Department for Communities and Local Government

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Our Ref: APP/F1610/A/13/2203411
Your Ref: DSD/lja/056-11

27 March 2015

Richborough Estates

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY BOVIS HOMES LIMITED
AT LAND AT ODDINGTON ROAD, STOW-ON-THE-WOLD
APPLICATION: REF 13/01856/OUT

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr I Jenkins, BSc CEng MICE MCIWEM, who held a public local inquiry which opened on 7 January 2015 into your client's appeal against non-determination of an application by Cotswold District Council for up to 146 dwellings including access, car parking, open space, landscaping and associated works at land at Oddington Road, Stow-on-the-Wold, GL54 1AL in accordance with application number 13/01856/OUT dated 26 April 2013.

2. On 1 May 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because it involves proposals for residential development on a site 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 recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. A copy

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of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. The Secretary of State has had regard to the Inspector's comments at IR1.3.1 and, like the Inspector, he has determined the appeal on the basis of drawing no. C1558 P004 Rev A. The Secretary of State is satisfied that this approach is unlikely to prejudice the interest of any party.

Policy considerations

5. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

6. In this case, the development plan comprises the saved policies of the Cotswold Local Plan 2001-2011, adopted in 2006 (LP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR4.1 - 4.2.

7. The Secretary of State has also had regard to *The Local Plan Consultation Paper: Preferred Development Strategy May 2013 – Help Shape the Future* (LPe). As indicated by the Inspector at IR4.3, the LPe is still at a relatively early stage towards adoption. The Secretary of State considers that the LPe is clearly still at a stage where it is subject to change and that this limits the weight which can be attached to it.

8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the Planning Practice Guidance (the Guidance) and the Community Infrastructure Levy (CIL) Regulations.

Main issues

9. The Secretary of State considers that the main issue in this case is that identified by the Inspector at IR12.2.1.

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Housing land supply

10. The Secretary of State agrees with the Inspector's remarks at IR12.3.1 about the scheme's conflict with LP Policy 19 and, like the Inspector (IR12.3.2), he has taken account of paragraphs 47 and 49 of the Framework. In common with the Inspector (IR12.3.3), the Secretary of State has no reason to dispute that the Council has identified specific deliverable housing sites sufficient to provide around 2,680 dwellings over the relevant 5 year period.

11. The Secretary of State has given very careful consideration to the Inspector's analysis of the District's housing requirement at IR12.3.4 – 12.3.16 and, for the reasons given on those paragraphs, he too concludes that, based on the evidence presented, for the purposes of this appeal it would be reasonable to regard the range of 575-624 dwellings per annum as the full objectively assessed need for the District and that this would equate over 5 years to a range of 2,875-

3,120 dwellings (IR12.3.16). He also agrees with the Inspector that this assessment of FOAN would not necessarily bind the Council in its preparation of the LPe or other Inspectors at appeal (IR12.3.17).

12. Having gone on to take account of the Inspector's remarks at IR12.3.18 – 12.3.20, the Secretary of State agrees with his conclusion that the Council is unable to demonstrate a 5 year supply of deliverable housing sites under the terms of the Framework (IR12.3.20). He also agrees with the Inspector that, in accordance with paragraph 49 of the Framework, given the lack of a 5 year supply of deliverable housing sites, relevant policies for the supply of housing in the Cotswold District can not be considered up to date (IR12.3.21). The Secretary of State also agrees with the Inspector that, in this particular case, the relevant policies include LP Policy 19, which seeks to restrict open market housing development outside development boundaries (IR12.3.21). Accordingly, the Secretary of State has not given weight to this policy conflict within his planning balance.

<u>The character and appearance of the Area of Outstanding Natural Beauty (AONB) and the setting of Stow-on-the-Wold</u>

13. The Secretary of State has given consideration to the Inspector's comments at IR12.4.1-12.4.2 and he sees no reason to disagree with the Inspector's view that it would not be reasonable to seek to secure a very substantial reduction in the maximum number of dwellings through the imposition of a condition, as those with an interest in the scheme, including those not represented at the inquiry, could reasonably expect to have an opportunity to comment on such a change, which would necessitate a new application (IR12.4.2).

14. Like the Inspector (IR12.4.3), the Secretary of State has had regard to paragraph 115 of the Framework which indicates that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. He has also had regard to Section 85 of the Countryside and Rights of Way Act 2000 which requires decisions on development proposals to have regard to the purpose of conserving and enhancing the natural beauty of AONBs (IR12.4.3).

15. The Secretary of State has given careful consideration to the Inspector's comments at IR12.4.6 – 12.4.7 and, like the Inspector, he considers that the appeal site makes a valuable contribution to the character of the landscape and the hill top setting of Stow and that it would be highly sensitive to change (IR12.4.7). He also shares the Inspector's view (IR12.4.8) that, although the current boundary features would be enhanced as part of the proposed landscaping works and the design would be likely to include some areas of landscaped public open space, wetland as well as diversification of planting, in the main the site would be characterised by housing development. He agrees with the Inspector that housing development is not alien to the local landscape and the proposal would result in the loss of a comparatively small area of Farmed Slopes, and in that context the magnitude of impact would be moderate adverse (IR12.4.8). Like the Inspector (IR12.4.8), the Secretary of State concludes that, nonetheless, given the sensitivity of the landscape hereabouts, in terms of overall significance the effect would be high, permanent and adverse. He further agrees that the loss of transitional Farmed Slopes resulting from the extension of the

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built development of Stow down the slope toward the pastoral lowlands of the Vale would erode the character of the landscape and also the hill top character of the settlement for which it is known (IR12.4.8).

16. For the reasons given by the Inspector at IR12.4.9 – 12.4.16, the Secretary of State agrees with him that, overall, the significance of the visual effect of the proposal would be high, permanent and adverse (IR12.4.17) and that little weight should be attached to the appellant's view that the proposal would rectify what the White Report called "homogeneous and monotonous" existing development (IR12.4.16).

17. In conclusion on this matter, like the Inspector (IR12.4.18), the Secretary of State finds that the proposal would have a significant adverse effect on the character and appearance of the AONB and the setting of Stow and that, in this respect, it would not conserve the landscape or scenic beauty of the AONB, contrary to the aims of the Framework.

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The safety and convenience of highway users

18. The Secretary of State has given very careful consideration to the Inspector's analysis at IR12.5.1 – 2.5.16. Like the Inspector (IR12.5.1), the Secretary of State considers that the proposed highways works, which would reduce traffic speeds, have the potential to improve safety and he gives this consideration a little weight. For the reasons given by the Inspector in those paragraphs he too concludes overall that the effect of the proposal on the safety of highway users would be acceptable and whilst it would harm the convenience of highway users, by adding to congestion, this would not on its own justify refusal of planning permission (IR12.5.16).

Local services and infrastructure

19. Having had regard to the Inspector's remarks at IR12.6.1 – 12.6.4, the Secretary of State concurs with his view that, subject to the imposition of conditions, the proposal would make adequate provisions for the service and infrastructure needs generated by the appeal scheme, in accordance with the requirements of LP Policy 49 (IR12.6.4).

Whether the proposal would amount to sustainable development

20. Having had regard to the Inspector's remarks at IR12.8.1 – 12.8.2, the Secretary of State agrees with him that the proposed development of up to 146 dwellings would constitute major development in the AONB (IR12.8.2). Paragraph 116 of the Framework indicates that planning permission should be refused for major development in AONBs except in exceptional circumstances and where it can be demonstrated they are in the public interest. The Secretary of State has gone on to assess the appeal scheme against the three bullet points set out in paragraph 116 of the Framework.

The need for the development including in terms of any national considerations and the impact of permitting it or refusing it, upon the local economy

21. The Secretary of State agrees with the Inspector's comment that the proposal, which is "deliverable", would make a significant contribution towards housing land

supply in a District where the level of supply falls significantly short of the 5 year requirement set out in the Framework (IR12.8.3). He also agrees with the Inspector (IR12.8.5) that the proposal would provide up to 73 units of affordable housing. Like the Inspector he considers that, overall, the proposal would make a significant contribution towards meeting the District's market and affordable housing needs; that it would comply with LP Policy 21 and would be consistent with the aims of the Framework as regards meeting the Council's requirements with respect to market and affordable housing supply (IR12.8.6). The Secretary of State also agrees with the Inspector (IR12.8.6) that these matters carry substantial weight in favour of the scheme.

22. The Secretary of State has given careful consideration to the Inspector's comments at IR12.8.7 – 12.8.10. Like the Inspector, the Secretary of State is unable to endorse the specific figure for new dwellings in Stow set out in the LPe, but he agrees that it appears likely that some development will have to take place within the AONB at Stow if future housing needs are to be met and that some of this growth will be on greenfield land at the periphery of the settlement (IR12.8.9). He agrees with the Inspector that the appeal proposal would contribute to meeting that need (IR12.8.9). He also agrees with the Inspector (IR12.8.10) that the appeal proposal would easily meet a requirement for 27 units of affordable housing.

23. For the reasons given by the Inspector (IR12.8.11-12.8.13), the Secretary of State agrees with his conclusion that, setting to one side the question of whether there are likely to be alternatives, overall, the scheme would be unlikely to provide a significant benefit to the local economy (IR12.8.14).

The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need in some other way

24. The Secretary of State agrees with the Inspector that the contribution made by the proposal towards making up the shortfall in the District's 5 year supply of housing land could not be met elsewhere or in some other way, and that the same could be said for the provision of 73 units of affordable housing (IR12.8.15). Like the Inspector (IR12.8.15), he considers that these contributions towards meeting the District's housing needs attract substantial weight.

