrealistic."* On the contrary, the Inspector noted, supporting evidence and developer assessment confirm viability and deliverability.

93. Bearing in mind my previous comments regarding the hope invested in large allocations, the danger of treating developer comment as commitment, and the fact that divining the trajectory of their development in any event involves a degree of conjecture by all concerned, there must certainly be an element of "seeing is believing", but in this case the PSB has only just been adopted and it would be in my view premature and unjustified to doubt what was, in the round, concluded as a result of its examination. I have no doubt that in terms of detailed year on year assumptions some SDLs may stall or slow over the course of time.<sup>26</sup> Equally, I have no reason to doubt that others may accelerate, especially if market conditions hold good or improve. But, as yet, no clear verified trend can be discerned as to which is the predominant tendency, and my colleague's observations<sup>27</sup> regarding a "settling in period" remain pertinent in this context, as do those of the PSB Inspector regarding the generality of the housing trajectory and the need to update it regularly to assist the effectiveness of the PSB.<sup>28</sup> These factors also give weight to the PPG advice regarding consideration of the land supply in the context of development plan examinations prior to adoption, rather than in the context of appeal proceedings.
94. I do appreciate that the trajectories set out in the Council's revised assessment appear ambitious, with trajectories for individual SDLs rising to 200, 190, 132 and 70 dwellings per annum for the Northern, Western, Eastern and Stone SDLs respectively over the next five years. However, I have no rigorous empirically based market evidence that such planning assumptions for Stafford as a whole (where growth is the explicit intention) are, in the context of the region or Strategic Housing Market Area, unachievable. (If that were the case, it would in any event simply add weight to the Council's reservations that the appeal site could divert some demand away from the SDLs.) The assumptions have been recently examined and found to be sound and I have no compelling evidence to suggest that market circumstances or expectations have radically altered since.
95. Clearly, if the housing market generally were to suffer a sudden collapse, as experienced in 2008, then those assumptions would have to be radically reconsidered and lapses in performance would be subject to the corrective mechanism built into Framework policy regarding 5 year supply, but as of now, I am not persuaded by the totality of evidence before me that the assumed trajectory for the SDLs is fundamentally wide of the mark. Moreover, the planned SDLs are in my view sufficiently varied and dispersed around the town and the borough to avoid the worst risks of over-concentration and over-reliance for housing delivery purposes.
96. Assessing a five year land supply is plainly not an exact science. There is, moreover, no closely prescribed methodology sufficient to eliminate individual judgement by practitioners. That judgemental element, which is essentially a balance of probability, is therefore inescapable. In the round, taking all that

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<sup>26</sup> Appendix x to evidence of Mr Stoney re Stone SDL

<sup>27</sup> ID18 paragraph 22

<sup>28</sup> CD a.vii. Paragraph 39

has been put to me into account, I do not consider the Council to now be in comfortable surplus as far as the five year land supply is concerned. There are factors tending to erode that which was quantified at 31 March 2014, concerning small and large sites, but there are also factors which, in real terms are likely to make for additional supply, which is compensatory. Moreover, evidence concerning the SDLs is insufficiently compelling to convince me that the planning assumptions tested through the PSB examination and most recently by the Council in reviewing the position are fundamentally wide of the mark. On that basis, I consider the Council, on the balance of probability, currently has, in real terms relevant to the wide range of developers who might wish to utilise it for house building, a five year land supply in the sense intended by the Framework. But there is little room for complacency. Further planned allocations through the Site Allocations DPD and neighbourhood planning process will need to be brought forward expeditiously if monitoring over the next year or so indicates that expectations are not being met.

97. Nevertheless, bearing in mind the Framework read together with the PPG advice, and the very relevant and recent adoption of the PSB, the apparent potential marginality of the real supply of deliverable sites around the five year mark demonstrated by the Council does not in my view engage the intention behind paragraph 49 of the Framework that an inadequate supply of housing land should render relevant policies for the supply of housing out-of-date. In all the circumstances, it would be extraordinary if that were to be the case. The Council has engaged with the spirit and practice of the plan-led system to identify opportunities for housing development, including on greenfield sites, and the PSB has been specifically endorsed in terms of the initial five year supply resulting.
98. Careful and systematic monitoring, as national policy intends, will be essential to identify any slippage from the position achieved and corrective action in those circumstances would be needed. But, on the all the evidence available to me, I do not find that to be a circumstance which prevails at the present time. The development plan, whilst not yet complete, cannot be considered out-of-date at this juncture as far as the adequacy of the planned housing land supply is concerned.

