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Our Ref: APP/F1610/A/10/2130320

12 April 2011

Dear Mr Bateman,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY CALA MANAGEMENT LIMITED. APPLICATION REF: 09/04214/OUT
LAND AT TODENHAM ROAD, MORETON IN MARSH, GLOUCESTERSHIRE GL54
9NL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Jessica Graham BA(Hons) PgDipl, who held a public local inquiry which opened on 26 October 2010, into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Cotswold District Council to refuse outline planning permission for the erection of up to 300 dwellings, open space and associated infrastructure, on land at Todenham Road, Moreton in Marsh, Gloucestershire, GL56 9NL, in accordance with planning application ref: 09/04214/OUT, dated 8 December 2009.

2. The appeal was recovered for the Secretary of State's determination on 24 August 2010, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

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

Representations received after the close of the inquiry

4. Following the close of the inquiry the Secretary of State received a written representation from Pegasus Planning Group dated 28 March on behalf of the appellant, which he has carefully considered. This raised the matter of the Written Ministerial Statement (WMS) of The Rt Hon Greg Clark MP, dated 23 March 2011, and in particular that account should be taken of this statement in reaching a decision on this application.

The Secretary of State wishes to clarify that he has taken the principles in the WMS into account in determining this appeal and has given significant weight to the need to secure economic growth and employment. However, he does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching a decision. This is because he has already addressed economic growth and employment issues (see, for example, his consideration of Moreton in Marsh's designation as a "Most Sustainable Principal Settlement" (paragraph 15 below)). Copies of this correspondence are not attached to this letter but may be obtained on written request to the above address.

Policy Considerations

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises Regional Planning Guidance for the South West 2001 (RSS), the saved policies of the Gloucestershire Structure Plan Second Review (1999), and the saved policies of the Cotswold District Local Plan 2001 – 2011 (2006). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR14-28.

6. Other material considerations which the Secretary of State has taken into account include those national policy documents at IR30; the Cotswold District Council Affordable Housing Supplementary Planning Document; Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and, the Community Infrastructure Levy (CIL) Regulations 2010.

7. The Secretary of State has also taken into account the Cotswold District Core Strategy (CDCS). He notes that since the inquiry closed a CDCS Second Issues and Options document has gone out to consultation. However, whilst the CDCS is a material consideration, it is still some way from adoption, and so he has afforded it little weight.

8. The decision of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council* [2010] EWHC 2886 (Admin) resulted in the reinstatement of Regional Strategies (RSSs), including the reinstatement of the Regional Spatial Strategy for the South West (RSS) as part of the development plan for the area. The Inspector therefore consulted the parties on whether this would have any implications for the way in which the appeal should be determined.

9. The Secretary of State has also made it clear, following the judgment on 10 November 2010, that it is the Government's intention to revoke RSSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. This gave rise to a subsequent decision of the Court on 7 February 2011 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin) which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration. However, while the Secretary of State has taken this matter into account in determining this case, he gives it limited weight at this stage of the parliamentary process.

10. As to the weight to be afforded to the emerging RSS, work on this has now stopped, given that it is the Government's intention to revoke RSSs as a whole. However, the Chief Planning Officer's letter of 6 July makes it clear that the evidence that informed the

preparation of the RSSs may also be a material consideration. It is also the case that, notwithstanding the status of the emerging RSS, the Inspector considers that there is anyway a lack of five year housing supply, and the Secretary of State has determined this appeal on this basis (see paragraph 12 below).

Main Issues

The Policy context

11. The Secretary of State agrees with the Inspector's assessment of the policy context as set out in IR168-170. His assessment of the RSS is set out in paragraphs 8-10 above.

Housing requirement and supply

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing requirement and supply as set out in IR173-186. He agrees with the Inspector's assessment that, as at 1 April 2010, the Cotswold district supply of housing land was around 1,532 dwellings (IR178-180). With regard to the district's housing requirement, he agrees that the Council's interim district housing requirement is not a particularly accurate reflection of the district's current housing requirement (IR173) and notes that a number of alternative calculations were put forward (IR182). He agrees that a useful starting point in this process is to project forward the Structure Plan requirement and that this should include a residual figure (IR174). On that basis he notes that there would only be 4.3 years housing supply, and that any shortfall would be much higher using more up-to-date data (IR182), suggesting that this requirement is likely to increase rather than decrease (IR185). Whilst accepting that the Council's interim district housing requirement can carry some weight – principally on the grounds that it was adopted for development control purposes by the Council (IR184) – he agrees with the Inspector that more weight should be attached to the lack of sufficient land to meet the current Structure Plan requirement (including the residual figure) over the next 5 years (IR185). This lack of 5 year housing supply is a factor which weighs significantly in favour of development.

The considerations in paragraph 69 of PPS3

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the considerations in paragraph 69 of PPS3 as set out in IR187-189. He agrees that there is no reason why the proposed development should not be capable of delivering a good mix of high quality housing, including affordable dwellings and appropriate provision of open space; that the proposed development would appear as a natural extension of the town's built environment; and, that the density of residential development proposed would constitute an efficient use of land (IR188). Whether the proposal would "ensure the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives" is considered below.

The District development strategy

14. The Secretary of State has carefully considered the Inspector's assessment of the District development strategy as set out in IR190-198. He agrees that the proposal would be in conflict with Policy 19 in being outside the development boundary (IR194).

15. With regard to suitable locations for development, and the requirement that development be at a scale consistent with the character and function of a settlement (IR195-197), the Secretary of State notes that Moreton in Marsh is identified as a “Most Sustainable Principal Settlement” in the District. He also notes that though it lacks some facilities, such as a secondary school and leisure centre, it has a good level of services - the Local Plan states, for example, that it has “a good level of services and facilities, including the District Council’s Area Centre, primary school, a library, banks, doctor and dental surgeries, a hospital, a sizeable supermarket and a good range of shops and other services”, and that it is “one of the District’s main employment areas”.

16. On the matter of the scale (IR198), the effect of the proposal before the Secretary of State would be to increase the population by 20%, but the cumulative effect with the FSC would be to increase the population of the town by 40%, an unplanned amount which he agrees would fundamentally alter the existing character of Moreton in Marsh.

Prematurity

17. The Secretary of State agrees with the Inspector’s reasoning and conclusions on prematurity as set out in IR199-202. He agrees that in the context of the current development strategy, to construct more than a quarter of planned growth at one of the nine candidate settlements, in advance of any comparative (and consultative) assessment of their respective economic and social needs, would be to predetermine decisions about the scale and location of new development which ought properly to be addressed in the emerging Development Plan Documents (IR202).

Affordable housing

18. For the reasons given in IR203-205 the Secretary of State agrees with the Inspector that the 150 affordable housing units would go some way to meeting an acknowledged need and that this can be seen as a benefit (IR206). The Secretary of State agrees that this benefit would be diluted by the lack of employment opportunities in Moreton in Marsh and the need to travel out of the area (IR206). However, given that Moreton in Marsh is one of the District’s main employment areas, he considers that the benefits are still significant.

Transport

19. The Secretary of State agrees with the Inspector’s reasoning and conclusions as set out in IR207-210. He agrees that future occupiers would have the choice of a range of possible transport without necessarily having to rely on the use of a private car, and this would accord with national and local policies aimed at encouraging more sustainable modes of travel (IR207). He also agrees with the Inspector’s overall assessment that the proposal would occupy an eminently sustainable location in terms of its accessibility by a range of modes of transport (IR230).

20. As for mitigation measures, the Secretary of State agrees with the Inspector that until the details and cost of a mitigation scheme are established it is not possible to say whether the sum secured by the s106 Agreement would be fair and reasonable (IR210). The Secretary of State cannot therefore give any weight to this aspect of the s106 Agreement, nor can he be satisfied that any mitigation strategy would be adequate. Furthermore, he considers that the resulting absence of assurances over the adequacy

of the mitigation strategy is a material consideration which weighs significantly against the proposal – a matter which he affords more weight than the Inspector.

21. On the matter of a comprehensive traffic strategy for Moreton in Marsh set out in IR211, the Secretary of State takes the view that there is nothing, in principle, to suggest that a traffic strategy which sought to mitigate the impacts of this proposal on its own would not be acceptable.

Other matters

22. The Secretary of State agrees with the Inspector's reasoning and conclusions on those other matters set out in IR212-213. Like the Inspector, he is satisfied that the proposal would not increase the risk of flooding at the appeal site or elsewhere (IR212).

Matters about which the Secretary of State wished to be informed

23. These matters have been addressed above (IR214). On the matter of planning conditions (IR226), the Secretary of State agrees with the Inspector's assessment of these as set out in IR157-166. He does not consider that they overcome his reasons for dismissing the appeal.

Overall conclusions

24. The Secretary of State has carefully considered each of the relevant factors in this application, including setting out where he differs from the Inspector in terms of the weight to be given to certain matters. In reaching his conclusion he has taken into account development plan policies regarding the spatial vision for the area, and the need to consider those matters in PPS3, which seek to ensure that consideration is given to planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

25. He considers that there are a number of factors weighing in favour of the proposal, such as; the lack of 5 year housing supply; the expectation that the proposal would provide a good mix of high quality housing (including affordable housing) and appropriate provision of open space; that it is located close to a sustainable settlement; that it would provide much needed affordable housing; and, that the density would constitute an efficient use of land.

26. There are also a number of factors weighing against the proposal. It would conflict with the development plan in being located outside the development boundary; it would predetermine decisions about the scale and location of new development which ought properly to be addressed in the emerging Development Plan Documents and so would conflict with PPS1 in that respect; it would alter detrimentally the character of Moreton in Marsh; the town lacks some facilities; and, he cannot be satisfied that any mitigation strategy would be adequate.

27. Other material factors include that the Secretary of State is satisfied that the proposal would incorporate adequate flood mitigation measures.

28. Overall, having weighed up all of the relevant considerations, the Secretary of State considers that the proposal conflicts with the development plan and national plan policies in a number of respects, and though there are also a number of material

considerations weighing in its favour, these are not of sufficient weight to outweigh this conflict.

Formal Decision

29. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your client's appeal and refuses outline planning permission for the erection of up to 300 dwellings, open space and associated infrastructure, on land at Todenham Road, Moreton in Marsh, Gloucestershire, GL56 9NL, in accordance with planning application ref: 09/04214/OUT, dated 8 December 2009.

Right to challenge the decision

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

31. A copy of this letter has been sent to Cotswold District Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours sincerely

Richard Watson
Authorised by the Secretary of State to sign in that behalf

Richborough Estates

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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



Report to the Secretary of State for Communities and Local Government

by Jessica Graham BA(Hons) PgDipL

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

Date: 26 January 2011

Town and Country Planning Act 1990

Cotswold District Council

Appeal by

CALA Management Limited

Inquiry opened on 26 October 2010

Land at Todenham Road, Moreton in Marsh, Gloucestershire GL56 9NL

File Ref: APP/F1610/A/10/2130320

File Ref: APP/F1610/A/10/2130320

Land at Todenham Road, Moreton in Marsh, Gloucestershire GL56 9NL

- 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 CALA Management Limited against the decision of Cotswold District Council.
- The application Ref 09/04214/OUT, dated 8 December 2009, was refused by notice dated 4 June 2010.
- The development proposed is the erection of up to 300 dwellings, open space and associated infrastructure.

Summary of Recommendation: The appeal should be dismissed.

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Procedural matters

References in round brackets are to documents (listed at pp.40-43) and references in square brackets are to paragraphs within this report.

1. The inquiry sat for 4 days on 26-29 October 2010. I made unaccompanied visits to the surrounding area on 25 and 28 October, and an accompanied site visit on 29 October.
2. The inquiry was held at the Cirencester District Council offices, with full access to members of the public. A number of local residents expressed, at and prior to the inquiry, their disappointment that it could not have been held in Moreton in Marsh so that more of them could have attended. The Council was asked in advance of the inquiry to review possible alternative venues, but could find none in Moreton in Marsh that were suitable.
3. The application that now forms the subject of the appeal was submitted in outline, with details of access to be determined as part of the application, and details of layout, scale, appearance and landscaping reserved for future determination.
4. The Council refused the application for the following reasons:
 - 1) The provision of housing on a greenfield site outside of the development boundary at Moreton in Marsh is contrary to Policy 19 of the Cotswold District Local Plan 2001-2011. Development within this location would only be supported if there was exceptional grounds to justify the setting aside of adopted policy.
 - 2) The scale of development is excessive and is not commensurate with the social and economic needs of the settlement of Moreton in Marsh. The proposal is therefore contrary to Policy 18 of the Cotswold District Local Plan. Furthermore, the development would result in a disproportionate amount of the overall development for the district being undertaken in one area. This would be contrary to the agreed Development Strategy for the district which seeks to concentrate housing provision in Cirencester with other Principal Settlements receiving sufficient housing to support their role as service centres.
5. The case was referred for decision by the Secretary of State by letter dated 24 August 2010 because it involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
6. The matters about which the Secretary of State particularly wishes to be informed, for the purposes of his consideration of the appeal, are as follows:
 - i) the extent to which the proposed development would be in accordance with the development plan for the area;
 - ii) the extent to which the proposed development is consistent with Government policies in Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*, and accompanying guidance *The Planning System: General Principles*;
 - iii) the extent to which the proposed development is consistent with Government planning for housing policy objectives in PPS 3: *Housing*;

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- iv) the extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note (PPG) 13: *Transport*, in particular on the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car; and whether the proposal complies with local car parking standards and the advice in paragraphs 52 to 56 of PPG 13;
 - v) the matters raised in the Council's Decision Notice dated 4 June 2010;
 - vi) whether any permission should be subject to any conditions and, if so, the form these should take;
 - vii) whether any planning permission granted should be accompanied by any planning obligations under Section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable; and
 - viii) any other matters that the Inspector considers relevant.
7. Gloucestershire County Council (GCC) was granted Rule 6 status on 15 July 2010, but in advance of the inquiry, agreed terms with the appellants for the completion of S.106 Agreements making provision for the payment of various financial contributions. On that basis, GCC did not submit proofs or give evidence at the inquiry, but attended the planning obligations and conditions session in order to explain the reasons for requiring those contributions.
8. At the time of the inquiry the Council had resolved to approve, but had not at that stage granted, outline planning permission for residential development on land at the Fire Service College, which lies immediately adjacent to the appeal site. Planning permission (ref. 09/04440/OUT) was subsequently granted on 22 December 2010.
9. At the time of the inquiry, the Secretary of State's revocation of Regional Strategies (RSs) on 6 July 2010 was in force, and the parties presented their cases on the basis that the RS was no longer part of the development plan. However, after the inquiry closed, judgment in the CALA Homes (South) Ltd case (2010 EWHC 2866) was issued on 10 November 2010 and quashed the revocation of the RSs. In the interests of procedural fairness, the two main parties were invited to submit further representations as to the impact of the judgment on their respective cases. I summarise the parties' further representations immediately after I summarise the case each of them presented at the inquiry.