25. Having had regard to the Inspector's analysis (IR12.8.16 – 12.8.22) on this matter with respect to Stow's housing requirements, as considered at the inquiry, the Secretary of State agrees with the Inspector, for the reasons he gives, that it appears likely that there is significant scope for meeting the housing requirement for Stow, as currently identified in the LPe, other than through the development of the appeal site as proposed (IR12.8.22). Like the Inspector, he considers that this offers the potential to cause less harm to the character and appearance of the AONB and setting of Stow, and consequently tourism and the local economy (IR12.8.22). In common with the Inspector, under the circumstances he describes, the Secretary of State gives little weight to the benefits of meeting Stow's housing requirements (IR12.8.22).

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Any detrimental effect on the landscape, environment and recreational opportunities, and the extent to which that could be moderated

26. The Secretary of State agrees with the Inspector, for the reasons given at IR12.8.23, that the appeal proposal would not conserve the landscape or scenic beauty of the AONB, contrary to the aims of the Framework, and that this is a matter which weighs heavily against the grant of planning permission.

27. For the reasons given by the Inspector, the Secretary of State shares his view that little weight should be attached to the likely impact of the scheme in terms of increased greenhouse gas emissions from car usage (IR12.8.24). He further agrees with the Inspector that the loss of Best and Most Versatile Agricultural Land resulting from the proposal does not weigh against the scheme (IR12.8.25). The Secretary of State sees no reason to disagree with the Inspector's view that the proposal would provide some enhancement of biodiversity within the site overall and that, whilst in some respects the scheme would accord with the aims of paragraph 118 of the Framework, these are common requirements of development and he too attaches little weight to them (IR12.8.26). For the reasons given by the Inspector at IR12.8.27, the Secretary of State gives the scheme's identified benefits in terms of recreational opportunities little weight. In common with the Inspector, the Secretary of State concludes that, in this particular case, the environmental and recreational opportunity benefits of the scheme would be relatively minor overall, whereas the landscape harm would be considerable (IR12.8.28).

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Conditions

28. The Secretary of State has considered the proposed conditions at appendix D of the IR, the Inspector's remarks at IR11.1 – 11.7, national policy set out at paragraphs 203 and 206 of the Framework and the Guidance. For the reasons given by the Inspector, the Secretary of State is satisfied that the conditions recommended by the Inspector are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that these conditions overcome his reasons for dismissing the appeal.

Obligations

29. The Secretary of State has given careful consideration to the unilateral undertakings, the s106 agreement, the Inspector's comments on these obligations at IR1.6.1 and IR10.1 – 10.9, national policy set out at paragraphs 203-205 of the Framework, the Guidance and the CIL Regulations. The Secretary of State agrees with the Inspector that the submitted obligations meet the tests of CIL Regulation 122 (IR10.4, IR10.6, 10.7 and IR10.8) and the tests set out at paragraph 204 of the Framework. However, he does not consider that they overcome his reasons for refusing the appeal.

Overall Conclusions

30. The Secretary of State has carefully considered the Inspector's conclusions at IR12.8.29 – 12.8.33. He has concluded (at paragraph 12 above) that the Council cannot demonstrate a 5 year supply of deliverable housing sites; that LP Policy 19 is a relevant policy for the supply of housing; and, having had regard to paragraph 49 of the Framework, he has not given weight to the scheme's conflict

with LP Policy 19. The Secretary of State has had particular regard to paragraphs 14 and 116 of the Framework which are summarised by the Inspector at IR12.8.29.

31. The Secretary of State has concluded (at paragraph 17 above) that the appeal proposal would have a significant adverse effect on the character and appearance of the AONB and the setting of Stow and that, in this respect, it would not conserve the landscape or scenic beauty of the AONB, contrary to the aims of the Framework. Having taken account of paragraph 115 of the Framework, like the Inspector (IR12.8.30), the Secretary of State attaches great weight to the harm which the scheme would cause to the AONB.

32. The Secretary of State agrees with the Inspector's summary of the scheme's benefits (IR12.8.31). He has found that the District cannot demonstrate a five year housing land supply and that its housing needs cannot be met elsewhere (paragraph 24 above) and, as indicated at paragraphs 21 and 24 above, he considers that, in these circumstances, the scheme's contribution to meeting the District's market and affordable housing needs carries substantial weight. Like the Inspector (IR12.8.32), he has given little weight to the benefits of the scheme in meeting the housing needs in Stow (paragraph 25 above) and to the limited environment and recreational opportunities benefits of the scheme (paragraph 27 above). He has also given a little weight to the possibility that the appeal scheme would improve highway safety along the A436 in the vicinity of the site (paragraph 18 above).

33. The Secretary of State concludes that, notwithstanding the absence of any identified conflict with the provisions of the development plan, other than LP Policy 19, having weighed up the material considerations before him, he finds that the benefits of the proposal would be far outweighed by the environmental harm that it would cause. Like the Inspector (IR12.8.33), he does not consider that the exceptional circumstances necessary to justify this major development in the AONB exist and he does not consider that the scheme would be in the public interest. In relation to paragraph 14 of the Framework, the Secretary of State concludes that the adverse impacts of granting planning permission in this case would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

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Formal Decision

34. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for up to 146 dwellings including access, car parking, open space, landscaping and associated works at land at Oddington Road, Stow-on-the-Wold, GL54 1AL in accordance with application number 13/01856/OUT dated 26 April 2013.

Right to challenge the decision

35. 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.

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

Yours faithfully

Christine Symes

Christine Symes
Authorised by Secretary of State to sign in that behalf

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The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by I Jenkins BSc CEng MICE MCIWEM

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

Date: 27 February 2015

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TOWN AND COUNTRY PLANNING ACT 1990

COTSWOLD DISTRICT COUNCIL

APPEAL BY

BOVIS HOMES LIMITED

Inquiry opened on 7 January 2014

Land at Oddington Road, Stow-on-the-Wold, GL54 1AL

File Ref: APP/F1610/A/13/2203411

File Ref: APP/F1610/A/13/2203411
Land at Oddington Road, Stow-on-the-Wold, GL54 1AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Bovis Homes Limited against Cotswold District Council.
- The application Ref 13/01856/OUT is dated 26 April 2013.
- The development proposed is the erection of up to 146 dwellings including access, car parking, open space, landscaping and associated works.

Summary of Recommendation: That the appeal be dismissed and planning permission refused.

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1. PROCEDURAL MATTERS

1.1 Whilst I was initially appointed by the Secretary of State for Communities and Local Government to determine this appeal, on 1 May 2014, in exercise of his powers under section 79 and paragraph 3 of Schedule 6 of the *Town and Country Planning Act 1990*, the Secretary of State issued a Direction to the effect that he will determine the appeal himself. The reason given for the Direction is that the appeal involves proposals for residential development on a site 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.[1]

1.2 Statements of Common Ground

1.2.1 The following Statements of Common Ground, setting out matters agreed as well as differences between the parties that were signatories to them, were submitted by:

- The Council and the appellant
  - Statement of Common Ground, dated November 2013 (SoCG).
  - Updated Statement of Common Ground, dated January 2014 (uSoCG).[2]
  - Supplemental Statement of Common Ground, dated September 2014 (SSoCG).[3]
- The Council and Gloucestershire County Council, as Highway Authority.
  - Statement of Common Ground-Transportation and Highways, dated December 2013 (HSoCG).

1.3 Plans

1.3.1 At the start of the Inquiry, the appellant requested that I determine the appeal on the basis of a revised application site boundary, shown on drawing no. C1558 P004 Rev A, which omits a small area of land originally shown at the northeastern corner of the site. The appellant confirmed that the area had been included by mistake on drawing no. C1558 P004 and the revised drawing is consistent with the title for the site. There were no objections to the request from those present at the Inquiry. I determined that it would be unlikely to prejudice the interests of anyone to do so and confirmed that I would take the revised drawing into account.

1.4 The Inquiry

1.4.1 The Inquiry sat for 7 days in total, on: 7-8 January 2014; 25-28 March 2014; and, 4 November 2014. An accompanied site visit was undertaken on the 8 January 2014, in addition to which a number of unaccompanied site visits have been conducted. I explain below the circumstances leading to

[1] ID104.
[2] ID21.
[3] ID120.

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the adjournments between 8 January-25 March 2014 and 28 March-4 November 2014.

1.4.2 The SoCG, which was published before the Inquiry, indicated that the Council was able demonstrate a supply of deliverable housing land in the range 3.5-3.8 years. However, it also indicated that, if it published new housing land supply figures before the Inquiry, it would update this position. At the start of the Inquiry, the Council sought to submit into evidence its *5 Year Housing Land Supply December 2013* (HLSD) update, which suggested that it was able to demonstrate around a 4.3 year supply of deliverable housing land, once a 20% buffer was accounted for[4]. The Council had sent a copy to the appellant on 19 December 2013. In addition, the Campaign to Protect Rural England (CPRE) sought to submit an updated letter of objection, in which it argued that the Council was able to demonstrate a 5 year supply of housing land on the basis of household projection figures issued by the Department for Communities and Local Government[5]. There were no objections to the submission of those documents, I considered them to be relevant and so accepted them into evidence. On the first day I posed a number of related questions to the Council's planning witness.