*Other matters*

99. A range of other matters were raised by third party objectors to the proposed scheme of development but, as is clear from the officer's report and the PSoCG, there are no 'technical' objections from relevant consultees. Moreover, there are no concerns or qualifications from such sources that could not be addressed by scheme design at reserved matters stage and/or the imposition of planning conditions, together with the execution of an appropriate form of planning obligation, and I am content that impacts on the amenity of adjacent residents can adequately be addressed through design and relevant conditions.
100. The decision does not turn on such matters, notwithstanding that I consider it afresh, but one matter does merit more specific comment in view of the very evident concern of local residents; and that is the proposed access.
101. The highways authority (SCC) and the Council are both satisfied with the single priority junction proposed, supplemented by an emergency access

arrangement. Especially bearing in mind the comments of the Inspector<sup>29</sup> who considered objections to the 2001 Local Plan, that visibility is impeded by the alignment of the (railway) bridge, I accept that the proposed access appears counter-intuitive.

102. Nevertheless, given the content of the HSoCG agreed between the highways authority and the appellant, the fact that junction design with appropriate sightlines for the measured road speeds is achievable, as I observed during my site visits, and that no expert evidence was adduced to demonstrate otherwise, I am unable to conclude that there is a sustainable highways reason for refusal in this instance. Both the appellant's highways expert and the equivalent representative of the SCC explained that relevant criteria for the circumstances of the highway are met and that their judgement is (with the measures proposed to reinforce the tendency of northbound traffic approaching the bridge to slow down) the proposed junction would operate safely and efficiently. I have no reason, on the basis of the evidence available to me, to substitute an alternative judgement.
103. There are of course benefits of an economic nature, reinforced by the growth agenda, that must be weighed in the balance and social benefits including the affordable housing content of the proposed scheme. These are identified by the appellant.<sup>30</sup> The environmental gains claimed by the appellant, including a potential gain in biodiversity, are to my mind of lesser weight, bearing in mind that the site, although in many respects unremarkable, nevertheless represents an attractive expanse of rural land on the southern fringe of Stafford, albeit compromised in terms of tranquillity by the pervasive influence of the M6 and the railway.
104. I have no evidence sufficient to persuade me that the site is in an inherently unsustainable location.

#### *The Planning Balance*

105. I have concluded that, because it involves the unnecessary development of greenfield land, the proposed development would conflict with and harmfully undermine the intentions of the development plan, as articulated in the final paragraph of SP7 considered in the context of the recently adopted PSB as a whole.
106. I have also concluded that the development plan is neither absent nor silent, and that relevant policies are not out of date because, all things considered, at the present time, it is not demonstrably the case that the Council does not have a five year supply of deliverable sites in the sense intended by the Framework. Paragraph 49 of the Framework is not, therefore, currently engaged.
107. I am conscious that the overall housing figures in the PSB are not intended to be a ceiling, but the unfettered release of substantial greenfield sites such as the appeal site cannot, logically, be the intended corollary of that. If it were, the final paragraph of SP7 would not say what it does.

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<sup>29</sup> ID6 paragraph 6.16.4