The site and surroundings

10. The site is formed from two arable fields divided by a hedge, and extends to approximately 11 hectares. It is located to the north east of Moreton in Marsh, bound by Todenham Road to the north, and the dwellings of Dulverton Place to the south. To the east, a belt of woodland forms a strong boundary between the appeal site and the adjoining Fire Service Training College.
11. Moreton in Marsh is identified in the development plan as a Principal Settlement of the Cotswold District. It is served by a railway station and a number of bus routes, and the appeal site is within easy walking and cycling distance of the railway station and town centre.

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12. There are a small number of trees on the appeal site, and the northern part is crossed by a drainage ditch. It is not included within the Cotswold Area of Outstanding Natural Beauty, or the Special Landscape Area. The Plans Document (CD 4.4) contains a site location plan, together with plans setting out public transport routes and the location of local facilities.

Planning Policy

13. The statutory development plan for the site includes
- Regional Planning Guidance for the South West (RPG10) (2001)
 - The 'saved' policies of the Gloucestershire Structure Plan Second Review (1999)
The 'saved' policies of the Cotswold District Local Plan 2001 – 2011 (2006)

The Regional Strategy

14. RPG10 was issued in October 2001 and under the changes to the development plan system introduced by the Planning and Compulsory Purchase Act 2004, it has become the Regional Strategy (RS) for the South West. The most relevant policy is Policy HO 1, which sets out the average annual rates on which levels of net additional housing in the region's structure plan areas should be based over the period 1996 – 2016. The rate for Gloucestershire is given as 2,400 dwellings per annum. The policy states that these rates of provision should apply to the period up to 2006. Where development plans are reviewed and the new plan extends beyond 2006, they should continue to provide for additional dwellings at these rates until such time as any different rate is adopted following review of this guidance.

The Structure Plan

15. In September 2007 the Government Office issued a saving direction which prevented all of the policies within the *Gloucestershire Structure Plan Second Review* (adopted 17 November 1999) from expiring in accordance with the Planning and Compulsory Purchase Act 2004. Structure Plan policies of particular relevance to this appeal are agreed in the Statement of Common Ground (SOCC), provided at CD 6.14, and can be summarised as follows.
16. Policy S.1 provides that the bulk of new development should be accommodated within and adjacent to the county's larger towns at scales and locations which, among other things, maintain and enhance the predominance of Gloucester and Cheltenham as the focus for new development in the county, and meet transport demands in safe and energy efficient ways primarily aiming at reducing the need to travel. Policy S.4 provides that development in rural settlements should be limited in scale, and sustain and enhance the character and appearance and the social and economic well-being of local communities.
17. Policy S.5 states that in providing for development, local planning authorities will have regard to the need for community facilities and services. Policy S.6 sets out aspects of the environment which are to be safeguarded and wherever possible enhanced.
18. As to housing, Policy H.1 requires provision of 50,000 new dwellings in the period 1991 to 2011, and Policy H.2 then specifies that about 6,150 of these dwellings should be in Cotswold district. Policy H.4 deals with housing location and states that most residential development will be provided in the Central

Severn Vale. Development is to be in locations where employment, leisure, commercial and community facilities can be integrated and where there are opportunities to maximise the use of public transport. In respect of Cotswold most development is to be in Cirencester; elsewhere, development is to be provided where environmental and other constraints can be accommodated.

19. Policy H.7 deals with affordable housing and requires provision to be made to meet demonstrable local need. Policy H.8 requires provision to be made for a range of dwellings in terms of location and size, and Policy H.9 seeks residential densities which make best use of land, consistent with environmental considerations.
20. As to transport, Policy T.1 seeks to ensure that new development is located so as to minimise the length and number of motorised journeys, and encourage the use of public transport. Policies T.2 and T.3 encourage the development of safe and convenient pedestrian and cycle routes. Policy T.4 seeks to maintain and enhance the bus service network.
21. Policy P.1 seeks to prevent development which is unacceptable in respect of pollution of a variety of forms, and Policy F.1 states that development will not be provided where it would be at risk from flooding, or increase the risk of flooding elsewhere.

The Local Plan

22. In January 2009, the Government Office issued a saving direction which prevented a number of policies of the Cotswold Local Plan from expiring in accordance with the Planning and Compulsory Purchase Act 2004.
23. Section 3 sets out the district's Development Strategy. This is based on the housing figures contained in the Structure Plan, and defines Moreton in Marsh as a Principal Settlement. 63% of the district's development is to be at Cirencester, with the rest at Principal Settlements. Development at Principal Settlements should take account of their role as a local service centre, give priority to the development of previously developed land, and avoid encouraging commuting.
24. Local Plan policies of particular relevance to this appeal are agreed in the SOCG, provided at CD 6.15, and can be summarised as follows:
25. Policy 9 states that the Council will not permit development that harms a site supporting any legally protected species, or its habitat, unless safeguarding measures can be provided. Policy 10 provides that hedgerows that are visually or ecologically important, or historically significant, will be retained unless there are overriding reasons for their removal.
26. Policy 18 deals with development within the boundaries of Cirencester and the Principal Settlements, and states that it will be permitted provided that it meets four specified criteria. Policy 19 deals with development outside development boundaries, where it will be permitted provided that it relates well to existing development, and would not result in new market housing other than that to help meet the social and economic needs of those living in rural areas; cause significant harm to existing patterns of development; lead to a material increase in car-borne commuting; adversely affect the vitality and viability of

settlements; or result in development that significantly compromises the principles of sustainable development.

27. Policy 21 deals with affordable housing and seeks a proportion of affordable housing on any significant site in Moreton in Marsh. Policy 32 considers the provision of community facilities, and Policy 34 deals with the provision of landscaped open spaces and play areas in development. Policy 38 considers accessibility to and within new development. Policy 39 addresses parking provision.
28. Policy 42 sets out the need for development to be environmentally sustainable, and designed in a manner that respects the character and appearance and local distinctiveness of the district. Policy 43 sets out the need for residential development to be in locations where safe and convenient access to community facilities can be provided. Policy 45 deals with landscaping in new development. Policy 46 deals with privacy and gardens in residential development, Policy 47 deals with community safety and crime prevention, and Policy 49 deals with planning obligations.

The Local Development Framework

29. The Council is preparing a Local Development Framework, and published an Issues and Options Draft Core Strategy for consultation in December 2007. A second Issues and Options Draft Core Strategy was due to be published in the autumn of 2010 for further public consultation. As the Core Strategy is not well advanced, the SOCG (CD 5.3) records the agreement of the Council and the appellant that the emerging Core Strategy is not relevant to the appeal at this stage.

National planning policy and guidance

30. The following guidance is particularly relevant:
 - PPS 1: Delivering Sustainable Development, and its companion guide *The Planning System: General Principles*
 - PPS 3: Housing
 - PPG 13: TransportGuidance contained in the following publications is also relevant:
 - PPS 7: Rural Areas
 - PPS 9: Biodiversity and Geological Conservation
 - PPG 17: Planning for Open Space, Sport and Recreation
 - PPS 23: Planning and Pollution Control
 - PPG 24: Planning and Noise
 - PPS 25: Development and Flood Risk

Other documents

31. The Council's *Affordable Housing* Supplementary Planning Document (adopted February 2007) elaborates upon the affordable housing policy set out in the Local Plan (CD 6.20).
32. By letter dated 27 May 2010 (CD 6.5), the Secretary of State set out his intention to abolish Regional Strategies, and explained that decisions on housing supply would rest with local planning authorities. The letter also stated that local planning authorities were expected to have regard to the letter itself in any decisions they were currently taking.
33. Judgment in the CALA Homes (South) Ltd case (2010 EWHC 2866) was issued on 10 November 2010, and quashed the revocation of the RSs. By letter of even date, the Secretary of State advised that the Localism Bill would enact the government's commitment to abolishing RSs, and that local planning authorities and the Planning Inspectorate should still have regard to his letter of 27 May 2010 in any decisions they are currently taking.

The case for the local planning authority

34. I report the local planning authority's case in two sections; the first is based upon the advocate's closing submissions at the inquiry, and the second upon further submissions made in the light of the changed policy context set out at paragraph 9 above.

Section 1: The local planning authority's case, as presented to the inquiry

Whether the development accords with the development plan

35. This is an important question both because of the statutory force given to the development plan and also because of the increased weight which, under the localism agenda, the Secretary of State is prepared to give to Local Plan policies.
36. Policy 19 of the Local Plan clearly applies, and is clearly breached. Policy 18 of the Local Plan does not in fact apply to the proposal, but insofar as it is argued that Policy 19 should not be adhered to, Policy 18 assists in determining the level of provision that Moreton in Marsh could accommodate. Further assistance in this regard is drawn from the District Development Strategy, and the Structure Plan also supplies guidance on how much development should be allocated to principal settlements.
37. The various statements from these plans can be broken down into three component parts: development must be commensurate with local needs, with local services, facilities and infrastructure, and with the size of the existing settlement.
38. When considering the first point in particular, it is important to have regard to the nature of the principal settlements as focal points for the surrounding rural area. The appellant interpreted this very broadly, implying that Moreton in Marsh should somehow absorb all the growth for the north Cotswolds, and interpreting its description in the Local Plan as the "main" market town in the north Cotswolds as saying it is the "only" such town.

39. A more realistic and policy compliant approach to the question of "local" needs is that taken by the S.106 obligation dealing with affordable housing (ID 4) and the HNA (CD 2.2 Table 2.2), which focus on the needs of Moreton in Marsh and the immediately surrounding rural area; equating more or less to Moreton and Fossebridge wards only. There is no reason to suppose that market housing will be bought primarily by existing residents of this area; the evidence of local residents suggests the reverse. It is therefore more appropriate to look to affordable housing when considering local need.
40. The Cotswolds have an endemic problem of housing affordability, but this is no worse in Moreton in Marsh than elsewhere. In the words of the appellant's witness, it has a "similar high level of need" to the rest of the district. Clearly if there is to be housing in Moreton in Marsh it is better that some of it be affordable. However this leaves open the question of whether the amount of development is commensurate with local needs.
41. The HNA shows an annual net need for Moreton and the surrounding area of 35 affordable dwellings per annum (dpa) (CD 2.2 p72). Provision at these levels district-wide is totally unrealistic (involving a housing requirement of 1070 pa overall), but in Moreton in Marsh this level would be met and even exceeded for several years by the combination of the current proposal and that at the adjacent Fire Service College site. This imbalance in provision would result in either an influx of people in urgent need of affordable housing, or in units standing empty while local candidates are found. That picture is supported by the housing register figures, which show just 26 households in urgent need of social rented housing in Moreton in Marsh (CD1 paras 7.52 – 7.61). This proposed development, when considered cumulatively with that at the Fire Service College, would not be commensurate with the needs of Moreton in Marsh and its surrounding rural area.
42. As to whether the development would be commensurate with local services, facilities and infrastructure, there is no imminent expansion of employment provision in the town which would be commensurate with the additional housing this scheme would provide. Much was made of the accepted fact that Moreton in Marsh is one of the three "most sustainable" Principal Settlements (CD 6.15 para 3.3.8). The same policies apply to all the principal settlements, and there is nothing in the development plan to suggest that the three "most sustainable" should each receive around ten times more development than other Principal Settlements, as the appellant's figures imply. In fact, the large amount of development Moreton in Marsh has already received in recent times may well show a need to slow down provision there.
43. There is nothing to suggest that the scale of development proposed is commensurate with the level of facilities available, when viewed in the correct context of the district as a whole. The third measure is whether the development is commensurate with the size of the settlement. It is impossible to argue that a 35% increase in dwellings and a 42% increase in population is commensurate.
44. Taking all three measures together, the excessive amount of development proposed at Moreton in Marsh constitutes a breach of development plan policies. The consequence of this is a breach of the development plan as a whole; the District Development Strategy, together with Policies 18 and 19, is clearly central to the operation of the plan.

45. The appellant contends that due to the change in circumstances since the Local Plan was adopted there is now a requirement for more development than will be possible inside development boundaries, such that the breach of Policy 19 in particular should be given little weight. But while the Local Plan may be reaching the end of its allotted period, that does not mean that development outside development boundaries should be allowed in individual decisions. The correct approach is to allow the location of new development to be determined in a new Development Plan Document.
46. The appellant's estimate was that a Core Strategy with housing numbers and allocations would be in place by 2012 at the earliest. It is notable that this is well before the time the new plan was expected in the Bude decision (CD 2.1B at para 18). The late expected date for the plan in that case did not stop the Secretary of State according significant weight to the point that the development there proposed was premature.
47. There may be a variety of considerations to indicate that development at other Principal Settlements is objectionable, just as development at Moreton in Marsh is objectionable. The point of the plan-making system is that these various considerations should be weighed up and decided upon together, rather than allowing development to take place piecemeal on the basis of the partial information available in individual appeals.
48. The cumulative effect of the current proposal and the development of the Fire Service College site would be to site around 10% of housing development for the next plan period in Moreton in Marsh. That is a significant enough proportion to prejudice the preparation of the Development Plan Document by predetermining the scale and location of new development. Conflict with the development plan cannot be avoided by relying on the fact that it is near to the end of its life, and that development outside the current boundaries and allocations will therefore have to be allowed somewhere in the next plan period.