1.4.3 Subsequently, on the 8 January 2014, the appellant requested that the Inquiry be adjourned to allow it a fair opportunity to deal with the new housing land supply evidence submitted on the first day. In support of this request, the appellant indicated that it could not reasonably have anticipated: that the Council would depart from the SoCG; the CPRE's new evidence; or that I would entertain the associated arguments. It cited *The Queen on the application of Edward Poole v Secretary of State for Communities and Local Government, Cannock Chase District Council [2008] EWHC 676 (Admin)*[6] in support of the request. I confirmed that housing land supply is a material consideration and where factors are weighed in the balance, it may be very important. The HLSD indicated a material change from the SoCG in terms of the housing land supply position. Whilst the HLSD was sent to the appellant on the 19 December 2013, there was insufficient time for it to prepare to deal with it at the Inquiry, not least due to the intervention of the holiday period. I therefore, agreed to the appellant's request in the interests of providing it with a 'fair crack of the whip'. I adjourned the Inquiry on 8 January 2014 until 25 March 2014.

1.4.4 The Inquiry resumed on the 25 March 2014 and was programmed to sit until 28 March 2014. On the 28 March 2014 the appellant and Stow Town Council (STC) sought to submit new documents concerning highway matters, prompted by evidence that had already been given[7]. The new evidence was relevant to the matters under consideration and so I accepted its submission. However, there was insufficient time available that day to allow the parties to the Inquiry to address those submissions as well as to deal with other outstanding matters. With the agreement of those present,

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[4] ID13.
[5] ID4.
[6] ID18.
[7] ID79, 80, 81.

having dealt with all other matters and heard closing submissions on the evidence to date, I adjourned the Inquiry on 28 March 2014 in order to allow the parties to have an opportunity to address, through written representations, the new evidence on highway matters. A timetable for those written representations was agreed at the Inquiry and I discouraged those present from using the continuation of the proceedings as an opportunity to provide late evidence on other matters. I indicated that, if those conditions were adhered to, I anticipated that I would be able to close the Inquiry in writing once the agreed actions were complete. However, if as a result of submissions made, I considered it necessary to do so, I would resume the adjourned Inquiry.

1.4.5 The agreed timetable included a date for the submission of comments by STC of 18 April 2014, following which the appellant would be given the opportunity of having the final say on the matter, in accordance with normal practice, by 25 April 2014. In an email to the Planning Inspectorate, dated 1 May 2014, STC requested an opportunity to respond to the appellant's final highway comments[8]. However, it appeared to me that the appellant's final comments did not raise any new matters, which had not already been referred to in the evidence before the Inquiry. I considered therefore, that STC had already had a fair and reasonable opportunity to respond to the appellant's evidence and put its own case on this particular issue. Consequently, I declined STC's request to comment further on that evidence.

1.4.6 However, in its email to the Planning Inspectorate, dated 29 April 2014, the Council requested that I take account of its updated housing land supply position, set out in its *5 Year Housing Land Supply May 2014 (HLSM)* document[9]. This document appeared to indicate that the supply position had significantly improved relative to that set out by Council at the Inquiry in March 2014, suggesting that it was able to demonstrate a 5 year supply of deliverable housing sites. The appellant objected to the Council's request on the basis of its view that with the exception of the residual highways issues, all other matters had been dealt with and that at no stage was it agreed that any additional or further information should be submitted by any party. Furthermore, if the Council's request were to be granted, the whole Inquiry would have to be re-opened[10].

1.4.7 I determined that the circumstances were materially different from those envisaged when I adjourned the Inquiry in March 2014. The Secretary of State had recovered the authority for the determination of the appeal and in my judgement, it was likely that he would wish to be appraised with respect to the reliability of the Council's latest housing land supply claim, not least as its inability to demonstrate a 5 year supply of housing land has been identified at the Inquiry by the appellant as a decisive factor in the case. Under the circumstances, I considered that it would be necessary to accept the Council's submission into evidence and to give interested parties an opportunity to comment upon it. Furthermore, it would be necessary to

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[8] ID105.
[9] ID102.
[10] ID103 and 107.

resume the Inquiry to deal with that specific matter, as cross-examination was likely to be required. A resumption date of 4 November 2014 was arranged and publicised.

1.4.8 On 22 September 2014 STC wrote to the Planning Inspectorate providing further written evidence related to the highway impacts of the scheme, which had come to light during the adjournment[11]. I considered that, whilst relevant, the correspondence added little to the previous submissions made by STC. On that basis I confirmed that further consideration of this issue at the resumed Inquiry would not be justified. However, the letter was accepted as a written representation, in relation to which the appellant was given an opportunity to respond in writing prior to the resumption of the Inquiry. The appellant chose not to respond.

1.4.9 Prior to the resumption of the Inquiry, the Council and appellant agreed the SSoCG, which indicated that, contrary to the position set out in its HLSM, the Council is unable to demonstrate a 5 year supply of housing land. The Council and appellant suggested that under these circumstances, there was no need for the Inquiry to resume. I determined that it would still be necessary to resume the Inquiry, at least to examine the evidence submitted by those who are not party to the SSoCG. The Inquiry resumed and closed on 4 November 2014. Although the Council chose not to submit any further evidence at that session, 2 witnesses gave evidence on behalf of the appellant.

1.5 Environmental Impact Assessment

1.5.1 On 27 March 2013 the Council issued a Screening Opinion, under Regulation 5 of the *Town and Country Planning (Environmental Impact Assessment) Regulations 2011*, to the effect that the proposed development is not EIA development. On 30 August 2013 the Secretary of State, in response to a request from the appellant for a Screening Direction, indicated that, having considered the Council's Screening Opinion as well as other evidence submitted, he saw no need to issue a Screening Direction and declined the request[12]. I have no reason to dispute the finding of the Council's Screening Opinion.

1.6 Planning obligations

1.6.1 During the course of the Inquiry, the appellant has provided 2 unilateral undertakings pursuant to section 106 (S106) of the *Town and Country Planning Act 1990*. The first secures planning obligations related to education and libraries (UU1)[13] and the second, planning obligations associated with public open space, surface water drainage, changing room facilities and cycle shelter facilities (UU2)[14]. In addition, there is an agreement pursuant to S106 between the appellant, GCC and others with an interest in the appeal site, which secures planning obligations associated

[11] ID115.
[12] PR Appendix 7.
[13] ID87.
[14] ID86.

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with the implementation of a Travel Plan (A1)[15]. I have considered them in light of the statutory tests set out in Regulation 122 of the *Community Infrastructure Levy Regulations 2010* (the tests of CIL Regulation 122).

1.7 The Report

1.7.1 In this report I set out the main substance of the cases for the parties who appeared at the Inquiry, summarise the main points raised in the written representations submitted as well as review suggested conditions and submitted planning obligations. I then set out my conclusions and my recommendations to the Secretary of State. Appended to the report are lists of:

- Appearances at the Inquiry;
- Inquiry documents submitted by the parties;
- A schedule of abbreviations; and,
- A schedule of conditions.

2. THE SITE AND SURROUNDINGS

2.1 The site comprises some 7.6 hectares of land located to the east of the King George V Playing Fields and residential properties situated in Griffin Close, Stow-on-the-Wold (Stow). The site comprises 2 agricultural fields, which are used in the main for arable farming and are partially divided by the remnants of a Cotswold stone wall.

2.2 The site is bounded: by treed hedgerows to the south, abutting the A436 Oddington Road; by treed hedgerows along the eastern and northern boundaries, where there are also remnants of Cotswold stone walls and beyond which is more agricultural land; and, to the west by the rear of properties in Griffin Close and the playing fields. The boundaries shared with existing properties are enclosed by a mixture of planting and fencing, while the boundary shared with the playing fields is marked by a low mound with sparse tree planting. The land within the site falls from the western boundary shared with King George V Playing Fields, from a high point of around 187 metres AOD, towards the northeastern corner of the site at around 160 metres AOD.

2.3 There is an existing vehicular access point to the site off Oddington Road, via a field gate.

2.4 The site, in common with all the land around and within Stow, is situated within the Cotswolds Area of Outstanding Natural Beauty (AONB).

3. THE PROPOSAL

3.1 The development for which planning permission is sought in this case is described on the planning application as '*erection of up to 146 dwellings including access, car parking, open space, landscaping and associated works*'. The application the subject of this appeal is in outline with all detailed matters, except access, reserved for future consideration.

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[15] ID96.

4. PLANNING POLICY

4.1 In this case the Statutory Development Plan comprises the saved Policies within the *Cotswold Local Plan 2001-2011, adopted in 2006* (LP). LP Policy 19 indicates that outside development boundaries, development appropriate to a rural area will be permitted, provided that the proposal relates well to existing development, meets the criteria set out in other relevant Policies of the Plan and would not: result in new-build open market housing other than that which would help to 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; and result in development that significantly compromises the principles of sustainable development.[16]

4.2 LP Policy 21 indicates that a proportion of affordable housing will be sought as part of the development of any significant site. The reasoned justification for the Policy indicates that a contribution of up to 50% will be required[17]. LP Policy 34 indicates that in new residential development, provision may be required for a variety of appropriately located and landscaped open spaces as well as for children's play areas. The Council may seek a planning obligation to ensure future maintenance of such spaces[18]. LP Policy 38 requires that traffic arising from development shall not have an unacceptably detrimental effect on the highway network in respect of the movement of traffic and road safety. The overall design and layout of the development must incorporate appropriate measures to increase accessibility and movement by alternative modes of transport to the car and where improvements are required to adequately access transport infrastructure appropriate provision will be sought[19]. LP Policy 45 identifies that where a development site contains, or is bounded by, Cotswolds dry-stone or other walls, whatever their condition, every effort should be made to protect and repair them, re-using local stone wherever possible, as part of the development proposal. LP Policy 49 indicates that in order to achieve sustainable development, proposals will only be permitted if the service and infrastructure needs generated by the development are fully met[20].