<sup>30</sup> Evidence of Mr Stoney

108. The presumption in favour of sustainable development articulated in paragraph 14 of the Framework, again, does not endorse the unfettered release of greenfield sites that are 'technically' unobjectionable. Sustainability is measured against the Framework as a whole and, at its heart, the core principles include the principle that development should be genuinely plan-led.
109. Whether or not a development is genuinely plan-led is therefore an important facet of sustainability, albeit one that is not necessarily decisive in itself. This reflects the statutory position that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. This principle is clearly embodied in paragraphs 196 and 197 and in the core principles of the Framework.
110. The Framework, through paragraph 14, does provide for decisions to be made in the absence of an up-to-date plan including, through paragraph 49, the release of land for housing where plan policies on housing land supply may not be considered up-to-date. That is not the case here.
111. The Framework clearly endorses the use of greenfield land resources where necessary, whilst encouraging the effective use of previously-developed land. This is a core principle of the Framework, as is the preference for land of lesser environmental value when allocations for development are made, where this is consistent with other policies of the Framework.
112. It is too simplistic, therefore, to assert that the proposed development should in any event be seen in the context of the Framework's intention to significantly boost the supply of housing, as presented at paragraph 47. Read in the context not only of the Framework as a whole, but also within the confines of the paragraph itself, it is plain that, whenever the development plan is up-to-date in this respect, the primary intention is for such a boost to be delivered through the plan-led system.
113. This seems to me precisely the course the Council has adopted, as is abundantly clear from the Inspector's report on the PSB. The development plan also interprets, *inter alia* through policy SP7, the balance to be struck locally as regards the use of greenfield and brownfield land resources.
114. Given all of the above, I am obliged to accord substantial weight to the conflict with the development plan (and the related conflict with the intentions of the Framework) that I have identified. That conflict concerning the unnecessary deployment of greenfield land resources significantly detracts from the sustainability credentials of the proposed development.
115. I recognise that there are benefits, both socially and economically, associated with the proposed development, notably its contribution to growth, the potential for affordable housing provision and, in simple terms, its potential to boost the supply of housing generally.
116. Such benefits are by no means insignificant. Moreover, the proposed development has other attributes which weigh positively in its favour in the balance of considerations determining sustainability. Nevertheless, given the substantial weight that must be accorded to the PSB at the present time, these do not, for the reasons I have given, outweigh the clear conflict with its intentions regarding the use of greenfield land which I have identified.

117. For that reason, having taken into account all other matters raised in the cases of the parties, including numerous appeal decisions and legal rulings, I consider the proposed development not only conflicts harmfully with important intentions of the development plan but also, on balance within the context of and as a result of that conflict, fails to represent sustainable development for the purposes of the Framework. I therefore conclude that the appeal should be dismissed.

*Keith Manning*

Inspector

Richborough Estates

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY: Timothy Leader of Counsel

He called

Simon Wood MRTPI, Urban Vision

John Holmes BA (Hons) MRTPI, Stafford Borough Council

FOR THE APPELLANT: Hugh Richards of Counsel

He called

Stephen Stoney BA (Hons) MRTPI, Wardell Armstrong LLP

Timothy Russell BSc (Hons) MIHT, Croft Transport Solutions (called at my request)

FOR THE ASHFLATS RESIDENTS' ACTION GROUP: Paul Windmill BA Hons, MRTPI (Rtd)

Mr Windmill gave expert evidence on behalf of the Group, supported by topic based statements from the following local residents:-

Brian Hodges  
Gwyneth Hodges  
Charles Barratt  
Susan Moore  
Leonore Ashwell  
Kay Crosby  
Patrick McGurk

INTERESTED PERSONS:

Councillor Geoff Rowlands, on behalf of all three Manor Ward Councillors

The following local residents gave statements in their own right:-

Maureen Alecock  
Graham Tummey

Paul Hurdus MSc MILT MIHT, representing Staffordshire County Council, the highways authority, spoke at my request