Consistency with government policy for housing objectives in PPS 3

49. Consideration of this issue involves a three stage process. Firstly, what is the appropriate housing requirement? There is no development plan policy-based housing requirement for the next five years. Conclusions as to the likelihood of a five year supply being achieved can be drawn either on the basis of a projection of the past policy position, or on the basis of a fresh consideration, based on the provisions of paragraph 33 of PPS 3.
50. The Regional Strategy is now revoked, and cannot feature in consideration other than by way of its evidence base, which falls to be considered under the second approach set out above. The only policy requirement that can be projected is the Structure Plan requirement of 307.5 dwellings per year, and it is this requirement that should form the basis of the projection for the next five years. There is then the question of how to deal with the relatively modest accumulated shortfall, predicted to be around 241 dwellings by the end of the plan period, and this question remains open. The local planning authority's view is that the accumulated shortfall will be accommodated over the whole of the next plan period, and its decision on bringing forward the next plan should not be pre-empted by a requirement to meet all of the accumulated shortfall in the next five years. On that basis, and on the basis of the local planning authority's supply calculation, there is a five year supply.

51. The Third Alteration of the Structure Plan was not adopted but this was for reasons which would not have increased the Cotswold housing requirement; if anything, the requirement would have decreased. In terms of the age of the information, it is roughly contemporary with the Structure Plan on which the Secretary of State placed reliance in the Bude decision (CD 2.1B at para 14), despite its having been overtaken by PPS 3 and PPS 7. Although not adopted, this plan remains a material consideration, and on the basis of the requirement therein, and the local planning authority's supply calculation, there is a five year supply.
52. Turning then to a consideration on the basis of paragraph 33 of PPS 3, it appears to be common ground that this involves processing figures for need and demand, then applying policy judgment based on issues such as sustainability, land availability and other constraints on delivery of housing. The realistic basis for establishing need and demand is the information provided by the most up-to-date national and local population projections. The ONS 2006 based figures give a dwelling requirement of 510 pa. The GLP 2010 is also a helpful basis for calculation, and provides the most up-to-date figures before the inquiry. These have been produced with a greater sensitivity to the situation in Gloucestershire, and are therefore likely to be the most accurate basis for forecasting (CD 1, p 8). They give a dwelling requirement of somewhere between 365 and 410 pa.
53. Planning judgment then needs to be applied to this range of 365 – 510 dwellings per year, taking into account the unique characteristics of the Cotswolds.
54. The appellant suggested that it would be inappropriate to apply planning judgment to the figures in the GLP 2010 as they already incorporate a 'policy steer', being based on a particular figure for housing completions which had the effect of reducing the final numbers. That is incorrect. The main projection is trend based; that is, exactly the same basis as the ONS 2006 data (although with a different starting point and different assumptions on migration). There is no particular allowance for housing completions in the main projections. It is therefore necessary to apply the same process of policy judgment to the GLP 2010 as to the ONS 2006 based figures.
55. It is clear that the Cotswold district should be an area of restraint for various reasons, including the extent of the designated Area of Outstanding Natural Beauty (AONB), the relative lack of employment, and environmental considerations. The spatial implications of both PPS 1 and PPG 13 are that more sustainable patterns of development should be pursued, an objective that clearly would not be met by allocating large amounts of housing to a rural district like Cotswold. The exact extent of the restraint to be applied will be a matter for the Local Development Framework (LDF) process, but looking back at previous plans, it is clear that the Cotswolds' trend-based requirement has consistently been reduced in the range of 25-50%. Applying a similar reduction here would lead to a figure based on the ONS 2006 data of around 255 – 380, and on the GLP 2010 a figure of around 180 – 275.
56. Clearly there is sufficient flexibility for the local planning authority to generate a figure which can be justified under the approach prescribed in PPS 3, against which it will be able to demonstrate a five year supply.

57. The appellant contends that the local planning authority cannot apply any reduction to the trend-based projections as there is no mechanism to redistribute that requirement to other districts. If this is right, then the outcome of the government's localism reforms will have been to reduce the scope for local planning authorities to determine how much housing is appropriate for their area. The framework of Regional Strategies would have been replaced by an even more rigid straitjacket imposed by a combination of PPS 3 and the national housing projections for an area.
58. This cannot be right, and there are two alternative routes to show why it is not right. Firstly, the government has made it clear that it intends to reconcile the conflicting policy objectives of local control and securing housing supply through the mechanism of incentives. How exactly this will work is not clear, but the thrust of the policy is. Secondly, even if the Gloucestershire authorities all progress separate Development Plan Documents, it will be the function of the Examination in Public process to moderate the figures and achieve housing targets consistently with principles of sustainable development and environmental protection. It is clear that the government's intention has been to increase the power that local planning authorities have to set targets, not to reduce that power.
59. There is a further aspect to the government's new policy position, and this is the fact that it was intended to be acted upon immediately. For this to be done, authorities must take an interim decision on whether or not to stick with the Regional Strategy figures, and to what extent. The Council has acted in accordance with this advice, and is not the only Gloucestershire authority to take an interim position to guide decision making until Development Plan Documents emerge. It is certainly not acceptable to provide no interim position; that approach was rejected in the Badsey appeal decision (CD 7.25 at paras 12-15). An authority must do its best on the basis of the available information.
60. There is thus a range of approaches to deciding which figure is to be used. The Council has chosen to revert to its Option 1 figure, supported by a consideration of the most up-to-date information, giving an annual average requirement of 300 dwellings. It is fair to observe that the Council's interim figure is not part of the development plan and has not been subject to the same process, but it nonetheless possesses a degree of democratic legitimacy, having been approved by a vote of the elected members of the body entrusted by central government with responsibility for housing figures. Such legitimacy is lacking from the appellant's calculations.
61. The figure of 300 is justifiable on several of the bases available to the Council, including in accordance with PPS 3, and is comparable to the results of all of them. It is due further weight by reason of its democratic legitimacy.
62. The next stage of the three-stage process is to look at whether, on the basis of this requirement, a 5 year supply actually exists.
63. It is apparent that there are a range of different calculations on which the Council could demonstrate a five year supply. The appellant's contention that there is only one calculation which affords a five year supply is not true, and the tables used to illustrate that point are primarily produced for forensic effect; incorporating, for example, wholly unrealistic figures from the HNA and SHMA.

In respect of PPS 3, they make absolutely no reduction on the basis of planning judgment.

64. The table produced at the inquiry to show the differences between the appellant and the Council regarding housing supply (ID 9) shows how the approach of the appellant differs from that of the Council. Firstly, the appellant makes a 10% allowance for non-implementation of large permissions, but there is no justification for this. Secondly, the figures for the large permissions can be regarded as robust. The Upper Rissington figures were included in a proof of evidence and tested at the public inquiry, the Fire Service College figures have been confirmed as achievable and conservative by the agent, and the Kingshill figures are optimistic and clearly indicate the developer's intention to develop rapidly; if they are not met in 2011 – 2013 there is scope for further completions towards the end of the five-year period.
65. Thirdly, the SHLAA sites are included because they were each assessed by the panel as being developable within a timescale of 0-5 years. The Cotswold SHLAA process is comprehensive and robust, and there is limited value in the appellant's approach of raising questions about individual sites in the context of this inquiry. Finally, it is clear that the Fire Service College site must be included unless the calculations are to be entirely artificial.
66. This leaves the third and final stage in the process of considering the proposal's consistency with government policy for housing objectives in PPS 3. That concerns paragraph 69 of PPS 3. Evidently, even if there is not a five year supply, then the points set out in the context of considering whether the proposal accords with the development plan constitute a compelling reason to think that the appeal is anyway not suitable under PPS 3's approach. Thus the appeal should not be allowed under PPS 3 in any event.

Section 2: Further representations received from the local planning authority in the light of subsequent changes to the policy context

67. The appeal site is within the South West Region, so the Regional Strategy which becomes reinstated as a result of the judgment in the CALA Homes (South) Ltd case (2010 EWHC 2866) is RPG 10. This sets out the broad regional development strategy to 2016 and beyond, and established that Gloucestershire should provide 2,400 dwellings per year. It did not break this down into figures for each district, but left that process to the Structure Plan.
68. The Gloucestershire Structure Plan Third Alteration (GSPTA) was the document that would have set housing figures for each individual district, in line with RPG 10. Despite progressing to an advanced stage, the GSPTA was not adopted due to disagreement about the release of land from the Green Belt around Cheltenham and Gloucester. If the GSPTA had been adopted the housing requirements for Cotswold district would not have increased; if anything, the requirement would have reduced.
69. It is very clear that the replacement for RPG 10 – the Proposed Changes version of the Regional Strategy – has been abandoned and therefore carries little or no weight. This was in part due to the number of objections submitted during its consultation, but also because of a lack of a Strategic Environmental Assessment (which was the reason for the successful challenge to the East of England Regional Strategy). The lack of such an Assessment must in turn call into question the robustness and appropriateness of the data used to inform this

(then) emerging Regional Strategy. It is no longer emerging, and there is no prospect of that situation changing.

70. The Council did not act unlawfully by adopting an interim figure of 300 dwellings per annum for development control purposes, without first conducting a screening assessment under Regulation 9; in adopting an interim figure it has not gone against any other adopted development plan requirement for the district. If the appellant seeks to suggest that the Council's approach is flawed due to the lack of such a screening assessment, then the same argument must be applied to the Proposed Changes version of the RS.
71. The government has continued to make it very clear that it intends to abolish Regional Strategies. Notwithstanding the outcome of the pending substantive appeal hearing regarding the materiality or otherwise of this intention to decision makers, the Regional Strategy that is back in force until their formal revocation is RPG 10. RPG 10 offers no weight to the acceptability of the proposed development. If anything, a number of its policies highlight further conflict with the development plan:
- VIS1 and SS2, which seek sustainable development patterns and to concentrate growth in Principal Urban Areas and designated centres
 - SS3, which seeks a more sustainable pattern of development in the northern sub-region
 - SS7, which recognises that other small towns in rural areas should provide for local needs only
 - SS19, which provides that while market towns should be focal points for development and service provision in rural areas, housing growth should be limited for market towns near larger urban areas, where it would fuel commuting rather than meet local needs.
72. Policy HO1 of RPG 10 explains that development plans *should continue to provide for additional dwellings at the annual average rates above [2,400 for Gloucestershire] until such time as any different rate is adopted following review of this guidance*. No different rate for housing in Gloucestershire has been adopted. It is therefore only reasonable that referring to a figure roughly in line with the RPG 10 requirement is entirely the correct approach.
73. Further, based on the subdivision contained in the GSPTA, RPG 10 provides for a lower annual average housing requirement in Cotswold District than the interim figure currently adopted by the Council.
74. In any event, the proposed development was refused for other very sound planning reasons too. These related to conflict with the development strategy for the district as a whole and the point that, in conjunction with the approved scheme at the Fire Service College, the proposal would result in a disproportionate amount of development at Moreton in Marsh.

The case for the appellant

75. I report the appellant's case in two sections; the first is based upon the advocate's closing submissions at the inquiry, and the second upon further submissions made in the light of the changed policy context set out at paragraph 9 above.

Section 1: The appellant's case, as presented to the inquiry

The development plan

76. The development plan consists of the Structure Plan and the Local Plan. The Structure Plan covers the period until 2011 but the GOSW 'saving' letter of September 2007 means that its policy approach will endure until it is replaced by the Core Strategy. It is common ground between the main parties that the Core Strategy is at an early stage of its preparation, so the Structure Plan policies will be relevant for some years yet (CD 5.3).
77. The Structure Plan acknowledged that the Council was unable to meet its trend forecast (CD 6.14, p216), and was reliant upon other authorities to meet some of its development needs, but despite that it required the Council to produce 6,150 homes in the period 1991 – 2011. Comparison of Tables 2 (forecast need) and 3 (provision) (CD 5.1) illustrates the extent to which other Gloucestershire authorities are expected to shoulder responsibilities for Cotswold District Council (CDC).
78. The advice in the withdrawn DCLG 5-year land supply note is that current Development Plan figures could be projected forward when calculating the level of provision (CD 6.13 p 204). However, there is no present evidence that the other Gloucestershire authorities will continue to bear the burden of relieving CDC from its responsibility to meet its forecast housing need. It is irrational for CDC to reject the figure of 345 dwellings per annum proposed by the RS, which itself represented a special deal for CDC, relieving it of the duty to cater for all of its own housing needs.
79. The CDC Committee Report which sought to justify a reduction from 345 to 300 dpa acknowledged that this step was based on old evidence. The reduction not only contradicts the advice set out in paragraph 33 of PPS 3, which requires consideration of up-to-date advice; it also offends guidance in PPS 12.
80. Against this background, any assessment of appropriate housing provision should proceed on the initial basis that CDC should be providing at least 308 (that is, 6,150 divided by 20) houses per year. In the absence of other authorities shouldering CDC's burden, CDC would have had to produce 415 (that is, 8,300 divided by 20) houses per year 1991 – 2011.
81. In terms of location of development, Structure Plan Policy S2 promotes development "in or adjacent to" identified Principal Settlements. By way of contrast SP Policy S4 requires development in "rural settlements" to be "limited in scale". The Council's case has proceeded as if Moreton in Marsh were a rural settlement, which it is not, as opposed to one of the key Principal Settlements, which it is.
82. SP Policy S2 requires development to be at a scale consistent with the function and character of the settlement, taking into account the social and economic needs of all rural areas, their location relative to other centres, and environmental considerations. This has specific importance to Moreton in Marsh, because when the other Principal Settlement candidates for development are considered it becomes clear that they are either constrained by environmental considerations (that is, covered or washed over by an AONB), or by their location relative to other centres (namely their distance from Moreton in Marsh and the north Cotswolds), or both. For these reasons the scale of