4.3 The Council is currently preparing a new Local Plan, which is proposed to cover the period 2011-2031. *The Local Plan Consultation Paper: Preferred Development Strategy May 2013-Help Shape the Future* was published in May 2013 (LPe)[21]. The LPe is still at a relatively early stage towards adoption.

4.4 The publication of the national *Planning Practice Guidance* (PPG), in March 2014, was drawn to the attention of participants at the Inquiry, who have had an opportunity to comment on its impact, if any, on their cases.

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[16] P6 Appendix 13 page 41.
[17] P6 Appendix 13 page 46.
[18] P1 Appendix 19.
[19] P1 Appendix 5.
[20] P1 Appendix 14.
[21] P6 Appendix 14.

4.5 In September 2013 the Council accepted an application from STC to prepare a Neighbourhood Plan for the Parish of Stow-on-the-Wold. At the last session of the Inquiry, STC confirmed that whilst a team has been assembled to produce the Neighbourhood Plan, a draft document has yet to be produced.

5. PLANNING HISTORY

5.1 Planning permission for residential development of the appeal site or parts of it has been refused on a number of occasions, as set out in the uSoCG[22]. However, none of the schemes, which involved a smaller number of dwellings, are directly comparable to the proposal the subject of this appeal.

6. THE CASE FOR COTSWOLD DISTRICT COUNCIL (the Council)

6.1 Suggested reasons for refusal

6.1.1 Following the decision of the appellant to appeal on the grounds of non-determination, it was decided under delegated powers that were the Council still in a position to do so, it would have refused planning permission for the following 8 reasons (reasons for refusal):

1) The proposed residential development is located outside of a development boundary where it would have a significant adverse impact on the character and appearance of the AONB and would be visually harmful to the rural setting of Stow. As such the proposal is contrary to LP Policy 19 and Government guidance contained within the National Planning Policy Framework (the Framework).

2) Insufficient evidence has been submitted to demonstrate that the proposed development would not prejudice highway safety. As such the scheme is contrary to LP Policy 38 and the Framework.

3) The proposed development would result in the loss of Grade 3a agricultural land, which is defined by the Framework as the best and most versatile agricultural land (BMVAL). The applicant has not demonstrated why poorer quality agricultural land cannot be used in preference to the Grade 3a agricultural land that is contained within the site and as such the proposal is contrary to paragraph 112 of the Framework.

4) Without the completion of a legal agreement to secure the provision of 50% affordable housing, the proposal would be contrary to LP Policy 21 and the Framework.

5) Without completion of a legal agreement to secure funding for a Travel Plan and cycle parking facilities, the proposal would be contrary to LP Policies 38 and 49 and the Framework.

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[22] ID21 uSoCG para 4.1.

6) Without completion of a legal agreement to secure a contribution towards pre-school, local education and library facilities, the proposal would be contrary to LP Policy 49 and the Framework.

7) Without the completion of a legal agreement to secure the long term management and maintenance of the proposed public open space and surface water drainage system, the proposal would be contrary to LP Policies 34 and 49 and the Framework.

8) Without completion of a legal agreement to secure a contribution towards the provision of changing room facilities on the adjoining King George V Playing Fields, the proposal would be contrary to LP Policy 49 and the Framework.

6.1.2 However, following confirmation from the Highway Authority, dated 27 November 2013, that it had no objection to the proposal, subject to the completion of a section 106 agreement securing a Travel Plan and imposition of a number of conditions, the Council has withdrawn reason for refusal 2)[23]. Furthermore, the Council has confirmed in the SoCG that its reasons for refusal 4)-8) can potentially be dealt with in a S106 Agreement or Unilateral Undertaking[24]. During the course of the Inquiry the appellant has submitted UU1, UU2 and A1, in light of which the Council is content that its concerns set out in its reasons for refusal 5)-8) have been satisfactorily addressed. Furthermore, reason for refusal 4) can be dealt with through the imposition of a suitable condition.

6.1.3 At the start of the Inquiry, the Council identified that the Agricultural Land Assessment (ALA)[25], submitted by the appellant in support of the appeal, indicates that the majority of the land around Stow can be classified as BMVAL. The Council does not have any evidence to the contrary and consequently withdraws its objection based on reason for refusal 3).

6.1.4 The key issue in this appeal remains the balancing of the provision of housing, including Affordable Housing, with the impact that the development would have on the AONB and on the setting of Stow.

6.2 The policy context

6.2.1 The appeal site lies outside the defined settlement boundary for Stow, as shown on the LP Proposals Map. Whilst the LP was adopted in 2006, it was not prepared in accordance with the *Planning and Compulsory Purchase Act 2004*. Instead it was prepared in accordance with the requirements of the *Planning and Compensation Act 1991*. As such, in accordance with paragraph 215 of the Framework, due weight should be given to relevant 'saved' policies in the LP according to their degree of consistency with the Framework.

6.2.2 The policy context for this balancing exercise is relatively straightforward. The Council for its part accepts that LP Policy 19 can be considered 'out of date' because there is no demonstrable 5 year housing land supply.

[23] ID21 uSoCG para 6.1(14).
[24] ID21 uSoCG para 8.2.
[25] P6 Appendix 23 page 13.

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The appellant for its part accepts that this proposal is major development in the AONB. This means that (a) the presumption in favour of sustainable development is to be applied through the application of the 'specific policy' on AONB, with reference to paragraph 14 footnote 9 of the Framework[26] and (b) exceptional circumstances must be shown to justify it and it must be demonstrably in the public interest, with reference to paragraph 116 of the Framework. If the development meets this test, it will be sustainable development; if it does not, it will not be[27]. The key question remains therefore whether exceptional circumstances have been shown by the appellant[28].

The Tetbury and Bourton Appeal Decisions

6.2.3 Before considering the elements on each side of the balancing exercise, it is helpful to consider the Tetbury[29] and Bourton[30] appeal decisions which have been relied upon by the appellant in part, in relation to the general balancing exercise that was carried out. In all three cases a deficit in the housing land supply was found to outweigh the impact on the AONB sufficiently to allow development to be permitted. The appellant says that a similar balance should be struck here. However, the appellant's reliance on these appeal decisions is flawed for three reasons.

6.2.4 Firstly, because they relate to their own specific facts. Even leaving aside the question of whether the housing land supply position may have changed, gauging impact on the AONB is an inherently site specific process.

6.2.5 Secondly, and related to this first point, in those cases the only harm identified to the AONB was the simple loss of open land to development[31]. Indeed, the Highfield Farm site had support from the Council's *Study of Land surrounding Key Settlements in the Cotswold District June 2000 (the* White Report)[32] and the site of the Berrells Road development was found to make little contribution to the AONB[33]. The Bourton site was surrounded on three sides by the town and on the fourth by a busy main road which acted as a clear physical and visual divide from the wider countryside[34]. In this case, by contrast, the Council through the evidence of Mr Overall and by reference to the White Report have identified particular harm to the AONB that would result from the development of this site. Mr Overall identified the ways in which this proposal was different to the Bourton proposal, on which particular reliance has been placed by the appellant.

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[26] Mr Eaton confirmed in ReX, there is only one presumption in NPPF14. The remainder of the paragraph explains how that presumption is to be applied in various different contexts

[27] Framework para 6.

[28] Throughout these submissions the expression 'exceptional circumstances' is used as a shorthand for the full test required to be met by NPPF116

[29] P6 Appendices 8 and 9.

[30] P8 Appendix 8.

[31] P6 Appendix 8-Highfield Farm Inspector's Report paras 14.53-56, Secretray of States deciision para 21; P6 Appendix 9-Berrells Road Inspector's Report para 13.54, Secretary of States decision para 21; P8 Appendix 8-Bourton Inspectors's decision paras 72-75).

[32] Inspector's Report para 14.54.

[33] Inspector's Report para 13.54.

[34] Inspector's decision para 69.

6.2.6 Thirdly, both Tetbury appeal decisions, and indeed the High Court decision on the challenge to those decisions, pre-date the Court of Appeal's judgment in *Hunston Properties* [2013] EWCA Civ 1610[35], which was not cited to the Bourton Inspector either. For reasons addressed below, that case has clarified significantly the approach to be taken to a housing supply shortfall in a district significantly constrained by an AONB. Accordingly, for all these reasons, they cannot be relied upon.

6.3 Harm to the AONB and the setting of Stow-on-the-Wold

6.3.1 The main factor weighing against the development is harm to the AONB. This partly consists in the simple harm that is occasioned by the loss of green fields to a residential development of this intensity. A more in depth analysis, however, also shows specific harm to the AONB caused by the impact of this development in this location on its landscape and scenic beauty.

6.3.2 In conducting this exercise, it is necessary to remember that the application is an outline application, with all matters save access reserved. The council is not objecting to the development on design grounds; to do so would be irrational. It is clear from the landscape officer's comments[36] that the objection has from the outset been an 'in principle' one to a development of this size on this site. He observes that '*the centre of the town is built on the exposed ridge top and this proposal would extend development where it is most exposed to the open views from the east……. The proposed mass and scale of housing would completely change the character of the rolling countryside, typical of the farmed slopes as defined in this character area*'. These concerns are reflected in the reason for refusal. Paragraph 6.14 of the uSoCG must be read in the same light. The Council does not accept and has never accepted that the development could be made acceptable by landscaping. Otherwise the appeal would not have been contested.