## **INQUIRY DOCUMENTS**

- ID1 Statement of Common Ground
- ID2 Appellant's opening statement
- ID3 Council's opening statement
- ID4 5 year housing land supply statement with August 1<sup>st</sup> 2014 base
- ID5 Extract from 3013 SHLAA re sites in Stafford Town urban area
- ID6 Extract from Inspector's report on Stafford Borough Local Plan 2001
- ID7 Email trail ending Barry Herrod to John Holmes 17 May 2013 @ 14:19
- ID8 Statement by Councillor Geoff Rowlands
- ID9 Assembly of topic based statements from individual local residents
- ID10 Draft planning obligation
- ID11 Draft conditions (31 July 2014)
- ID12 Highways Statement of Common Ground (29 September 2014)
- ID13 Updated draft conditions (submitted by appellant 13 October 2014)
- ID14 Email Mr Windmill to Mr Ryder dated 26 September 2014 and response by Croft Transport Solutions
- ID15 Letter from 'Housing Plus' to inquiry dated 9 September 2014
- ID16 S106 Planning Agreement dated 28 October 2014
- ID17 Appeal decision APP/Y3425/A/14/2210911 (Gnosall)
- ID18 Appeal decision APP/Y3425/A/14/2217183 (Cold Meece)
- ID19 Appeal decision APP/Y3425/A/14/2220297 (Stone)
- ID20 Letter from Ladders Solicitors re; option agreements dated 20 September 2013
- ID21 Copy of submission by Wardell Armstrong LLP (Stephen Stoney) to examination of the Plan for Stafford Borough
- ID22 Email exchange re: St Georges Hospital site between Shropshire Homes and Stafford Borough Council 6 & 7 October 2014
- ID23 Extract from Manual for Streets
- ID24 Extract from Staffordshire Residential Design Guide
- ID25 Extracts from Design Manual for Roads and Bridges
- ID26 Stage 1 Road Safety audit prepared by Merebrook Consulting Limited
- ID27 Manuscript agreement between main parties as to site's potential capacity to accommodate dwellings taking account of anticipated constraints
- ID28 Closing statement by the Ash Flats Residents Action Group
- ID29 Closing submissions of the Local Planning Authority
- ID30 Closing submissions on behalf of the appellant with court transcript [2014]EWHC 754 appended (*Bloor Homes v Secretary of State for Communities and Local Government*)



## **CORE DOCUMENTS**

### **a. 'Core Documents'**

- i. National Planning Policy Framework
- ii. National Planning Practice Guidance
- iii. West Midlands Regional Spatial Strategy Phase 11 Revision
- iv. The Plan for Stafford Borough 2011-2031
- v. Stafford Borough Strategic Housing Land Availability Assessments 2009 – 2013 inclusive
- vi. Examination of the Plan for Stafford Borough – Inspector's Recommendations for Further Main Modifications – 17/12/2013
- vii. Inspector's Report on the Examination of the Plan for Stafford Borough – 11/06/2014
- viii. Stafford Borough Council – 5 Year Housing Land Supply Statement 2013
- ix. Stafford Borough Council – Statement of 5 Year Housing Land Supply – 31<sup>st</sup> January 2014
- x. Stafford Borough Council – Application Committee Meeting Minutes – 21/02/2014
- xi. Stafford Borough Council Application Decision Notice – 24/02/2014
- xii. Appellant Statement of Case – April 2014
- xiii. Appellant Proof of Evidence – July 2014, including Appendices;  
A – Application officer report – 14/02/2014  
B – SCC Highways correspondence – 29/05/2014
- xiv. C - Planning Appeal decision – APP/H1840/A/13/2203924 – Offenham
- xv. D - Planning Appeal decision – APP/R0660/A/13/2196044 – Elworth Hall Farm
- xvi. E - Planning Appeal decision – APP/Y3425/A/12/2172968 – Former Castleworks, Castle Street, Stafford
- xvii. F – Stafford Borough Council – Statement of 5 Year Housing Land Supply – 31<sup>st</sup> March 2014
- xviii. X – Appellant 5 Year Housing Land Supply Assessment – June 2014, including sub appendices 1 & 2.  
Y – Paul Shaw Proof of Evidence
- xix. Appellant Draft Statement of Common Ground – SBC Amended – 29.07.2014
- xx. Appellant proposed draft Conditions – 18/06/2014
- xxi. The Plan for Stafford Borough – Whole Plan Viability Report – (EIP – D52) - August 2013
- xxii. Levvel Deliverability and Viability of the Northern and Western SDL Locations Report – July 2013

### **b. Planning Application 13/19524/OUT Documents**

- i. Application form
- ii. Design and access statement
- iii. Planning support statement
- iv. Air quality assessment
- v. Archaeological assessment
- vi. Ecological appraisal
- vii. Flood risk assessment
- viii. Geotechnical assessment
- ix. Landscape and visual impact assessment
- x. Noise survey

- xi. SAC assessment
- xii. Statement of community involvement
- xiii. Topographical survey – sheets 01/02/03
- xiv. Transport Assessment
- xv. Watercourse modelling
- xvi. Tree quality survey
- xvii. Utility assessment
- xviii. Draft heads of terms – section 106
- xix. Location plan
- xx. Context plan
- xxi. Green space plan
- xxii. Illustrative circulation plan
- xxiii. Illustrative constraints plan
- xxiv. Illustrative masterplan
- xxv. Proposed priority access plan – 0199-01-A