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- development proposed, including that at the Fire Service College Site, is entirely consistent with Structure Plan Policy S2.
83. The scale of development is also consistent with the levels of growth identified in the RS, of 2.8%. On the basis of census data, Moreton in Marsh grew by 3.6% in the period 2001 to 2005 (CD 6.16, p 318). In the period 2006 to 2010 it received 12% of the District's housing development, as the RLAA statistics demonstrate (CD 3.11, p 5).
84. The population of north Cotswolds was 16,503 in 2004, and this population looks to the Principal Settlements of Campden and Moreton in Marsh for its needs, as required by paragraph 5.6.6 of the Structure Plan. Campden's ability to accept new development is constrained by its AONB status. It is entirely inappropriate to compare the new development at Moreton in Marsh with the population of Moreton in Marsh alone, because this would ignore the role that Moreton in Marsh plays in serving the housing needs of the north Cotswolds.
85. If Moreton in Marsh does not accommodate this development it will have to go elsewhere, and Structure Plan Policy S4 will prevent substantial amounts of development going to mere rural centres. In this case the reference point should be the north Cotswold area generally, and expressed as a percentage the effect of this development is only to bring about a 4.09% increase overall in the most appropriate, non-constrained locations at a Principal Settlement.
86. The development fully accords with the Structure Plan, and it is noteworthy that no breach of any Structure Plan policy was alleged in the Council's Refusal Notice.
87. The Local Plan identified Moreton in Marsh as one of its three most sustainable Principal Settlements. The settlement boundaries drawn in the Local Plan reflected the need to make provision for just 991 dwellings in the period from March 2004 to March 2011, and it is hardly surprising that when a five year land supply is tested in 2010, areas outwith the Local Plan settlement boundaries will need to be considered.
88. The Council's second reason for refusing to grant planning permission referred to Local Plan Policy 18, but this proposal does not involve development within the development boundary, so that Policy is irrelevant. Even if Policy 18's requirement that "the number of dwellings proposed is commensurate with the level of community facilities, infrastructure, public transport, services and employment available within the settlement" were relevant in the context of this case, CDC has not demonstrated in what respect these matters would be inadequate, and if they were, whether they would be incapable of satisfactory amelioration by condition or S.106 Agreement. The contention that the employment offer in Moreton in Marsh is inadequate is flatly contradicted within the Local Plan at paragraphs 8.5.8, 8.5.9 and 8.8.1.
89. The Council's second reason for refusal also alleged conflict with the Development Strategy of the District, which requires 63% of the planned growth to 2011 to be focused on Cirencester, and the rest allocated to Principal Settlements commensurate with local economic and social needs. Clearly the Fire Station College Site and the current proposal will not be developed before mid 2011. 600 units for the two sites represent less than 10% of the 6,150 requirement for the 1991-2011 period. If the period 2006 to 2026 is considered, even at CDC's preferred level of housing provision, this figure is still

only 10% which is not disproportionate, having regard to Moreton in Marsh's role in the north Cotswold area, the continuing absence of a five year land supply, and the comparative absence of the landscape constraints that affect other Principal Settlements.

90. In this context it is noteworthy that the latest iteration of the Local Plan withdrew the Special Landscape Area designation from the appeal site. It is common ground between the Council and the appellant that there is no landscape objection to the proposed development, and that that it would be "a natural extension of the town's built environment" (CD 5.3 p 10).
91. The proposal conflicts with Local Plan Policy 19 in that it lies outside a settlement boundary. The "saving" letter issued by GOSW refers expressly to the importance of reflecting policy in PPS 3 in relevant decisions: in this case, it has been demonstrated that the five year land supply cannot be met without development outwith existing development boundaries.
92. In summary, there is a conflict with Policy 19 but not with the Development Strategy of the Local Plan. Furthermore, the breach of Policy 19 is inevitable if a five year land supply is to be maintained. A very considerable amount of development will still need to be accommodated in the Core Strategy process, which will require hard decisions where the test in paragraph 23 of PPS 7 will need to be addressed. This is not a constraint to which the appeal site is subject, and justifies its early release to help provide a five year land supply.

PPS 1 and Planning: General Principles

93. Plan preparation is a two-way street. Proposals such as this can only be incorporated in a Development Plan if CDC promotes a LDF with reasonable speed. That it has not done so is evident from the LDS (CD 2.4, p 7) Document preparation started as long ago as September 2006. The LDS is now undergoing a 4th Review, and CDC is unable even to forecast when the Core Strategy will be adopted. The appellant suggests it will be the end of 2012 at the earliest.
94. It is perverse for CDC now to contend (which it did not do in its Refusal Notice) that this proposal is premature, when it is through its own inactivity that it will have no Core Strategy in place when the present Local Plan reaches its time limit in 2011. If the Local Plan only allocates land for development up until mid 2011, it will be necessary to permit development outside settlement boundaries beyond that date. This failing is unforgivable when PPS 3 has made clear, since November 2006, the requirement to maintain a five year land supply.
95. Paragraph 17 of *Planning: General Principles* makes it clear that in some circumstances, prematurity can be a reason for refusal where a Development Plan Document is being prepared or is under review, but has not yet been adopted. This may be appropriate where proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice policy being addressed by the Development Plan Document, through predetermining decisions about the scale, location or phasing of new development. It states that a proposal for development which has an impact on only a small area would rarely come into this category.
96. The current proposal constitutes a very small part of the development required in the plan period 2006 – 2026; namely 300 out of 6,000 (using CDC's preferred

figure), which is 5%. Even if viewed cumulatively with the Fire Service College it is only 10%. This is not so significant, or so substantial, that the decision should only be taken in the context of the LDF process. Even if this appeal were allowed there would be 4,695 (that is, 4,995 less 300) additional units still to be found. This is over 5 times more than the 991 units that the current LP had to allocate (CD 6.15 p 266), and amounts to having to find the equivalent of another 15 sites such as the current appeal site.

97. Paragraph 18 of *Planning: General Principles* advises that where a Development Plan Document is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question. The Core Strategy has not even reached the public consultation stage. This renders CDC's 'prematurity' argument untenable.
98. Where there is no five year land supply there is an additional reason for not rejecting the proposal on grounds of prematurity. In that respect it is noteworthy that *Planning: General Principles* was issued in 2005, the year before PPS 3 introduced the requirement to maintain a five year land supply.
99. Paragraph 19 of *Planning: General Principles* states that where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the Development Plan Document process. CDC contends that granting permission for this proposal would deny it the opportunity to assess and plan its own housing requirements, but it has had 4 years notice, since PPS 3 was published, of the requirement to maintain a five year land supply. And if planning permission were granted there would still be a great deal to do in the Core Strategy process, finding locations for over 4,000 dwellings in a district which is 70% AONB.
100. CDC's references to inconsistency with existing policy are not only wrong, but do not address the Paragraph 19 requirement outlined above. The Fylde appeal decision (CD 3.20) serves to illustrate the point: in that case, the Secretary of State observed that allowing the appeal would strictly limit the scope for other greenfield releases, and that this was a matter which needed to be considered in the overall balance.
101. Against this background, it is hardly surprising that the Council's Refusal Notice does not mention prematurity, because no sensible case can be made to justify such a contention.

PPS 3

102. The government has recently reissued PPS 3 and the development industry will be interested to see, through this appeal, whether it is genuinely committed to the clear principles set out therein. Of particular relevance are the provisions that local planning authorities will be expected to take into account current and future levels of need and demand for housing, based upon the SHMA together with the government's latest household projections, when they set their housing targets; and that there is a clear expectation that local planning authorities will monitor sites on an annual basis to ensure a continuing five-year housing land supply, and review LDF documents in order to maintain it.

103. The Steve Quartermain letter of 6 July 2010 says that there is a continuing duty to maintain a five year land supply (CD 6.9 Q13). Mr Shaps says he wants to see more houses built (CD 6.6 and 6.8). There is no warranty for CDC's contention that localism means local planning authorities should fix their housing numbers without reference to evidence of need and demand.
104. On any sensible method of calculation there is not a five year land supply, as the appellant's evidence has demonstrated. There are 36 permutations set out, of which only one suggests that there is a five year supply. That calculation is based on CDC's estimate of current supply as 1,624. This level of supply is not credible, because firstly, a 10% deduction needs to be applied to the large permissions, and secondly, CDC's delivery table is over-optimistic. Upper Rissington is not going to deliver 28 units next year; reserved matters have not yet been submitted, and 70 pa when it does start is over-ambitious. Kingshill is expected to deliver 140 units in each of 2 consecutive years, where local experience says 50 is a good achievement. The Fire Service College has environmental issues to address, and will not start before 2014.
105. Further, the "Allocated Without Permission" element of supply should be subject to a deduction of at least 50%; the SHLAA sites to a deduction of 50%, and rural exception sites to a deduction of 10%. For these reasons the true figure is 1,089, which constitutes a 3.5 year supply.
106. CDC sought to show a five year supply based on the Gloucestershire Projection figures, which it preferred to the ONS 2006 figures. However, CDC's witness admitted in cross examination that his proof of evidence was wrong to equate "households" with "dwellings required". The Structure Plan shows (CD 6.14, p 212) that it is necessary to make allowance for concealed households, reduction in households, second homes, and vacancies. When that necessary adjustment had been made the resultant requirement was 390, which using the 1,624 supply figure, amounted to 4.16 years. Re-adjustment of these figures in re-examination still only achieved a 4.44 year supply. When the ONS 2006 figures are used, Table 3 demonstrates that the problem is even more acute.
107. In conclusion, CDC has been clearly demonstrated not to have a five year land supply. This is therefore an application which should be considered favourably, as paragraph 71 of PPS 3 requires. CDC relies upon the last indent of paragraph 69, which requires the proposed development to be in line with planning for housing objectives, reflect the need and demand for housing in, and the spatial vision for, the area and not to undermine wider policy objectives. This is clearly wrong for the reasons set out above [75 to 91]: this development is adjacent to one of CDC's most sustainable Principal Settlements.

PPG 13

108. The Local Plan and the Core Strategy Sustainability Assessment both demonstrate the sustainability credentials of Moreton in Marsh (CD 6.16, p 368). It scores a maximum 4 points for its frequent bus service and apart from Kemble, is the only town with a railway station. Apart from the absence of a leisure centre, it has ticks in all the other boxes.
109. The location of the site builds upon these advantages. It is common ground between the appellant and CDC that there will be good connectivity to the town centre for pedestrians and cyclists, and that the site complies with national and

local planning policy and guidance that seeks to direct development to sustainable locations (CD 5.3 p 10).

110. The site's performance against PPG 13 speaks strongly in its favour.

Other matters

111. In the Upper Rissington appeal decision (CD 7.26, para 79) the Inspector concluded that the development there proposed would not accord with the spatial vision for the district, which directs development to Principal Settlements. Despite that, and the fact that the site was in the AONB, she granted planning permission. That decision demonstrates that since Moreton in Marsh is one of the Principal Settlements, it is in accordance with the spatial vision for the district.
112. Despite its agreement that there is currently a clear need for a large amount of affordable housing in Moreton in Marsh (CD 5.3), CDC has treated this proposal's provision of affordable housing as if it were an attempt by the appellant to make an unwarranted offer in order to secure planning permission. Yet CDC has signed a S. 106 Agreement which requires the appellant to provide 50% of the units as affordable housing, despite policy provision for CDC to request a lesser proportion, of "up to" 50%. Provision of affordable housing is clearly a considerable benefit of this scheme. If CDC signs an agreement which requires the appellant to provide 150 units of affordable housing at the appeal site, the Secretary of State is entitled to conclude that it regards this amount as necessary.

Overall conclusions

113. There are few opportunities to accommodate 300 housing units adjacent to a Principal Settlement without infringing on the AONB, and fewer still where the development can be accommodated without an unacceptably adverse impact on the landscape.
114. If this local planning authority were about to have its Core Strategy examined, there would be a case to be made that this decision should be postponed and made as part of that process. Similarly, if this were a development at a Principal Settlement covered by AONB, CDC would have a good case that it is a decision which should be taken in the context of assessment of all the development opportunities within the whole district. It is not in the AONB, and this site need not be put back in the Core Strategy process which will take years to complete, leaving the five year supply unmet.
115. CDC has no excuse for not maintaining its five year land supply. The exercise of reducing its annual target to create an artificial five year supply is completely bogus. The Committee Report reveals why; it has had to ignore up-to-date information which shows that the figure of 300 dpa is not justified. That figure would only work if there were to be willingness on the part of the other Gloucestershire authorities to shoulder CDC's burden. No such mechanism now exists. Even if it did, the ONS 2006 and GLP 2010 projections show that 300 is clearly not going to be enough.
116. There is no five year supply, the location accords with the District Strategy, and CDC has failed to justify refusal based on prematurity when the tests in paragraphs 18 and 19 of *Planning: General Principles* are considered. There is

no unacceptable harm which would flow from the grant of planning permission; rather, there are very clear advantages which would flow from it in terms of providing open market housing and affordable housing, when and where it is needed.