6.3.3 The officer also considered design issues. These are of secondary importance and only of relevance to the extent that the impacts identified as a result of the development can be successfully mitigated. The council's case is that, owing to the amount of development proposed and the nature of the impacts on the AONB, design solutions cannot achieve any significant mitigation of those impacts. Mr Overall's evidence makes this clear. The reasons for it will be explained below.

6.3.4 In demonstrating the nature and magnitude of the impacts on the AONB, the council relies on the evidence of Mr Overall, which was not shaken nor materially altered by cross-examination. The key points of difference between the parties in terms of the landscape and visual impacts of the development, and in respect of the setting of Stow are as follows.

Landscape impacts

6.3.5 The Council does not agree with the position set out in the appellant's *Landscape and Visual Impact Assessment, April 2013* (ALVIA) to the effect

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[35] P13 Appendix 5.
[36] P10 Appendix 2.

that the appeal site is '*degraded and exhibits a wide range of urbanising features. As such it is not representative of the broader landscapes associated with the AONB. In terms of sensitivity, given its urban context, its enclosure from the wider landscape and associated urbanising features it is judged to be of low sensitivity'*[37].

6.3.6 In landscape terms, Mr Overall's assessment of the site's value and contribution to this part of the wider AONB is informed by a rigorous consideration of its features against the relevant characteristics of area. It lies within Landscape Character Type (LCT) 15B: Vale of Moreton Farmed Slopes referred to in the Cotswold Conservation Board's *Cotswolds AONB Landscape Character Assessment* (CLCA) and *Cotswold AONB Landscape Strategy and Guidelines* (LSaG)[38]. The results of this analysis[39] indicate that the key features of the site are its sloping topography, medium field size, open agricultural land use and geometric field pattern. Taken together these mean that the site is perceived as a part of the 'transitional' landscape of the Farmed Slopes, bridging the gap between the High Wold Plateau (LCT 7C) above and the Vale of Moreton (LCT 17B) below. As a result he concludes that the site is of high sensitivity.

6.3.7 It is surprising that there is no similar analysis in the appellant's ALVIA, which merely lists the characteristics of the farmed slopes without considering how well the site fits into that character. Instead, the key pages of the ALVIA in this regard[40] appear mainly concerned with the state of the boundary treatments, particularly to the northwest; this approach has no basis in landscape character assessment. It is unduly focussed on the site itself at the expense of a consideration of how its features relate to the wider landscape. Mr Tisdall repeatedly said that the site needed to be assessed 'on its merits', but it was not at all clear what he was assessing it against so as to conclude that it was 'not representative' of the wider AONB. However, when invited to consider the elements drawn from the CLCA/LSaG he did very fairly accept that the site *was* representative of this part of the AONB[41].

6.3.8 There is also an attempt to argue that the site is somehow 'urban' or more specifically that it 'displays a wide range of urbanizing features'. In the context of a site accepted by the appellant to be characterised by its agricultural use and topographical form[42], this comment makes little sense. It would apply equally or to a greater extent, as Mr Tisdall accepted, to a large number of other sites on settlement boundaries throughout the AONB. The settlement boundary location of the site clearly does have an influence on it, as Mr Overall fully accepted, but given the limited boundary the site shares with the settlement this influence is by no means as great as the

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[37] P2 para 4.86.

[38] As the Bourton Inspector said at para 76 (P7 Appendix 8), the LCAs are not policy documents and do not guide the distribution of development (or at least, not directly). What they do is guide the assessment process. Without this benchmark, the assessor has 'little other tools if not none' to assess the contribution made by a particular site to the AONB (Overall ReX).

[39] P2 table 5 and paras 4.85-4.93.

[40] ALVIA pages 16-17 and 27.

[41] Cross-examination of Tisdall.

[42] ID21 uSoCG para 3.4.

appellant suggested. Mr Tisdall accepted that the impact is proportional to the length of boundary shared with the settlement; identified by Mr Overall as half of one side[43]. The Inspector is invited to form his own judgement as to the extent of any influence here in the light of this acknowledgement.

6.3.9 Mr Tisdall's blinkered and incorrect characterisation feeds into his assessment of the site as being of 'ordinary' quality and 'low' sensitivity despite its 'high' value. It is not clear how this conclusion is reached even on the appellant's judgements about the site. Mr Tisdall did accept, eventually, that the 'value' of the site was relevant to its sensitivity, even as he defined it, but he was not able to show how the admittedly 'high' value of the site had been taken into account in his assessment of its significance. Indeed, it was not clear how his assessment of sensitivity, set out in paragraph 6.3 of the ALVIA, would be different if the site was not in the AONB. In all the circumstances, it is suggested that the Council's assessment of sensitivity is to be preferred.

6.3.10 The same errors carry through into the appellant's assessment of the magnitude of the change in landscape terms. It seems extraordinary to suggest that a development of 146 houses on a greenfield site, agreed to be a 'major' development in policy terms, would have a 'low, beneficial' impact on the landscape. This bizarre result is only reached as a result of the appellant's excessive focus on the condition of the boundaries to the site. Mr Tisdall also accepted that he had given 'moderate weight' in assessing the magnitude of the impact, as the proposal would not have an effect on the AONB as a whole; a platitude which would apply to any conceivable proposed development in the AONB. The fact that this was his approach in his assessment of magnitude further undermines the reliability of his judgement.

6.3.11 If, on the other hand, the focus is on the key characteristics of this landscape as defined by the CLCA, it is apparent that a development of the intensity proposed would inevitably cause the site to lose the key combination of open, agricultural character and geometric field pattern with sloping topography, which at present gives it a key transitional role as part of the 'Farmed Slopes'. Mr Tisdall accepted that this would be the result. This is particularly important given the location of the site at a 'pinch point' in the Farmed Slopes landscape area[44]. It forms a landscape buffer that separates the historic and unique hill top location of Stow from the wider Lowland Vale. It is important not only for its intrinsic landscape value, but also as the setting to an important settlement[45].

6.3.12 Although the current boundary features could be enhanced, they would cease to play any function in landscape terms as 'field boundaries' as the fields themselves would no longer exist. The result, as Mr Overall concludes, is that the long term impact of the development on landscape character, albeit mitigated by the comparatively small size of the appeal site, would be of moderate, adverse magnitude. In the context of a highly

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[43] P2 para 4.88.
[44] P2 Figure C
[45] P2 para 4.85.

sensitive site, this means a 'high, permanent, negative significance of landscape effect'[46]. It must be stressed that these are all *residual* effects, after mitigation has been taken into account.

6.3.13 This would not be ameliorated by mitigation measures. The character of the landscape will have been altered and its transitional role removed; its character will in the main necessarily be one of suburban housing. That is what causes the harm in landscape terms and it is not susceptible to mitigation. The question of screening is considered under visual impacts below.

Visual impacts

6.3.14 The zone of visual influence is now agreed by the Council and appellant, as are the representative viewpoints.

6.3.15 However, a key difference between the parties is as to the sensitivity of receptors. This can be assessed with a degree of objectivity. As Mr Tisdall very fairly accepted, there is guidance which suggests that public right of way users in the AONB should be treated as of 'high' sensitivity, the convention used by Mr Overall. Mr Tisdall's reason for downgrading their sensitivity in his assessment was that other receptors would be even more sensitive. That is unfortunate because it skews his final assessment of significance; a product of sensitivity and magnitude. This represents a further methodological error by Mr Tisdall.

6.3.16 The magnitude of the visual effect is tied to visibility of the landscape harm. In this respect the appellant has relied on mitigation in the form of landscaping/screening. As Mr Tisdall very fairly accepted this would do no more than filter views of the development, even in the summer. If it were to be made sufficiently dense to achieve a higher degree of screening, it would itself be out of character in this part of the AONB. The development would therefore be visible, and harmful, from the east as well as from other directions.

6.3.17 For example, Mr Overall's assessment indicates that existing views from the King George V Playing Fields provide sweeping undeveloped vistas over the AONB and beyond, which would be lost or substantially interfered with by the proposed housing close to the shared boundary. Mitigation planting would further substantially screen vistas. The magnitude of effect would be negative and of high significance[47].

6.3.18 Views are also obtained from a number of locations to the north along Monarch's Way, which is a heavily used byway. From there the full depth of the appeal proposals would be visible where currently only the northern most single plot depth at the edge of Stow is visible. The angle of view would lead to the appeal proposal visibly connecting the edge of Stow with the flat landscapes of the Vale.

6.3.19 Viewed from public rights of way to the east, the distance is a mitigating factor. However, as from the northern viewpoints, the strategic landscape

[46] P2 para 6.25-6.36.
[47] P2 table 5 page 105.

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importance of the appeal site is clearly evident and so would be the impacts. As the views are intermittent the adverse magnitude of effect would be medium[48].

6.3.20 The road network to the east of Stow would also provide views towards the proposed housing, although the visual receptors would be of a lower sensitivity, medium as the road is busy, and a magnitude of impact medium/adverse[49].

6.3.21 In relation to the scenic beauty of the AONB, the cumulative significance of the residual visual effects arising from the proposal would be high, permanent and adverse[50]. Again, Mr Overall's assessment of this harm is based on the residual impact of the development, after mitigation is taken into account.

Setting of Stow-on-the-Wold

6.3.22 Any assessment of the impact of the proposed development on the setting of Stow is conspicuous by its absence from the ALVIA.