**c. Other Documents**

- i. Stafford Borough Council Application – 12/17747/OUT – Officer Report – 17/04/2013
- ii. Stafford Borough Council Application – 13/19249/OUT – Officer Report – 12/02/2014
- iii. Stafford Borough Council Application – 13/19249/OUT – Officer Report – 21/02/2014
- iv. Stafford Borough Council Application – 13/19771/FUL – Officer Report – 05/03/2014
- v. Stafford Borough Council Application – 13/19694/OUT – Officer Report – 05/03/2014
- vi. Stafford Borough Council Application – 13/19249/OUT – Officer Report – 06/03/2014
- vii. Stafford Borough Council Application – 13/19605/FUL – Officer Report – 17/03/2014
- viii. Stafford North SDL – Taylor Wimpey correspondence – 30/06/2014
- ix. Stafford North SDL – Statement of Common Ground (EIP – E97) – 14/11/12
- x. Stafford North SDL – Maximus Policy Stafford 2 Statement (EIP – M4/10b) – 15/10/13.
- xi. Stafford North SDL – Akzo Nobel Policy Stafford 2 Statement (EIP – M4/5a) – 15/10/13
- xii. Stafford North SDL - Working Party meeting – minutes (EIP – E94) – 20/06/13
- xiii. Stafford North SDL - correspondence (EIP – O1.20) – 13/05/14
- xiv. Stafford North SDL - Stafford Borough Council Briefing Note – 08/05/14
- xv. Stafford North SDL - submission (EIP – M4/5b) – 15/10/13
- xvi. Stafford West SDL – St Modwen Developments submission (EIP – M4/7a) – 15/10/13
- xvii. Stafford West SDL – Bellway correspondence – 01/07/2014
- xviii. Stafford West SDL – Taylor Wimpey correspondence – 04/07/14
- xix. Stafford East SDL – Memorandum of Agreement – (EIP – E99) – 2012
- xx. Stafford East SDL – Working Party meeting minutes – (EIP – E96) – 2012/13
- xxi. Stafford East SDL – Application 13/18697/OUT Planning Statement – May 2013

- xxii. Stone SDL – Wardell Armstrong correspondence – (EIP – O1.22) - 13/06/14
- xxiii. Stone SDL – Statement of Common Ground – (EIP – E98) – 2012
- xxiv. Stone SDL – Wardell Armstrong Statement – (EIP – M5/8a) – October 2013
- xxv. Stone SDL – Wardell Armstrong correspondence – 30/06/2014
- xxvi. Stafford Borough Council 5 Year Supply Statement (31<sup>st</sup> Jan 2014) – Mr Shaw correspondence – 14/02/2014
- xxvii. Planning Application 13/19524/OUT & other matters – correspondence to Stafford Borough Council – (Head of Law & Administration/Head of Planning & Regeneration/Cabinet Member for Planning & Regeneration)– 20/02/2014
- xxviii. Stafford Borough Council 5 Year Supply Statement (31<sup>st</sup> Jan 2014) – correspondence from Stafford Borough Council – (Senior Forward Planning Officer) - 20/02/2014
- xxix. Stafford Borough Council 5 Year Supply Statement (31<sup>st</sup> Jan 2014) & other matters – correspondences to Stafford Borough Council - (Head of Law & Administration/ Legal Services Manager/Head of Planning & Regeneration/Cabinet Member for Planning & Regeneration) – 21/02/2014/25/02/2014/28/02/2014/13/03/2014/24/03/2014
- xxx. Stafford Borough Council 5 Year Supply Statement (31<sup>st</sup> Jan 2014) – correspondence from Stafford Borough Council (Forward Planning Manager) – 26/03/2014
- xxxi. Stafford Borough Council 5 Year Supply Statement (31<sup>st</sup> March 2014) – correspondences to Stafford Borough Council (Forward Planning Manager) – 05/06/2014/11/06/2014
- xxxii. Stafford Borough Council 5 Year Supply Statement (31<sup>st</sup> March 2014) – correspondences from Stafford Borough Council (Forward Planning Manager) – 09/06/2014/12/06/2014

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