Section 2: Further representations received from the appellant in the light of subsequent changes to the policy context

117. The 10 November 2010 judgment in the CALA Homes (South) Ltd case (2010 EWHC 2866) fundamentally changes the planning framework within which this appeal was considered at the public inquiry.
118. The effect of the judgment is to be clear that the Secretary of State cannot revoke RSs in the way that he did. In addition the judgment is clear that the Secretary of State needs to, and should have, undertaken a proper consideration of the need for Strategic Environmental Assessment in accordance with the 2004 regulations. Thus, in respect of the interim figure of 300 dpa adopted by CDC for the purposes of development control, the appellant contends that a similar conclusion to that set out in paragraph 64 of the judgment can be reached. CDC acted unlawfully by proposing these figures without first at least conducting a screening assessment under Regulation 9. The judgment therefore supports the view, set out at the inquiry, that the weight to be given to CDC's interim housing figure must be either no weight at all, or very little weight, because of this fundamental failure.
119. Quashing the revocation of RSs effectively reinstates RSs as part of the overall development plan, which of course reinstates their importance in the determination of planning applications in accordance with S.38(6) of the Planning and Compulsory Purchase Act 2004. Not only this, but the figures in emerging RSs are also a material consideration (per paragraph 14 of companion to PPS 1) and the weight to be given to the emerging document increases as each stage is reached (paragraphs 17 – 19 of the same document).
120. Further, PPS 3 notes in paragraph 53 that where a RS is subject to review, regard should also be had to the level of housing provision contained within the relevant emerging RS. The Secretary of State has issued Proposed Changes to the emerging South West RS; it is therefore at an advanced stage, and significant weight can be placed upon it. CDC's contention that the emerging RS should carry little or no weight because it has 'been abandoned' is factually incorrect, because the requirement to produce the RS is still enshrined in law. The work that has taken place to date therefore still remains a material consideration of substantial weight, because of the stage reached. In addition, the government has expressly said, in the Chief Planning Officer's letter and attachments of 6 July 2010, that the evidence base of the RS is relevant even if RSs are abolished.
121. Irrespective of whether the government's intention to abolish RSs can be regarded as a material consideration, an aspect which is being challenged elsewhere, there is a need to consider what weight should be given to this intention. In essence, the same approach applies as that set out above in relation to an emerging RS; weight increases depending on the stage reached. Once the Localism Bill is published it will still have to go through an examination in the House of Commons, and then be considered by the House of Lords. Amendments can be made at any stage of the bill's progress before it is laid on

the statute book. Revocation of the RS cannot therefore be taken as a certainty at this stage, and the weight to be attached to the government's intention so to do can only be either no weight at all, or very limited weight.

122. In any event, the evidence submitted by the appellant clearly deals with the situation should revocation occur, and shows that in accordance with advice in PPS 3 there remains a significant shortfall in the five year supply of housing, however it is measured.
123. The RS needs to be considered in the light of policy requirements in PPS 3 (for example, paragraph 33). This means that more recent evidence needs to be taken into account. This includes the emerging RS, the SHMA, the ONS 2006 projections and the GLP 2010 figures, which all result in an increased requirement for houses in Cotswold.
124. The extant RS (RPG 10) was published in September 2001 and covers the period to 2016. Policy HO1 sets out levels of housing development for the period 1996 to 2016, providing an annual average rate of 2,400 dpa in Gloucestershire. The rates apply up to 2006; beyond this date, the figures still apply until a different rate is adopted following review of RPG 10. RPG 10 makes no specific provision for Cotswold District during the period to 2016, this being a matter to be dealt with in the preparation of other parts of the development plan. The extant RS needs to be read together with the Local Plan, as they both form part of the development plan. The proposal is in accordance with the development strategy of the Local Plan, and therefore cannot offend policies VIS1, SS2, SS3, SS7 and SS19 as alleged by the local planning authority.
125. The emerging RS has reached an advanced stage and is to be given significant weight. In accordance with the advice set out at paragraph 53 of PPS 3, the housing figures should be taken into account in delivering a flexible supply of land for housing. The figure given for Cotswold district is 6,900 dwellings for the period 2006 – 2026, which equates to an annual rate of 345.
126. Evidence already submitted by the appellant shows that the residual housing requirement for the period 2010 to 2026 is 5,895 dwellings, leading to an annual requirement to 2026 of 368. On this basis, whether the calculation is performed using the Council's supply figure of 1,474 or the appellant's of 989, and whether or not the Fire Service College site is included, there is less than a five year supply of housing land.
127. It is also a relevant consideration that the local planning authority, in its report to Committee, did not determine that the application was not in accordance with relevant policies in the emerging RS.
128. There exists, therefore, a presumption in favour of permitting the proposed development in accordance with the emerging RS. In addition, factors to be considered in the planning balance are the environmental considerations of the AONB, which covers much of the Cotswold district (but not the appeal site); the absence of constraints on the Moreton in Marsh appeal site; and the significant shortfall in affordable housing provision. All of these weigh in favour of a grant of permission.

The cases for local residents objecting to the proposal

129. **Mr S Holmes** believes that what is needed is local housing affordable to local residents. The cheapest dwellings in Moreton in Marsh are around £170,000, so a young couple seeking to buy their first home would have to have incomes of around £50,000 each to get a mortgage. There are no wages or jobs like that in Moreton in Marsh, only shop positions, cleaning jobs, and work at the local quarry.
130. This development is aimed at people coming in from outside the area, who want to move to the Cotswolds. Local residents have not been listened to; what they want are homes that they can afford, with the jobs that they have. Our local children cannot afford to live in the area any more.
131. **Mr D Grieve** stressed the importance of giving careful consideration to the rate of development that would be appropriate and sustainable for Moreton in Marsh. He produced a set of graphs to illustrate his contention that while development in Cirencester and the district as a whole has kept pace with national housing growth targets, that at Moreton in Marsh has vastly exceeded them, even without taking into account the Fire Service College site and the current proposal. This conflicts with the development plan approach of directing most new housing to Cirencester.
132. Moreton in Marsh does not have a great deal of infrastructure, and its assessment in the Local Plan as one of the district's more sustainable settlements does not justify the large amount of growth proposed. The current proposal and the approved development at the Fire Service College Site would together increase Moreton in Marsh's size by 40%. A shortfall in the five year housing supply for the district does not make the proposed development any more sustainable. Now that the Fire Service College Site is to be developed for housing, the proposed development of the appeal site is obsolete.
133. Local residents are very concerned about the implications of the proposed development in terms of flooding, traffic and affordable housing.
134. Moreton in Marsh is infamous for its traffic jams. These are particularly bad on a Tuesday, when a large street market is held year-round, and on Fridays, Saturdays and Sundays during the May to September holiday season, when large numbers of coaches visit. At such times vehicular traffic overwhelms the capacity of the mini roundabouts, and routinely builds queues of over 1km outside the town; the Highway Authority has installed 'Queues likely' warning signs on the approach roads.
135. All of this was missed by the appellant's traffic survey, which was carried out on a Wednesday in October. Nor did the survey comment on the fact that the A429 railway bridge is too narrow to allow large vehicles to pass simultaneously in opposite directions, effectively becoming a major choke point. The sole access to the appeal site would be on Todenham Road, which joins the A429 only 100m from the bridge. The additional traffic from the proposed development would drastically increase peak queuing time and delays. The appellant will pay a financial contribution toward mitigation of the impact, but since the Highway Authority does not have any proposed plan for how it should be spent, it cannot be said for sure that successful mitigation could be achieved.

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136. The total annual net need for affordable homes in the district is based on several estimates, and should only be used as an indicator, not a target. The only accurate indicator for the level of affordable housing must be need, and the Council's evidence indicates that while there are 146 households on the register, only 26 are in serious need.
137. **Mr R Dutton** explained that local residents have already made their views about the proposed development at a 'road show' held by the appellant in the Redesdale Hall in 2009, at a subsequent public meeting held by the Town Council on 21 January 2010, and via the written evidence of a Steering Group of residents opposed to the proposal.
138. Following the devastating floods of 2007, significant progress towards mitigating the risk of further avoidable flooding has been made. The key to safeguarding the town is water attenuation. After periods of heavy rain, the appeal site acts like a gigantic sponge. While some attenuation efforts have been incorporated in the scheme these are inadequate, and the District Drainage Engineer has expressed concerns about their maintenance.
139. In addition to flood risk, overdevelopment of the town is a major threat to its economic sustainability. The new hospital will not increase employment in the town; the Fire Service College (the town's major employer) is struggling financially, and other businesses have been lost through migration to areas of greater population. Many residents already commute long distances to work.
140. It is ludicrous to impose a disproportionate amount of housing upon Moreton in Marsh, without proper regard to genuine housing need, in order to meet a central government target. Building upon the appeal site would result in the loss of a green corridor which adds significantly to the town's character on the east side of the railway line. It is unlikely that the Town Council, who own Blenheim Open Space, would permit any pedestrian or cycle routes across it.
141. Taking access from Todenham Road means that all traffic to and from the development would have to pass over the narrow, listed, A429 railway bridge and through what is already a congested town centre to reach three of the four gateway main roads from the town and the principle centres of employment.
142. **Mr A Moore** explained that while he understood the policy background and the pressure that CDC is under to catch up with the provision of housing and affordable housing, he has serious concerns about the provision of this level of affordable housing; not in principle, but at such volume. He drew attention to the *Affordable Rural Housing Commission final report (2006)* (ID 31), which advised that the provision of affordable housing should not only meet need, but maintain the character of the places where it is provided.
143. Housing should follow employment, and when industry goes, there is no employment to support housing. Other large groupings of affordable housing provided at Loughborough and Stow have histories of problems. Social disruption could also result at Moreton in Marsh.
144. After years of growth, Moreton in Marsh has reached the capacity of its existing infrastructure and some proper planning is now needed, with an opportunity for community input. The proposed development makes no contribution toward the provision of facilities for local youths.

145. **Mr S Young** said that decisions should, wherever possible, be made using fact-based evidence; in this case, such evidence regarding transport issues is distinctly lacking. In accordance with well established guidelines the appellant should, in liaison with the Highway Authority, have selected a neutral day on which to conduct its traffic survey. Given the significant extent to which traffic patterns in Moreton in Marsh are affected by school holidays and the summer tourism season the quiet autumn day chosen, Wednesday 21 October 2009, does not accord with the concept of neutrality.
146. The Highway Authority has accepted the appellant's Transport Assessment but it is based on inaccurate evidence, so the provisions of the S.106 Agreements could be out of kilter too. Mitigation has been agreed, but without the problems being known. A different date should be agreed for the survey, and this could lead to a different set of problems being identified, requiring different mitigation. Further, since the appellant's analysis was undertaken in isolation from the development that has subsequently been approved at the Fire Service College Site, it will be an underestimate of the concerns. The significant increase in existing traffic problems could seriously jeopardise Moreton in Marsh's status as a tourist destination.

Written representations

147. At the application stage the Council received 82 written objections, and 1 letter of support for the proposal. At the appeal stage there are 41 letters of objection. Included in these are representations from Moreton in Marsh Town Council and Todenham Parish Council.
148. **Geoffrey Clifton-Brown, FRICS MP**, wrote to express his concerns that the proposal would inevitably result in considerable extra car use; would give rise to a real risk of traffic gridlock in the town, particularly during the busy summer months; could potentially increase the existing flood risk, given the past history of flooding in the town; and due to the limited public amenities of the town, would be unsustainable.
149. Many of the letters of objection set out similar concerns to those articulated by the local residents who spoke at the inquiry, as outlined above. Other matters raised were the lack of local employment for the new residents, the impact on existing infrastructures such as local schools, hospitals and GP surgeries, the impact on wildlife, the effect that the proposal would have on the character of the town, the creation of 'rat runs' for commuter traffic, congestion in town and a lack of adequate parking, problems with existing bus and rail services, loss of agricultural land, and concerns about highway safety for pedestrians using the railway bridge.
150. The letter in support of the application came from a local business, and expressed the view that the proposed houses could provide local homes for its skilled workers who presently have to commute in from elsewhere, while also providing homes for local workers currently unable to afford anywhere in Moreton in Marsh.

Obligations

151. There are three planning obligations associated with this proposal, each in the form of a S.106 Agreement, and each has been duly executed.

152. The first is made between the appellant, the land owner and CDC. In the event that planning permission for the proposed development were granted and development commenced, it would commit the appellant to providing 50% of the dwellings as affordable housing units, in a range of sizes. 70% of these would be social rented properties, and the other 30% would be 'New Build Buy' properties.
153. The terms of the Agreement provide for the affordable housing units to be transferred to an Appointed Registered Provider once constructed, and include a timetable tying construction and occupation of the open market dwellings to that of the affordable housing units. The Agreement also contains provisions intended to ensure that the affordable housing units are to remain for the benefit, in perpetuity, of local persons in housing need, with that need to be defined in accordance with the application criteria for the Council's Housing Register. The Agreement also obliges the developer to commission at its own expense, at a cost not exceeding 1% of the construction costs, a work of 'public' art to be installed on the appeal site.
154. The second is made between the appellant, the land owner and the County Council. It commits the owner to paying contributions of £431,800 toward extending, remodelling, upgrading and improving the capacity and suitability of St David's Primary School at Moreton in Marsh; £940,252 toward extending, remodelling, upgrading and improving the capacity and suitability of Chipping Campden Secondary School; and £42,900 toward providing an extension to the library service at Moreton in Marsh.
155. The third is also made between the appellant, the land owner and the County Council. It commits the owner to paying, firstly, £33,522 as a 'Moreton Traffic Strategy Development Contribution' on or before the date development commences at the appeal site. Secondly, £301,694 as a 'Moreton Traffic Strategy Implementation Contribution' on or before the date that the 50th residential unit is occupied. Thirdly, £191,556 as a 'Public Transport Services Contribution' in five equal instalments between occupation of the 1st and 200th residential unit, and fourthly, £21,284 as a 'Public Transport Services Facilities Contribution' on or before occupation of the 200th residential unit.
156. The Agreement also commits the owner to drawing up and implementing a Travel Plan, with the involvement of the Council, setting out a timetable and targets for continuing and long term measures to promote alternatives to single occupancy car use, and contributing a 'Travel Plan Contribution' of £74,200 and a 'Travel Plan Monitoring Fee' of £5,000.