6.3.23 By contrast, Mr Overall sets out a helpful assessment[51]. He refers to the hill top location of Stow, which Mr Tisdall agreed is unique in the Cotswolds. The estate to the east represents an '*ill-conceived immediate-response reaction to a housing shortage of the post-war era*', an intrusion in the landscape and a departure from the historic pattern of development at Stow. This much is accepted by Mr Tisdall. Inexplicably, however, he considered that the amount of development down the hill would have no influence on the scale of the impact on the setting of the town. It is submitted that there clearly is a relationship between the extent to which development extends down the hill and the impact on the unique setting of Stow, which at present remains perceptible. The proposed development would represent a further noticeable encroachment down the hill, marked by the creation of a suburbanising mini-roundabout, whatever is done to integrate its 'edge'. As such it would be particularly harmful to Stow's setting.

Conclusion

6.3.24 The assessment of landscape harm evidently includes a degree of subjective judgement. However, this judgement can be guided by the assessments of experts. The Inspector is invited to prefer the robust and clearly explained methodology and judgements of Mr Overall to Mr Tisdall's opaque and at times confusing approach. The 'White Report' entitled *Study of Land surrounding Key Settlements in the Cotswold District June 2000*, which Mr Tisdall agreed represented a competent landscape capacity assessment and another expert judgement which should not be lightly dismissed, must also be considered. So too should the LSaG, which indicates that development

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[48] Inspector's note: Mr Overall's evidence uses medium/moderate and adverse/negative interchangeably.
[49] P2 para 6.52.
[50] P2 para 6.72.
[51] P2 para 4.34-4.42.

in a location such as this, accompanied as it is by the mini-roundabout, would be of particular impact on the AONB.

6.3.25 What the White Report is particularly helpful in showing is that development of this site would do particular harm to the AONB. It cannot be characterised as 'just another field'; in the judgement of the Report's authors, as in that of Mr Overall, it plays an important part in conserving the scenic beauty of the AONB. This is apparent because the Report has clearly graded the site as less suitable for development than others which it assessed. A similar point can be made from Mr Overall's work on the alternative sites, although it is now accepted that these cannot provide alternative development on the same scale as that proposed, it is clear from his assessment that the development of this site is particularly harmful as compared to other sites in the AONB.

6.3.26 The appellant rejects all these sources of guidance on landscape impact and instead places reliance on the LPe, a document which was not referred to by either landscape witness in either their written or oral evidence until re-examination of Mr Tisdall. It is plainly not a sound basis for landscape assessment and is of such a coarse grain as to be of little assistance in assessing a particular proposal.

6.3.27 On balance, therefore, the Council's assessment of harm should be preferred. The harm thus identified is to be given 'great weight' in accordance with paragraph 115 of the Framework. In terms of paragraph 116 of the Framework, this feeds into the third bullet point.

6.4 Need for the development

6.4.1 A number of benefits have been suggested for the scheme, ranging from recreational and biodiversity benefits from the illustrative landscaping scheme to more general or generic benefits, such as the fact that it is compliant with the majority of LP policies. Whilst these are all matters to be taken into account in the balance, it is apparent that the need for housing and Affordable Housing forms the cornerstone of the appellant's case on exceptional circumstances. Quite simply, if there was not a housing land supply shortfall, this application would never have been made.

6.4.2 It has therefore been necessary to examine the housing land supply position in some detail.

Approach to housing land supply

6.4.3 The decision to reconvene the Inquiry in November 2014 was based on the publication of the Council's HLSM. This demonstrated a 5 year supply against the basic requirement figure of 345 dwellings per annum (dpa) which had previously been used by both the Council and the appellant at the March session of the Inquiry[52]. This figure was originally derived from the proposed changes to the draft Regional Spatial Strategy for the South West (dRSSW), which were published by the Secretary of State in 2008.

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[52] DD 2nd Rebuttal para 2.9 and calculation at 3.13; Wood para 4.2.

6.4.4 Subsequently, however, the decision of the Inspector in respect of Land South of Cirencester Road, Fairford (the Fairford decision) demonstrated that it was not correct to use this requirement figure[53]. The Fairford decision also concluded that the appropriate requirement figure was likely to be higher than the 405 dpa at which the Council would be able to demonstrate a 5 year supply. On this basis, the Council has now accepted that it is not able to demonstrate a 5 year supply of deliverable housing land. That much is common ground[54].

6.4.5 The appellant has also produced evidence directed at establishing an objectively assessed need (OAN) figure for Cotswold District between 2011 and 2031. This evidence concludes that the OAN is likely to be between 575 and 624 dpa. It is not common ground and is not accepted by the Council. Mr Coop, its author, notes that '*I am not inviting the Inspector into this section 78 appeal to conclude this figure to represent the FOAN for the purposes of the emerging Cotswold District Local Plan*'[55].

6.4.6 The Council agrees that the Inspector should not reach any conclusions as to the OAN figure that should in due course be used in the Local Plan process. Work is ongoing on the production of the Local Plan and the Council's concern is that this work should not be prejudiced by findings in section 78 appeal Inquiries. That work is not currently at a stage whereby the Council can assist the Inspector with a definitive OAN calculation of its own. Accordingly, the Council would welcome an express recognition in the Inspector's report and any subsequent decision letter by the Secretary of State that, whatever use may be made of them in the current context, the figures presented by Mr Coop are not being endorsed in any way for the purposes of the LPe. The observations in paragraph 22 of the Fairford decision are commended to the Inspector.

6.4.7 It is noted that the supply side of the Council's calculations is now no longer in dispute; the figures from the HLSM document have been adopted in Mr Dunlop's calculations for the appellant[56]. He confirmed in oral evidence that this supersedes his evidence on supply given in January and March 2014. On all the points of detail concerning supply, the Inspector is referred to Mrs Wood's rebuttal proof and invited to conclude them in the Council's favour. Accordingly, if the Inspector does decide to use Mr Coop's figures as the basis for the housing requirement in this appeal, the Council would not dispute the range of 3.36 to 3.6 years' supply as calculated by Mr Dunlop. This is in contrast to the figure of around 4.5 years previously relied on by the Council.

Wider implications

6.4.8 Assuming that the Inspector adopts the appellant's figures and concludes that the Council has a housing supply in the region of 3.5 years, the Council submits that there are no wider implications for the outcome of the appeal.

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[53] P9 Appendix 3.
[54] Supplemental SOCG, para 8.
[55] P13 para 2.3.
[56] P8 para 4.3.

6.4.9 The Council acknowledges that it cannot demonstrate a 5 year supply of deliverable housing land. From this, certain policy consequences flow, and would flow whatever the size of the shortfall. A shortfall of even one dwelling would mean, with reference to paragraph 49 of the Framework, that the relevant Local Plan policies can be considered to be out of date. This much is uncontroversial.

6.4.10 However, the appellant does not have to show a deficit in housing land supply. It has to show that there are exceptional circumstances which justify this major development in the AONB, and that it is in the public interest. In deciding whether this test is met it will be relevant to consider the extent of the shortfall in housing land supply and, for that matter, the extent of the need for Affordable Housing. This proposition was regarded as 'self-evident' by the Court of Appeal in the context of showing very special circumstances to justify Green Belt development in the *Hunston Properties judgement* at paragraph 28[57]; the same point must apply equally to the test in paragraph 116 of the Framework, as the Court itself implied at paragraph 29. Mr Dunlop was not able to suggest any material distinction.
The proposition that the scale of a need or harm is relevant to the weight it can be accorded is a basic proposition. It was not one that Mr Dunlop felt able to agree with either in this context or in the context of, say, harm to the AONB. With respect, this goes to the soundness of his judgement not the correctness of the proposition.

6.4.11 There is a further point which emerges from a consideration of the *Hunston Properties judgement.* This is that the Cotswolds is very significantly constrained by AONB; around 80%, as Mr Eaton confirmed in his oral evidence. This must be factored in when considering the weight to be accorded to the shortfall as against the objectively assessed needs figure. As the court observed at paragraph 32: '*there may be nothing special and certainly nothing 'very special' about a shortfall in a district which has very little undeveloped land outside the Green Belt*'. In the same way there is nothing 'exceptional' about some degree of shortfall in a district with 80% AONB coverage.

6.4.12 It follows that it is necessary to examine the scale of the shortfall.
The appellant's protestations to the contrary are strange given that they have previously sought to place reliance on the fact that the shortfall was 'serious'.

Scale of deficit

6.4.13 Although the appellant's position in this respect has marginally improved since the original Closing Submissions were delivered in March, the net effect has simply been to return matters to where they were when the application was originally considered. That is, a supply of around 3.5 years[58] or a shortfall of 1.5 years. This supply has been achieved in the context of a District significantly constrained by an AONB designation. Accordingly the Inspector can give weight to the fact that Cotswold District is 80% constrained by AONB in considering whether a shortfall of around

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[57] P13 Appendix 5.
[58] ID21 uSoCG para 6.1(12).

1.5 years, on the appellant's figures, is sufficiently 'exceptional' to justify this development. It remains the Council's position that there is nothing exceptional about such a figure when the significant AONB constraint is taken into account, as the *Hunston Properties judgement* allows.

6.5 Scope for meeting the need outside the AONB or in some other way

6.5.1 The appellant's response to this is likely to be that is all very well, but as there must be development at Stow and/or in the AONB, the harm that would be caused by this development is bound to occur somewhere or other, even if permission is refused here. This line of argument is flawed, for at least three reasons.

6.5.2 First, the evidence has shown, contrary to the view of the appellant, that development of this site at this intensity will cause 'special or particular harm' beyond the simple loss of open fields in the AONB.

6.5.3 Second, whilst a consideration of alternative sites is relevant, it is implicit in any situation where a local authority cannot demonstrate a 5 year supply of housing land that there are no identified alternative sites to meet the identified need for housing. This does not mean that proposals should always be permitted. Experience shows that many proposals will come forward and it is left to the local authority and the appeal system to determine which are most suitable, by balancing the specific harms against the benefits. That is what the Inspector is invited to do in this case. It is not simply a question of 'first come, first served' as the appellant would prefer.

6.5.4 Third, the Council acknowledges that relative to other settlements in the District public transport provision in Stow is reasonably good[59] and that some sites at the periphery of Stow will have to be developed if future housing needs are to be met[60]. The LPe identifies a requirement for up to 180 new dwellings at Stow during the plan period. The LPe indicates that of the identified requirement of 180 dwellings, 46 of those units are either already built or committed and so the required balance is 134 units. Some of Stow's housing need can be met from the alternative sites which were identified by Mr Eaton. Part of the appeal site could potentially be developed, but at a modest scale in keeping with the organic way in which Stow has traditionally met its housing needs. A development of around 10 houses[61] might be acceptable. The proposed development is not and there is no warrant for an argument which seeks to locate a significant proportion of the shortfall for the District on the appeal site.

6.6 Conclusion

6.6.1 The proposal would cause particular harm to the AONB and the setting of Stow. In terms of the *Hunston Properties judgement*, therefore, although the need for market and Affordable Housing should of course be given

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[59] P6 Appendix 19 page 169.
[60] ID21 uSoCG para 6.1 (5).
[61] The process of giving evidence is not a memory test. Whilst in his verabl evidence Mr Overall confirmed that a developmnet of 50 dwellings may be appropriate, his proof indicates that the figure of 10 houses represented his best estimate for the sort of scale of development which might be acceptable in landscape terms.

significant weight and the scheme would attract the new homes bonus, it is nevertheless not enough to show exceptional circumstances in the overall balance. The Council contends that the appeal should be dismissed and the Inspector is respectfully invited to recommend accordingly.

7. THE CASE FOR THE APPELLANT

7.1 Introduction

7.1.1 This application has been encouraged by, and responds to, the Coalition Government's 'Growth Agenda'. It proposes around 146 houses in one of the most sustainable locations in the District with a policy compliant amount of Affordable Housing. In both respects (market and affordable) the proposals address a need which both main parties agree must be met in this location.

7.1.2 In this context, it is extraordinary to note the extent and range of opposition to this proposal, which has emerged from some predictable, and some less predictable, sources. The local residents have organised themselves into an opposition group but they have been careful to avoid any consideration of the substantive merits of their case. Instead, they have been content to advance their disagreement with the professional consensus in every discipline addressed by them, without suggesting why the consensus should be overturned. The CPRE has attended to present a case wholly opposed to the Council on the calculation of housing land supply. This matter has come under careful scrutiny by both the CPRE and the Inspector. No complaint is made about that, as it is an essential and proper part of the Inquiry process that this matter should be carefully examined. The Council, itself, advanced eight separate reasons for rejecting the application, seven of which it eventually accepted as not constituting any barrier to the immediate grant of consent for the proposal.

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7.1.3 When the obfuscation and misconceived arguments are set to one side there is a single issue for determination at this appeal, namely: whether the need for housing land overcomes the policy restraint of building in the AONB? This is an old fashioned planning contest of need against harm, but it must be looked at and understood in the correct policy context. The Bourton appeal decision[62] is important here, as it provides the correct framework for decision making in this local policy context, in this administrative area, with this level of housing need and with the Framework approach, applied to this type of proposal. It is a remarkably similar situation and the comments of Lewis J. in Cotswold on the need to achieve consistency in the planning system (applying North Wiltshire) are extremely apposite[63].

7.1.4 The Council initially opposed the proposal on the grounds that it was not satisfied with the appellant's information addressing traffic impacts. The appellant has subsequently addressed all those concerns. It has addressed all technical issues with the Highway Authority, such that all qualified

[62] P8 Appendix 8.
[63] P6 Appendix 10 page 22 of 24.

experts agree that the proposals are acceptable in traffic and transport terms. This has been reflected in the HSoCG. It has addressed the concerns expressed by the lay members of the Town Council and other disparate third parties. Furthermore, it has dealt with the Inspector's residual questions. As a result, even the CPRE agrees that there is no reason on highways grounds to oppose the grant of consent, subject to agreed conditions and planning obligations.

7.1.5 The Council raised an issue regarding the loss of high grade agricultural land. However, shortly before the Inquiry opened, it abandoned that reason for refusal 3) in light of the findings of the appellant's ALA and it is now agreed with the Council that that issue is no longer relevant to the determination of the appeal. The ALA concluded it is likely that all the land peripheral to the settlement will be of Grade 2 or Grade 3a quality with only localised areas of lower quality. There are no areas around the town that are likely to comprise mostly of non-BMVAL. The appeal site represents some of, if not the poorest quality land around the settlement edge[64].

7.1.6 The other reasons for refusal related to planning obligations. All of these have now been addressed and the Council accepts that the proposed planning obligations are sufficient to overcome the concerns expressed in those reasons for refusal. They have therefore been abandoned.

7.2 Deliverability

7.2.1 The main parties agree that there is no impediment to the development of the appeal site and that it would be fully built out within 5 years of the grant of consent. It is significant that the CPRE agree with this, as it has applied an expert and critical eye to all aspects of these proposals and has found no basis to doubt the deliverability of the proposal.

7.2.2 The Inspector raised an issue about water supply and the treatment of foul water. However, the appellant explained that the statutory undertaker was presently working on a sewer up-grade, which will provide extra capacity in spring 2015, which would coincide with the first occupation of the appeal site. The water supply would connect in the usual way.

7.2.3 All parties therefore agree that the site could come forward now. It is available, achievable, viable and, as a consequence of the above, deliverable. All of the public interest benefits associated with housing delivery would be provided on this site in the short term and no one at the Inquiry has sought to suggest otherwise.

7.3 The main issue

7.3.1 It is the appellant's primary contention that this appeal is not determined by a balance of benefit against harm, as there is no harm. How can it be said that the erection of 146 dwellings on a greenfield site in the AONB causes no harm? The answer lies in considering the current appearance of this part of Stow with the post-mitigation proposals. The ugly, utilitarian, pebble-dashed eastern aspects of Stow would be hidden behind a modern development of vernacular buildings whose design, distribution, layout and

[64] P6 Appendix 23 para 6.5.

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landscape context could be carefully managed, so as to transform the current appearance from adverse to beneficial. It is only if this primary case is rejected that the appellant reverts to the secondary contention; namely, that the benefits of the proposal outweigh any harm and permission should therefore be granted on this basis.

7.4 The Development Plan

7.4.1 The Development Plan remains at the heart of the planning system both as a matter of policy and law. Whilst the first reason for refusal cites conflict with LP Policy 19, it suggests no conflict with any other policy of the Development Plan. The Tetbury[65] and Bourton[66] Inspectors declared LP Policy 19 out of date and irrelevant owing to the absence of a 5 year supply of housing land. This approach was affirmed by Lewis J. in the Cotswold case[67] and it is now recorded in the uSoCG in this case. LP Policy 19 has no role to play in the determination of this appeal and no one suggests any conflict with any other policy. In a plan led system, it is a clear benefit of the proposal that it could provide for necessary housing in a location and in a manner which creates no conflict with any relevant policy in a Development Plan.

7.5 Market housing need

7.5.1 The Public Inquiry into this Appeal was adjourned on 28th March 2014, in order to address, through written representations, new highway evidence[68]. Save for that discrete issue, the evidence had closed. Prior to this adjournment, it was common ground between the Council and the appellant that the Council could not demonstrate a 5 year supply of deliverable housing sites, contrary to the requirements of paragraph 47 of the Framework. Nevertheless, in an email dated 29th April 2014, the Council submitted to the Planning Inspectorate its *5 Year Housing Land Supply May 2014* update (HLSM) and requested that it was taken into account in the determination of this Appeal. The HLSM examined the period between 1st April 2014 and 31st March 2019. It purported to show that the housing land supply position had 'significantly improved relative to that set out by the Council at the Inquiry in March'. The HLSM claimed a 5.77 year supply. On that basis, the Inspector considered it appropriate to resume the Inquiry in order to test whether the Council's HLSM was robust.

7.5.2 The Council's HLSM was tested by Gladman Developments Ltd in a Public Inquiry into a development comprising up to 120 dwellings on land south of Cirencester Road, Fairford[69] (the Fairford decision). Having had regard to that decision, it is now agreed between the appellant and the Council that (i) the HLSM is not robust and (ii) the Council cannot demonstrate a 5 year supply of deliverable housing sites[70]. This is extremely important, as it constitutes the decisive factor in presenting the 'exceptional circumstances'

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[65] P6 Appendices 8 and 9.
[66] P8 Appendix 8.
[67] P6 Appendix 10
[68] See Inspector's Note 9th May 2014
[69] Appeal ref APP/F1610/A/14/2213318-P8 Appendix 3.
[70] SSoCG.

required by paragraph 116 of the Framework. This was the approach adopted by the Inspector and Secretary of State in the Tetbury cases[71], as affirmed by the High Court, and the Inspector in the Bourton Case[72].

7.5.3 The primary purpose for the resumption of the Inquiry in November 2014 has, therefore, evaporated. Further, on this basis, both the appellant and Council agreed that there was no need for the Inquiry to be resumed. Attendance has only been required because the agreement reached by the main parties is not accepted by other participants who do not have rule 6 status.