Conditions

157. The Council prepared a list of draft conditions (CD 3.24) and these were discussed by all parties at the inquiry. I have amended the construction or content of some conditions, amalgamated others and altered their phraseology, following discussion or on the basis of the advice included in the Annex of DoE Circular 11/95 *The Use of Conditions in Planning Permissions*. The list of conditions thus amended is attached as Appendix 1 to this report. I suggest that the conditions in this Appendix be imposed if the Secretary of State decides to allow the appeal and grant planning permission for the proposed development.
158. The application was submitted in outline with matters of appearance, landscaping, layout and scale reserved for future determination, so it is

necessary to attach the standard conditions setting out the timetable for submission and approval of these reserved matters.

159. Given the proposed use of the site for housing, the absence of any clear indication that the land is free from contamination, and the presence of watercourses on the site, I consider it necessary to attach a condition requiring a contamination risk assessment, and setting out the procedure governing potential remediation measures.
160. Since access is a matter to be determined at this stage, I consider that a condition requiring the Council's prior approval of the engineering details of the development's access from Todenham Road, its construction prior to commencement of the rest of the development, and completion prior to occupation of any of the new houses, is needed. The Council suggested a number of conditions dealing with the provision and construction of estate roads, pedestrian and cycle routes through the site, but since the layout of the development is reserved for future determination, I consider these matters appropriate to be addressed at that stage.
161. The Council also suggested a number of conditions governing construction works and facilities, and I have amalgamated these into a single condition requiring adherence to an agreed Construction Method Statement. In the light of the appellant's archaeological assessment and the recommendations of the County Council's Senior Archaeological Officer, I consider that a condition requiring the Council's prior approval of a scheme of archaeological investigation is needed.
162. The appellant commissioned a Flood Risk Assessment which contained a number of proposed mitigation measures. After some discussion and amendment the Environment Agency agreed that the flood risk mitigation measures proposed by the appellant, including a surface water drainage scheme incorporating sustainable drainage principles, would be acceptable subject to conditions requiring their implementation. I have amended those suggested, to avoid duplication and improve precision.
163. The Environment Agency also suggested conditions requiring buffer zones (and their maintenance) alongside the watercourses on site in order to protect wildlife habitat, and a landscape and ecological management plan setting out management responsibilities and maintenance schedules. Landscaping is not a matter that is to be determined in the context of this appeal, but given the acknowledged importance of these considerations, I have amended the condition concerning reserved matters (no.1 at Appendix 1) to provide that this information must be submitted as part of a reserved matters application.
164. In light of concern expressed by the sewerage undertaker that the existing system may be nearing capacity, I agree with its suggestion that a condition is necessary to ensure the Council's prior approval of a suitable strategy for dealing with the additional pressure on that system that would arise from the proposed development.
165. I do not share the Council's view that a condition preventing dwellings or patio areas from being sited in certain positions is necessary at this stage; despite the submission of an illustrative plan, layout remains to be addressed by a reserved matters application, which the Council could refuse if it were not satisfied. Similarly, the location of such fire hydrants as may be considered necessary, as

suggested by the Council at the inquiry, could be more appropriately addressed as part of a future application detailing the layout of the site.

166. I have however included the Council's suggested condition concerning the submission of a Tree Protection Plan, to ensure that none of the trees that are to be retained become damaged by any early work on site. I have also included a condition requiring adherence to the approved plans (other than those provided for illustrative purposes), in the light of governmental advice concerning minor amendments to planning permissions.

Richborough Estates

Conclusions

167. The following conclusions are based on my report of the oral and written evidence given to the inquiry, and the accompanied and unaccompanied inspections I made of the site and its surroundings. The Secretary of State's letter of 26 August 2010 records the matters about which he particularly wishes to be informed. I refer to those individually at the end of these conclusions. The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions.

The Policy context

168. The current policy position is that RPG 10, as the extant Regional Strategy, is (for the time being at a least) once again part of the statutory development plan for the site. Policy HO 1 provides that levels of net additional housing in Gloucestershire for the period 1996–2016 should be based on an average annual rate of 2,400 [14], but does not set out figures for each district.
169. The Gloucestershire Structure Plan, which was adopted in 1999, two years before the adoption of RPG10, states at Policy H2 that provision should be made for about 6,150 new dwellings to be provided in the Cotswold district between 1991 and 2011 [18]. This equates to 307.5 dwellings per year, and as it constitutes the housing requirement figure set out in the development plan for the site, must form the starting point for any consideration of housing land supply [50, 76]. It is material to note that given the length of time that has passed since its adoption, and given the emergence of more recent national policies, such as those set out in PPS 3, the Structure Plan is becoming increasingly out-of-date.
170. The Council drew my attention to the Third Alteration of the Gloucestershire Structure Plan, which had achieved an advanced stage of preparation by early 2005, and which would have set housing figures for each individual district, in line with RPG 10 [51, 68]. However, this revised version of the Structure Plan did not proceed to adoption and the evidence suggests it is unlikely ever to do so. I therefore afford it very little weight.
171. Similarly, despite the revised version of the South West Regional Strategy having reached an advanced stage of preparation, with the (then) Secretary of State's Proposed Changes having been published in 2008, this replacement RS did not proceed to adoption [120]. I understand that concerns about the adequacy of its Strategic Environmental Assessment (SEA) mean that it is unlikely now to do so, at least in its current form, and so I afford it very little weight. My view is reinforced by the fact that given changes in administrative arrangements, there is no reasonable prospect of adoption irrespective of SEA considerations. I note that the Localism Bill contains provision for the abolition of Regional Strategies. The materiality of this intention is currently subject to legal proceedings [33].
172. However, that is not to say that the evidence base which informed the preparation of these two intended replacement plans should simply be disregarded. Paragraph 33 of PPS 3 makes it clear that in determining levels of housing provision, local planning authorities should take into account evidence of current and future levels of need and demand for housing, based on the

government's latest published household projections, and other relevant information [49, 79].

Housing requirement

173. It seems that a consideration of this type of up-to-date evidence was not one of the key factors that informed the Council's decision, in advance of determining the application that now forms the subject of this appeal, to agree an 'interim' district housing requirement figure of 300 dwellings per year. The report to the Cabinet dated 3 June 2010 (CD 3.8) indicates that the figure of 300 was based on a district housing requirement proposed at an early stage in the preparation of the (then) emerging replacement RS, and makes no allowance for subsequent changes, or the latest available data and evidence. On that basis, I do not consider it a particularly accurate reflection of the district's current housing requirement.
174. In the absence of any more recent development plan housing figure, then, a useful starting point is to project forward the Structure Plan requirement for 307.5 dwellings in the period 1991 to 2011 [50, 78]. Based on figures taken from the local planning authority's document *Five Year Housing Land Supply at June 2010 – Interim Position* (CD 3.5A), the appellant calculated a requirement of 356 dwellings per year for the period 2010 to 2015. The Council contested the inclusion of the residual figure for dwellings required but not yet provided; it took the view that this residual figure ought to be spread across the whole of the next plan period [50]. Neither party was able to adduce any extant guidance to support its preferred methodology, but on the basis that any shortfall in housing provision ought to be addressed promptly rather than be allowed to run on for potentially twenty years, I prefer the appellant's approach of including the residual figure in the requirement for the next five years' provision.
175. The latest household projection figures available to the inquiry were the 2006 household projections, published in March 2009 by the ONS. After adding in allowances for unmet need, second homes and vacancies, the appellant calculated that the projection would equate to a dwelling requirement for 510 per year for the period 2006 to 2026.
176. In June 2010, the County Council produced a population projection (the GLP 2010) based on locally derived population evidence. After making allowances on the same basis as for the ONS 2006 figures in terms of unmet need, second homes and vacancies, the appellant calculated that the housing requirement derived from these projections would be 410 dwellings per year for the period 2006 to 2026 [52]. The Council's witness was unhappy with the basis for this calculation in that it artificially truncated the period addressed by the projection, and preferred a figure calculated (during re-examination) to be closer to 366 dwellings per year.
177. The Council maintains that planning judgment should be exercised to reduce these trend-based requirements, given that the Cotswolds is an area of development restraint. In the absence of any more closely-reasoned evidence, I am not convinced that a 25 – 50% reduction to the trend-based requirements can be justified simply on the basis that this is what has happened in the past [55]. I am mindful of the appellant's point that reductions to housing provision in the Cotswold district have at least in part depended on a consequent increase

to provision within other districts, and there can be no guarantee that this will necessarily continue as part of the LDF process [77,78].

Housing supply

178. In terms of the supply of housing land, there are some key differences between the parties. I agree with the appellant that a 10% deduction should be made in respect of rural exception sites and large sites with planning permission, as has been done for small sites with planning permission, to allow for some non-delivery [104]. Other than this, I see no real reason to doubt the Council's contention that the figures for building out these large permissions can be regarded as reasonably robust; development need not be limited to 50 dpa, particularly where there is more than one developer involved, or the provision of an element of affordable housing [64].
179. As to the SHLAA sites, the appellant has suggested that in a number of cases, active existing uses indicate the sites are not available for development. However, each of these sites has been through the comprehensive SHLAA process, where considerably more evidence concerning each of them would have been presented than is currently before this inquiry, and where it was concluded that each would be deliverable in 0-5 years. Since planning permission has recently been granted for the development at the Fire Service College site, I consider that this also needs to be taken into account in any assessment of housing supply [65].
180. On that basis, and with reference to the parties' comparative calculations (set out at Table 2 of CD 5.1, p 61) I find that as at 1 April 2010, the Cotswold district supply of housing land was around 1,532 dwellings.

Whether there is a five year supply of deliverable sites

181. I concluded above [174] that projecting forward the current Structure Plan housing requirement, and taking into account the residual requirement, would produce a housing requirement of 356 per annum. Comparison with the housing land supply figure of 1,532 dwellings reveals that there is only sufficient for 4.3 years.
182. Performing the same calculation with the housing requirement derived from the ONS 2006 data set (510 dwellings per year) produces a figure of 3.0 years, while that derived from the GLP 2010 data set produces 3.7 years (per the appellant's figure of 410) or 4.18 years (per the Council's figure of 366).
183. The appellant has also conducted similar calculations based on affordable housing need figures derived from the SHMA of January 2009 and the HNA of November 2009, all of which fall short of 5 years. I attach little weight to these because, as the appellant accepts, their accuracy as to housing requirement is limited.
184. The 'interim' district housing requirement figure of 300 dwellings per year, propounded by the Council in June 2010, produces a figure of 5.1 years. For the reasons set out above [173], I do not consider this to be a particularly accurate representation of the housing requirement for the district. Nevertheless, as a direct result of the announcement of the government's intention to abolish Regional Strategies, it was the figure that was adopted for development control purposes by the Council following a vote by its elected

Committee Members [60]. For this reason, in view of the government's clear and continuing intention to revoke Regional Strategies, and notwithstanding the legal challenges to the materiality of that intention as a consideration in other decisions, some weight may be attached to this 'interim' figure.

185. In my judgment, more weight should be attached to the lack of sufficient land to meet the current Structure Plan housing requirement over the next five years. The Structure Plan requirement of 307.5 dwellings per year is somewhat out of date, but the evidence of the more recently published projections discussed above suggests that this requirement is likely to increase rather than decrease, and this would worsen the shortfall in housing provision.
186. The provision set out in paragraph 71 of PPS 3 is therefore relevant to this case. It states that where local planning authorities cannot demonstrate a five year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the considerations in paragraph 69.

The considerations in paragraph 69

187. The first four of these considerations relate to achieving high quality housing; ensuring developments achieve a good mix of housing; the suitability of a site for housing, including its environmental sustainability; and using land effectively and efficiently.
188. The application was made in outline, with matters of layout and appearance among those reserved for future determination, but there is no reason why the proposed development should not be capable of delivering a good mix of high quality housing, including affordable dwellings and appropriate provision of open space. As to its suitability for housing, the site lies tight against the existing settlement, within easy walking distance of the town centre and public transport. The SOCG records the main parties' agreement that the proposed development would appear as a natural extension of the town's built environment [90], and I consider that a fair assessment. The density of residential development proposed by the appellant would constitute an efficient use of land.
189. The fifth and final consideration in paragraph 69 is the matter with which the Council takes issue. It concerns ensuring that the development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

The District Development Strategy

190. The Cotswold District Development Strategy is set out at Section 3 of the Local Plan [23]. It explains that the spatial strategies set out in RPG10 and the Structure Plan, together with the small residual housing and employment requirements, dictate that development should be focused on the district's larger, more sustainable settlements, especially Cirencester. In terms of its scale and function as a service centre, Cirencester is described as head and shoulders above all other settlements in the district.
191. The second tier centres in the district are the market towns, which have been designated Principal Settlements in accordance with Structure Plan requirements. The Local Plan notes that the relatively even geographic

distribution of the Principal Settlements throughout the district reinforces their role as service centres for the surrounding rural areas.

192. The overall strategy is to apply restraint on additional development, with about 63% of the district's planned growth between the end of March 2004 and mid-2011 focused on Cirencester. The remainder of the district's growth will be allocated at Principal Settlements commensurate with local economic and social needs.
193. The Local Plan defines development boundaries around the district's ten most sustainable settlements (Cirencester, and the nine Principal Settlements) in order, among other things, to prevent development from needlessly encroaching into the surrounding countryside, and to help maintain a sustainable strategy within the context of development restraint. Policy 18 allows for development of an appropriate scale to the respective settlements within their development boundaries, but Policy 19 makes it clear that construction of unrestricted open-market dwellings outside the development boundaries will not be permissible.
194. The appeal site lies outside the Moreton in Marsh development boundary, and so the proposed development would conflict with Policy 19 of the Local Plan and, accordingly, with the district Development Strategy to which Policies 18 and 19 are integral. In that respect, while the proposal would meet an existing need for housing in the district, it would not accord with the district strategy for development, or the spatial vision incorporated in that strategy.
195. The appellant pointed out that Policy S2 of the Structure Plan, which deals with the identification of Principal Settlements, requires them to be the focal points for development that takes into account the social and economic needs of all rural areas, and their location relative to other centres and environmental considerations [81,82]. It is fair to note that as a Principal Settlement, Moreton in Marsh is expected to meet the needs of the outlying settlements and rural areas that depend upon it as a local service centre, in addition to those of its own population.
196. However, it does not necessarily follow that because the other eight Principal Settlements, as candidates for residential development, are constrained either by environmental considerations (AONB coverage), or by their distance from Moreton in Marsh and the north Cotswolds, then the scale of development currently proposed for Moreton in Marsh must therefore be consistent with Policy S2 of the Structure Plan.
197. That policy requires development to be at a scale consistent with the character, as well as the function, of the respective Principal Settlements. Moreton in Marsh is a thriving market town, and although it benefits from a railway station and a hospital, it lacks other features commonly associated with large settlements; it has no secondary school, for example, and no leisure centre. While there are employment opportunities, there is no imminently planned (or even envisaged) expansion of these that would be commensurate with the proposed increase in residential accommodation, and so a large proportion of future occupiers could be obliged to commute outward to work.
198. The cumulative effect of the housing development permitted at the Fire Service College Site, and that currently proposed, would be to increase the population of the town itself by some 40%, and I share the concern of local residents that

this significant and unplanned population increase would fundamentally alter the existing character of Moreton in Marsh [132].

Prematurity

199. It may well be that taken exponentially, and alongside programmed improvements to infrastructure, community facilities and employment opportunities, such growth could be achieved in an acceptable manner. It may also be that the issues and constraints affecting the district's other Principal Settlements are of sufficient weight to steer a large proportion of future residential development toward Moreton in Marsh, and if that is so, the appeal site would be well situated to accommodate some of it.
200. However, the context of the current appeal is not the place to make such decisions. I have only general and limited evidence as to the suitability of the other Principal Settlements for accommodating new housing, and insufficient and incomplete information concerning other important and relevant factors, such as the current and potential availability of previously developed sites at or adjacent to them or Cirencester. The collation, assessment and testing of such evidence, in order to determine the location of the residential development and associated infrastructure necessary to meet the district's needs, is clearly a fundamental function of the Local Development Framework process.
201. I appreciate that the Cotswold District Core Strategy, a key component of the LDF process, is not particularly well advanced and is unlikely to be adopted before the end of 2012 [29, 93]. But granting permission for the current proposal, in addition to the residential development recently permitted on the adjacent Fire Service College Site, would mean that 10% of the development required in the plan period 2006 – 2026 would already be committed to Moreton in Marsh.
202. The current Development Strategy directs 63% of the district's planned growth to Cirencester, with the remaining 37% to be allocated between the nine Principal Settlements. In this context it seems to me that to construct more than a quarter of this planned growth at one of the nine candidate settlements, in advance of any comparative (and consultative) assessment of their respective economic and social needs, would be to predetermine decisions about the scale and location of new development which ought properly to be addressed in the emerging Development Plan Documents.

Affordable housing

203. The proposed development would incorporate 50% affordable housing; that is, it would deliver 150 affordable dwellings. This would accord with LP Policy 21, which provides that a proportion of affordable housing of up to 50% will be sought to meet demonstrated needs. The S.106 Agreement entered into by the appellant and the Council meets the tests set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010, and would ensure that the relevant units were used to accommodate local persons in housing need.
204. The SOCG records the main parties' agreement that there is currently a clear need for a large amount of affordable housing in Moreton in Marsh, and the extent of the provision to be made at the appeal site was also agreed by the Council; had it considered that there was insufficient need to justify 150

affordable dwellings on the appeal site, it was open to it to agree provision of a lower proportion [112].

205. While the Council's evidence was that the Housing Register showed just 26 households in urgent need of social rented housing in Moreton in Marsh, the HNA indicates an annual net need of 35 affordable dwellings per annum for Moreton in Marsh and the surrounding area [41]. This reflects the district-wide problem; there is an acknowledged shortage of affordable housing in the Cotswold district, exacerbated by lack of employment opportunities and a high proportion of second home ownership.
206. The fact that the 150 affordable housing units to be provided as part of the proposed development would go some way toward meeting this acknowledged need can, therefore, be seen as a benefit. But it would not be an unalloyed benefit. The concerns that I have outlined above, as to whether residential development at this scale would be consistent with the character and function of the settlement, apply also to the provision of a large quantity of affordable housing (300 units, when counted cumulatively with those to be provided at the Fire Service College site) at this market town. In the absence of any attendant and commensurate increase in employment opportunities in Moreton in Marsh or the local area, it is likely that future occupiers would need to travel out of the area to work.

Transport

207. The proposed development would incorporate a number of pedestrian and cycle routes to provide access to the town, and the new houses would be located within easy walking distance of the town centre, railway station and bus stops. Future occupiers would consequently have the choice of a range of possible transport without necessarily having to rely on the use of a private car, and this would accord with national and local policies aimed at encouraging more sustainable modes of travel. The S.106 Agreement entered into by the appellant and GCC makes provision for financial contributions to offset the increased demand upon public transport services and facilities that would be generated by the proposed development, and I am satisfied that these are necessary, and fairly and directly related to the proposal.
208. It is clear that the development of 300 houses would nevertheless give rise to some increase in the number of vehicular movements in the area, and the appellant commissioned a Transport Assessment to consider the impact this would have on Moreton in Marsh. I can understand residents' concerns that having been carried out on a Wednesday in October, rather than on a market day or during the much busier summer season, the traffic surveys conducted as part of this Assessment do not present a full picture of traffic conditions in Moreton in Marsh [145,146]. But it is apparent that the Assessment was carried out in consultation with GCC, which agreed its scope in advance, and in its capacity as Highway Authority for the area, is able to apply its professional expertise and local knowledge to the conclusions.
209. Those conclusions prompted GCC to seek a financial contribution to mitigate the impact that the proposed development would have upon traffic conditions in Moreton in Marsh. The contribution agreed between GCC and the appellant, and secured by a S.106 Agreement, has two components: a 'Moreton Traffic Strategy Development Contribution' and a 'Moreton Traffic Strategy

Implementation Contribution'. I am told that this is because the Highway Authority has not yet decided upon the best means of addressing problems caused by queuing at and between the two mini-roundabouts in the town, which would be increased by the proposed development, and wishes to undertake public consultation in order to inform its strategy. It would therefore use the first component of the contribution to part-fund this strategy development, and the second component to part-fund whatever mitigation scheme might be decided upon.

210. I understand the logic of this approach, but it is not one that lends itself to funding by contributions from individual developments. Regulation 122 of the Community Infrastructure Levy Regulations 2010 provides that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Until the details and cost of a mitigation scheme are established (and that, of course, carries the proviso that an acceptable form of mitigation proves possible) it is impossible to say whether the sum secured by the S.106 Agreement (£301,694) would be fair and reasonable.
211. In its response to CDC as a statutory consultee on the original planning application, the Highway Authority expressed the view that a comprehensive Traffic Strategy for Moreton in Marsh should be developed to take into account the effect of potential growth in the area, rather than agreeing limited packages of work to mitigate the impact of individual development sites. That seems to me a sensible approach, and one which lends weight to the view that it would be appropriate for residential development of the scale currently proposed to be planned through the LDF process, rather than determined on a case by case basis.

Other matters

212. Local residents, many of whom have had recent experience of flooding in Moreton in Marsh, are understandably concerned about the impact of building on the appeal site [138]. However, the appellant has carried out a thorough flood risk assessment and, as a result, proposed that a number of mitigation measures be incorporated in the development. The extent of the flood risk, and the means by which it might be addressed, have been the subject of extensive discussion with the Environment Agency, which has now confirmed that subject to conditions securing the proposed mitigation measures, the development would be acceptable. On that basis, I am satisfied that the proposal would not increase the risk of flooding at the appeal site or elsewhere. An ecological survey of the site, provided with the application, also indicates that adequate measures can be imposed to mitigate the adverse effect of the development upon local wildlife.
213. My attention was drawn to a number of other appeal decisions, but none of them reflect the precise circumstances of this proposal. The Upper Rissington case, for example, concerned previously developed land, whereas the current proposal concerns undeveloped greenfield land, such that a different planning balance applies. My consideration of this particular appeal is based on its own site-specific merits.

Matters about which the Secretary of State wished to be informed

214. These matters are addressed in full in the context of my conclusions above, but for ease of reference, are presented here in summary form.
215. *(i) The extent to which the proposed development would be in accordance with the development plan for the area.*
216. The proposed development would accord with many policies of the development plan, for example, those seeking to promote sustainable modes of transport. However, there would be a fundamental conflict with Policy 19 of the Local Plan, which seeks to prevent, other than in certain specified circumstances, the development of open-market housing outside the defined development boundaries of the Principal Settlements. I consider that the proposal would also conflict with the District Development Strategy set out in the Local Plan.
217. *(ii) The extent to which the proposed development is consistent with Government policies in Planning Policy Statement (PPS) 1: Delivering Sustainable Development, and accompanying guidance The Planning System: General Principles.*
218. PPS 1 sets out the Government's Objectives for the planning system, and paragraph 7 explains that a plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. I consider that granting planning permission for this proposal now could prejudice decisions about the scale and location of development within the district that ought to be taken in the context of the LDF plan-making process.
219. *(iii) The extent to which the proposed development is consistent with Government planning for housing policy objectives in PPS 3: Housing*
220. Since the local planning authority cannot demonstrate a five year supply of deliverable sites, paragraph 71 of PPS 3 provides that planning applications should be considered favourably, having regard to other policies in that document, and the considerations set out at paragraph 69. The considerations set out at paragraph 69 include ensuring that the proposed development is in line with the spatial vision for the area, and does not undermine wider policy objectives. I consider that the proposal conflicts with the spatial vision for the area as contained within the district Development Strategy, and could prejudice policy to be determined within emerging Development Plan Documents.
221. *(iv) the extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note (PPG) 13: Transport, in particular on the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and reduce the need to travel, especially by car; and whether the proposal complies with local car parking standards and the advice in paragraphs 52 to 56 of PPG 13.*
222. The proposed development would be within easy walking distance of a railway station and bus stops, and so would be well located in terms of accessibility by a range of modes of transport. This, together with the implementation of a Travel Plan that has been secured by a S.106 Agreement, would help to promote more sustainable transport choices. The application was made in outline, with layout

reserved for future determination, but there is no reason why that layout could not incorporate adequate parking facilities in line with local standards and the requirements of paragraphs 52 to 56 (now 51 to 55) of PPG 13.

223. *(v) the matters raised in the Council's Decision Notice dated 4 June 2010.*
224. These concern conflict with the development plan, which I have addressed above [216].
225. *(vi) whether any permission should be subject to any conditions and, if so, the form these should take.*
226. Should the Secretary of State be minded to grant permission for the proposed development, I suggest that it be made subject to a number of conditions. These are discussed at paragraphs 156 to 165 above, and listed in full at Appendix 1 to this report.
227. *(vii) whether any planning permission granted should be accompanied by any planning obligations under Section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.*
228. The S.106 Agreement made between the appellant and CDC, which secures the provision of 50% of the constructed dwellings as units of affordable housing, is necessary and acceptable. The S.106 Agreement made between the appellant and GCC which secures financial contributions toward improving local library and educational facilities is necessary and acceptable. The other S.106 Agreement made between the appellant and GCC is necessary and acceptable to the extent that it secures financial contributions toward public transport services and facilities and the implementation of the Travel Plan, but I consider that little weight can be placed on the payment of financial contributions toward a traffic mitigation scheme whose nature, extent, cost and impact are as yet unknown.

The balance of planning considerations

229. The proposed development would conflict with Policy 19 of the Local Plan, which seeks to prevent, other than in certain specified circumstances, the development of open-market housing outside the defined development boundaries of the Principal Settlements. It would also conflict, in these terms, with the District Development Strategy set out in the Local Plan.
230. The proposed housing would occupy an eminently sustainable location in terms of its accessibility by a range of modes of transport. But there are serious concerns that Moreton in Marsh is not necessarily the right place for residential development at this scale. Together with the development recently permitted at the adjacent Fire Service College site, the current proposal would introduce 600 new dwellings to a market town that has only limited existing community facilities, without any imminent commensurate increase in employment opportunities. A population increase of this extent would not be consistent with the character of Moreton in Marsh. Further, on the basis of the information currently provided, there can be no certainty that the financial contribution secured by the S.106 Agreement would ensure adequate mitigation for the impact that the associated additional vehicle movements would have upon existing traffic problems in the town.
231. Granting permission for 300 new dwellings, in addition to the 300 recently approved at the Fire Service College site, would commit around 10% of the

residential development likely to be required in the plan period 2006 – 2026 to Moreton in Marsh. Given that the current District Development Strategy directs 63% of the district's planned growth to Cirencester, I consider that effectively to allocate more than a quarter of the remaining 37% to only one of 9 potential candidate Principal Settlements, in advance of any comparative assessment of their respective economic and social needs and suitability for expansion, would be to predetermine decisions about the scale and location of new development which ought properly to be addressed as part of the LDF process. For that reason, I consider that granting permission for the current proposal could prejudice emerging Development Plan Document policies, and so would conflict with national guidance set out in PPS 1 and its companion document, *The Planning System: General Principles*.

232. I place considerable weight on the fact that the proposed development would go some way toward addressing the identified shortfall in the district's housing provision, given that the local planning authority is not currently able to demonstrate a five year supply of housing land, and I note that this would include an element of affordable housing. But in my judgment, the benefits of the proposal are greatly outweighed by the harm that I have identified above.
233. I find that there are no material considerations in this case of sufficient weight to justify granting permission for a proposal that conflicts with development plan policy.

Recommendation

234. I recommend that the appeal is dismissed. If the Secretary of State is minded to disagree with my recommendation, a schedule of conditions which I consider should be imposed on any permission granted is attached to the end of this report.

Jessica Graham

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Ormondroyd of Counsel, instructed by the Solicitor to
Cotswold District Council

He called:

Mr S Firkins BA(Hons) MTP Planning Consultant for Cotswold District
MRTPI Council

FOR THE APPELLANT:

Mr J Cahill QC instructed by Mr A C Bateman of Pegasus
Planning Group Limited

He called:

Mr A C Bateman BA(Hons) Managing Director, Pegasus Planning Group
TP MRICS MRTPI MCMI Limited

INTERESTED PERSONS:

Mr S G Holmes NDD NCA BSN	Resident of Moreton-in-Marsh
Mr D Grieve	Resident of Moreton-in-Marsh
Mr R Dutton	Resident of Moreton-in-Marsh
Mr A Moore	Resident of Longborough
Mr S Young	Resident of Moreton-in-Marsh

DOCUMENTS

CORE DOCUMENTS

File 1 The Council's Proof of Evidence

CD 1 Proof of Evidence of Mr S Firkins

File 2 Appendices to the Council's Proof of Evidence

CD 2.1A Appeal ref. APP/D0840/A/09/2115945 (Binhamy Farm, Bude)
Inspector's report

CD 2.1B Appeal ref. APP/D0840/A/09/2115945 (Binhamy Farm, Bude)
Secretary of State's decision letter

CD 2.2 Cotswold District Council Housing Needs Assessments, 2009

CD 2.3 Gloucestershire County Council Strategic Housing Market
Assessment, 2009

CD 2.4 Cotswold District Council Annual Monitoring Report, 2009

File 3 Appendices to the Council's Proof of Evidence

CD 3.5A Cotswold District Council 5 Year Supply Statement, June 2010

CD 3.5B Cotswold District Council 5 Year Supply Statement brief update,
February 2010

CD 3.6 Secretary of State's announcement of 27 May 2010

CD 3.7 Transcript of verbal update to Planning Committee, 2 June 2010

CD 3.8 Agenda item to Cotswold District Council Cabinet, 3 June 2010

CD 3.9 Letter from CLG Chief Planning Officer, 6 July 2010

CD 3.10 Cotswold District Council Annual Monitoring Report, 2008

CD 3.11 Residential Land Availability Assessment, 2010

CD 3.12 Cotswold District Council response to the draft RSS

CD 3.13A Report by Regional Planning Body, Paper C, 22 November 2005

CD 3.13B Report by Regional Planning Body, Paper C Appendix 3, 22
November 2005

CD 3.14 Report by Regional Planning Body, Paper D, 19 December 2005

CD 3.15A Report by Regional Planning Body, Paper B, 12 January 2006

CD 3.15B Report by Regional Planning Body, Section 4, 12 January 2006

CD 3.16 Gloucestershire County Council Head of Planning letter, 8 January
2007

CD 3.17 Cotswold District Council Portfolio Holder Report, 24 August 2006

CD 3.18 SW Regional Spatial Strategy Examination in Public Panel Report,
December 2007, Paragraphs 4.3.22 to 4.3.41

CD 3.19 Press release, 25 September 2009

CD 3.20 Appeal ref. APP/M2325/A/09/2103453 (Land at Fylde, Lancashire)
Secretary of State's decision letter

CD 3.21 e-mail from Cotswold District Council Forward Planning Manager
dated 31 August 2010

CD 3.22 Proposed Second Modifications to Gloucestershire Structure Plan
Third Alteration, 2 January 2005, page 9

CD 3.23 2010 population statistics, Gloucestershire County Council

CD 3.24 Suggested conditions

File 4 Planning Application

- CD 4.1 Planning application form
- CD 4.2 Covering letter
- CD 4.3 Planning statement
- CD 4.4 Plans
- CD 4.5 Responses of statutory consultees
- CD 4.6 Representations against the proposal
- CD 4.7 Representations in favour of the proposal
- CD 4.8 Representations making general comment
- CD 4.9 Grounds of appeal

File 5 The Appellant's Proof of Evidence

- CD 5.1 Summary Proof of Evidence of Mr A C Bateman
- CD 5.2 Proof of Evidence of Mr A C Bateman
- CD 5.3 Statements of Common Ground
- CD 5.4 Plans

File 6 Appendices to the Appellant's Proof of Evidence

- CD 6.1 Planning Committee Report 27 May 2010
- CD 6.2 Planning Committee Report 2 June 2010
- CD 6.3 Council's Decision Notice
- CD 6.4 Letter from Cotswold District Council to the Secretary of State, 27 July 2010
- CD 6.5 Letter from the Secretary of State to Chief Planning Officers, 27 May 2010
- CD 6.6 Transcript of speech by Grant Shapps MP to RICS, 8 June 2010
- CD 6.7 Statement of Greg Clark MP, 9 June 2010
- CD 6.8 Letter from Grant Shapps MP to local authorities, 2 July 2010
- CD 6.9 Letter from Steve Quatermain to Chief Planning Officers, 6 July 2010
- CD 6.10 Letter from Grant Shapps MP to local authorities, 9 August 2010
- CD 6.11 Extracts from "By Design"
- CD 6.12 Extracts from "Better places to live by design"
- CD 6.13 CLG Advice Note: Demonstrating a 5 Year Supply of Deliverable Sites
- CD 6.14 Secretary of State's saving direction for the Gloucestershire Structure Plan
- CD 6.15 Secretary of State's saving direction for the Cotswolds Local Plan
- CD 6.16 Issues and Options Draft Core Strategy and Settlement Hierarchy Paper
- CD 6.17 Secretary of State's direction re. Third Alteration of the Gloucestershire Structure Plan
- CD 6.18 Extracts from Strategic Housing Market Assessment January 2008
- CD 6.19 Executive Summary of the Housing Needs Assessment
- CD 6.20 Extracts from the Cotswold District Council Affordable Housing Supplementary Planning Document

File 7 Appendices to the Appellant's Proof of Evidence

- CD 7.21 Extracts from the Cotswold District Council Design Code Supplementary Planning Document
- CD 7.22 Local Plan Designation Plans
- CD 7.23 RPG 10 Policy HO5

- CD 7.24 Extract from Cotswold District Annual Monitoring Report 2008/09
- CD 7.25 Appeal ref. APP/H1840/A/10/2124085 (Badsey, Evesham)
Inspector's decision
- CD 7.26 Appeal ref. APP/F1610/A/09/2112497 (Upper Rissington)
Inspector's decision
- CD 7.27 Extracts from Gloucestershire Local Projection 2010
- CD 7.28 2006 Based Household Projections for Gloucestershire
- CD 7.29 Extracts from emerging Regional Spatial Strategy
- CD 7.30 Report to Members and Decision Notice 7 October 2008
- CD 7.31 Report to Members and Decision Notice 24 August 2006
- CD 7.32 Extracts from SW Regional Spatial Strategy Examination in Public
Panel Report, December 2007
- CD 7.33 Report to Committee
- CD 7.34 North Home and Kingshill Planning Statement
- CD 7.35 Extracts from Cotswolds District Council SHLAA raw data
- CD 7.36 Housing Trajectories
- CD 7.37 Stroud District Council Five Year Housing Land Supply at June 2010
Interim Position

INQUIRY DOCUMENTS

- ID 1 Letters of representation received in response to notification of the
appeal
- ID 2 Letters from Geoffrey Clifton-Brown MP dated 15 July and 23 July
2010
- ID 3 S.106 Agreement concerning contributions toward affordable
housing and public art
- ID 4 S.106 Agreement concerning contributions toward libraries and
education
- ID 5 S.106 Agreement concerning contributions toward highways and
transportation

Submitted by the appellant

- ID 6 Opening statement
- ID 7 Mr S Firkins' Summary of Proof of Evidence
- ID 8 Subnational Population and Household Projections Chronology
- ID 9 Table to show differences between the appellant and the Council
regarding housing supply on 1 April 2010
- ID 10 Large sites with planning permission
- ID 11 Appeal ref. APP/K2420/A/10/2125649 (Coalville, Leicestershire)
Inspector's decision
- ID 12 Grounds of High Court challenge against the Secretary of State's
decision in Appeal ref. APP/D0840/A/09/2115945 (Binhamy Farm,
Bude)
- ID 13 Breakdown of population figures for North Cotswold
- ID 14 Comparison of the Gloucestershire Local Authorities' respective
positions re housing land supply
- ID 15 Proposal map for North Cotswolds – Area 2, and key, from Cotswold

-
- District Local Plan
 - ID 16 Copy of land owner's appointment of signatories to act under Power of Attorney
 - ID 17 Copy of appellant's appointment of signatories to act under Power of Attorney
 - ID 18 Predicted rental figures for affordable units
 - ID 19 Copy of news article from Wilts and Gloucestershire Standard about the new hospital at Moreton-in-Marsh
 - ID 20 Closing submissions

Submitted by the Council

- ID 21 Opening statement
- ID 22 More legible version of Panel Comments (further to CD 7.35)
- ID 23 Information concerning the current status of the Council's Local Development Framework Documents, requested by the Inspector
- ID 24 Draft Decision Notice granting planning permission for Fire Service College Site (ref. no. 09/04440/OUT)
- ID 25 e-mail from Government Office South West to the Council, dated 14 June 2010, confirming the Fire Service College application would not require referral to the Secretary of State
- ID 26 Extract from report to the Council entitled *Local Countryside Designation Review: Protected Open Space Policy Areas*
- ID 27 Plan identifying the Parishes and Wards of Cotswold District
- ID 28 Closing submissions

Submitted by Interested Parties

- ID 29 Set of comparative graphs showing housing growth in Cotswold District and Cirencester (Mr D Grieve)
- ID 30 Statement by Mr R Dutton
- ID 31 Executive Summary of the *Affordable Rural Housing Commission final report* (2006) (Mr A Moore)
- ID 32 Information provided as an addendum to ID 27 (Mr D Grieve)
- ID 33 Letter from Hunter Page Planning dated 22 October 2010

POST INQUIRY DOCUMENTS

- PID 1 Letters from Planning Inspectorate dated 19 November 2010, inviting further comments from main parties
- PID 2 Letter from appellant dated 24 November 2010, and attachments
- PID 3 Letter from appellant dated 1 December 2010, and attachment
- PID 4 Letter from Council dated 10 December 2010
- PID 5 Letter from appellant dated 21 December 2010
- PID 6 Letter from Council dated 22 December 2010

Appendix 1

Schedule of Recommended Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. The landscaping details shall incorporate a management plan to include the provision of buffer zones alongside the relevant watercourses, and management responsibilities and maintenance schedules for these, for the flood mitigation measures (such as ponds and swales), and for all other landscaped areas (excluding domestic gardens).
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until criteria 1 to 4 of this condition have been met. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination, to the extent specified in writing by the local planning authority, until criterion 4 has been complied with in relation to that contamination.

(1) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (a) a survey of the extent, scale and nature of contamination;
- (b) an assessment of the potential risks to:
 - (i). - human health,
 - (ii). - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - (iii). - adjoining land,
 - (iv). - groundwaters and surface waters,
 - (v). - ecological systems,
 - (vi). - archaeological sites and ancient monuments;
- (c) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *Model Procedures for the Management of Land Contamination, CLR 11*.

(2) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

(4) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of criterion 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of criterion 2, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with criterion 3.

5. No development shall take place until full engineering details of the proposed access to the site from Todenham Road have been submitted to and approved in writing by the local planning authority, and no other development shall commence until the first 20m of the access road from the county highway has been laid out in accordance with those approved details, and constructed to at least basecourse level. The access shall be completed in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved.
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

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7. No development shall take place until the appellant, or its agents 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.
 8. No development shall take place until 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 scheme shall be implemented in accordance with the approved details before the first occupation of any of the houses hereby permitted.
 9. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment dated March 2010, Issue 3 carried out by Cole Easdon Consultants (Ref 2889) and the proposed methods and mitigation measures detailed therein.
 10. No development shall take place until a foul water drainage strategy detailing any on- or off-site drainage works has been submitted to and approved in writing by the local planning authority. No discharge of foul or surface water from the site will be made into the public sewer until the approved strategy has been implemented.
 11. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (a Tree Protection Plan), and the appropriate working methods (an Arboricultural Method Statement), has been agreed in writing with the local planning authority. These measures shall be carried out as described and approved.
 12. The development hereby permitted shall be carried out in accordance with the approved site plan, and the approved access drawing numbered 2889/SK/201, but only in respect of those matters not reserved for approval.

Appendix 2

List of abbreviations and acronyms

AONB	Area of Outstanding Natural Beauty
CDC	Cotswold District Council
DCLG	Department for Communities and Local Government
dpa	Dwellings per annum
GCC	Gloucestershire County Council
GLP 2010	Gloucestershire Local Projections Report 2010, prepared by the County Council
GSPTA	Gloucestershire Structure Plan Third Alteration
GOSW	Government Office for the South West
HNA	Cotswold District Council Housing Needs Assessment 2009
LDS	Local Development Scheme
LDF	Local Development Framework
Local Plan	<i>Cotswold District Local Plan 2001 – 2011</i> (adopted 2006)
ONS 2006	Statistics published by the Office for National Statistics
RLAA	Residential Land Availability Assessment, 2010
RS	Regional Strategy
SEA	Strategic Environmental Assessment
SHMA	Gloucestershire County Council Strategic Housing Market Assessment 2009
SHLAA	Strategic Housing Land Availability Assessment
SOCG	Statement of Common Ground
Structure Plan	<i>Gloucestershire Structure Plan Second Review</i> (adopted 17 November 1999)