The Fairford decision

7.5.4 Appeal decisions are material considerations because there should be consistency in administrative decision making. The Fairford decision is a highly material consideration because the Inspector considered precisely this main issue on the basis of contested evidence, which was tested at the Inquiry. The decision letter is dated 22nd September, 2014. It is up to date and there have been no material changes which justify a different conclusion being reached. Accordingly, this decision letter is a material consideration of very significant weight in the determination of the main issue.

7.5.5 The decision concludes at paragraph 27 '*The Council accepts that it does not have an OAN. The figures it has produced for housing requirement do not represent the OAN for the District, and do not take account of employment considerations or market signals as required by the PPG. Consequently, in the absence of an OAN I conclude that the Council is unable to demonstrate a 5 year supply of deliverable housing sites*.' The appellant firmly submits that there is no rational evidential basis on which the Secretary of State can reach a different conclusion. Given that the Fairford decision is quoted in the SSoCG, it is clear that the Council concede that it is a highly material consideration.

7.5.6 In the light of the Fairford decision, the Council agrees the following, as set out in the SSoCG:

- Regional Spatial Strategy has been revoked and the dRSSW annual housing requirement of 345 dpa is not relied upon (para 3);
- Household projections provide the starting point to estimate the full objectively assessed need for housing (the FOAN). However, in calculating the FOAN regard needs to be had to employment considerations, market signals and other market indicators including affordable housing (para 6);
- The Council does not have an established FOAN for housing (para 7);
- It is unable to demonstrate a 5 year supply of housing in the context of these proposals (para 8);

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[71] P6 Appendices 8 and 9.
[72] P8 Appendix 8.

- A 20% buffer should be applied because there has been persistent under delivery (para 9);
- The Sedgefield approach to meeting under delivery should be applied (para 10);
- Relevant policies for the supply of housing, including LP Policy 19 should not be considered to be up to date, applying paragraph 49 of the Framework (para 11).

7.5.7 It is clear, therefore, the Council and the appellant agree that the Council cannot robustly and transparently demonstrate a 5 year supply of deliverable housing sites for the purposes of paragraph 47 of the Framework.

Assessment of 5 year deliverable housing land supply in this case

7.5.8 It is a core planning principle to proactively drive and support sustainable economic development to deliver the homes that the country needs, with reference to paragraph 17 iii of the Framework. The social role of sustainable development includes a requirement to boost significantly the supply of housing, as set out in paragraph 47 of the Framework. LPA's are therefore required:[73]

- To assess their FOAN;
- To Plan to meet their FOAN for market and Affordable Housing;
- To Plan to meet the FOAN, so far as is consistent with the Framework, an exercise which requires an analysis of constraints;
- To identify key sites.

7.5.9 The LP fails to address any of these up to date national planning policy imperatives and the LP is plainly out of date and not consistent with the Framework for the purposes of paragraph 215 of that document. Further, paragraph 47 point 2 of the Framework requires, as a minimum, the Council to be able to demonstrate a 5 year supply of deliverable[74] housing sites, plus a 20% buffer, where, as here, there has been persistent under delivery of housing in order (i) to provide a realistic prospect of achieving the planned supply and (ii) to ensure choice and competition in the market for land. Thereafter, the Council must identify a supply of specific, developable sites or broad locations for growth for years 6-10 and 11-15.

7.5.10 The Inspector/Secretary of State must, therefore, assess the housing requirement in order to properly determine the appeal in accordance with the Framework[75]. However, in coming to that necessary determination on what the housing requirements and supply are, the Inspector/Secretary of State is not:

[73] P8 para 2.5.
[74] Defined in footnote 11
[75] Per Hickinbottom J in *Stratford DC v Secretary of State CLG and JS Bloor* [2013 EWHC 2074 at paras 38and 43

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- Binding the Council as to the relevant housing requirement for the LPe;[76] and/or
- Binding the Council/Secretary of State as to the housing requirement figure in other applications/appeals[77].

7.5.11 The Council's HLSM is based on the housing requirement of 345 dpa derived from the dRSSW. The HLSM states:[78]

> '*…Until the Local Plan is in place and for the purposes of this 5 year supply report, the most appropriate source of objectively assessed housing need is the Regional Spatial Strategy. This demonstrates that the District requires an additional 345 dwellings each year since 1st April 2006*'.

7.5.12 In *Hunston Properties Ltd v St Albans CDC and Secretary of State CLG* [2013] EWCA Civ 1610, Keene LJ in the Court of Appeal held:

> *25. … I am not persuaded that the inspector was entitled to use a housing requirement figure derived from a revoked plan, even as a proxy for what the local plan process may produce eventually. The words in paragraph 47(1), 'as far as is consistent with the policies set out in this Framework' remind one that the Framework is to be read as a whole, but their specific role in that sub-paragraph seems to me to be related to the approach to be adopted in producing the Local Plan. If one looks at what is said in that sub-paragraph, it is advising local planning authorities:*
>
> *'to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework.'*

That qualification contained in the last clause quoted is not qualifying housing needs. It is qualifying the extent to which the Local Plan should go to meet those needs. The needs assessment, objectively arrived at, is not affected in advance of the production of the Local Plan, which will then set the requirement figure.

> *26. Moreover, I accept Mr Stinchcombe QC's submissions for Hunston that it is not for an inspector on a Section 78 appeal to seek to carry out some sort of local plan process as part of determining the appeal, so as to arrive at a constrained housing requirement figure. An inspector in that situation is not in a position to carry out such an exercise in a proper fashion, since it is impossible for any rounded assessment similar to the local plan process to be done. That process is an elaborate one involving many parties who are not present at or involved in the Section 78 appeal. I appreciate that the inspector here was indeed using the figure from the revoked East of England Plan merely as a proxy, but the government has expressly moved away from a 'top-down' approach of*

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[76] *Ibid* para 39
[77] *Ibid* para 42
[78] DD App 1 p. 25

the kind which led to the figure of 360 housing units required per annum. I have some sympathy for the inspector, who was seeking to interpret policies which were at best ambiguous when dealing with the situation which existed here, but it seems to me to have been mistaken to use a figure for housing requirements below the full objectively assessed needs figure until such time as the Local Plan process came up with a constrained figure.

7.5.13 At paragraph 32 of South Northants v Secretary of State CLG and Barwood Land and Estates Ltd [2014] EWHC 573, Ouseley J held:

'*A revoked RSS is not a basis for the application of a constraint policy to the assessment of housing needs, because it has been revoked and cannot be part of the Development Plan. The same would be true of an out of date Local Plan which did not set out the current full objectively assessed needs. Until the full, objectively assessed needs are qualified by the policies of an up to date Local plan, they are the needs which go into the balance against any NPPF policies. It is at that stage that constraints or otherwise may apply. It may be problematic in its application but that is how paragraph 47 works.*'

7.5.14 In Gallagher Homes Ltd v Solihull MBC [2014] EWHC 1283, Hickinbottom J held:

88… a number of points are now, following Hunston, clear. Two relate to development control decision-taking:

i) Although the first bullet point of paragraph 47 directly concerns plan-making, it is implicit that a local planning authority must ensure that it meets the full, objectively assessed needs for market and affordable housing in the housing market, as far as consistent with the policies set out in the NPPF, even when considering development control decisions.

ii) Where there is no Local Plan, then the housing requirement for a local authority for the purposes of paragraph 47 is the full, objectively assessed need.

7.5.15 In the light of such judgments, it is submitted that the following conclusions on the application of paragraph 47 of the Framework can be reached:

- A figure in a revoked Regional Spatial Strategy cannot be used as the full objectively assessed need for market and Affordable Housing (FOAN);
- A figure in a revoked Regional Spatial Strategy cannot be used even as a proxy for the FOAN;
- The FOAN is not a constrained figure;
- It is necessary for the Inspector/Secretary of State to determine what the relevant housing requirement is in the determination of a s.78 Appeal;
- It is not for the Inspector/Secretary of State in a s.78 Appeal to assess the extent to which the FOAN is constrained. Rather, this is an exercise for the LPe/Core Strategy;

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- Where there is no Local Plan, then the housing requirement, for the purposes of paragraph 47, is the FOAN.

7.5.16 In the light of the relevant legal and planning policy background, it is necessary to consider the evidence on the FOAN.

7.5.17 The LP was adopted in 2006 in the context of the Gloucestershire Structure Plan (SP). It sought to guide development to 2011. It is therefore 'time expired' and provides no relevant evidence on the FOAN.

7.5.18 The Structure Plan (SP) was adopted in November 1999. Its policies and the evidence on which it was based are clearly significantly 'out of date' for the purposes of the Framework and PPG. The housing forecast for Cotswold District was 415 dpa between 1991 and 2011[79]. However, the housing requirement was reduced in SP Policy H2 to 307 dpa (a 26% reduction), in order to concentrate development in Cheltenham and Gloucester. The SP, on the basis of which the LP was produced, therefore provided a housing requirement which was constrained by a spatial policy[80].

7.5.19 It is unanswerable therefore, that (i) both the SP and LP are 'out of date' for the purposes of the Framework and (ii) neither can provide any evidence as to the Council's FOAN.

7.5.20 The 2003-based Sub-national Household Projections (SNPP) identified a requirement of 428 dpa between 2006 and 2026. For policy reasons, this figure was constrained to 345 dpa (a 20% reduction) in the dRSSW[81]. It is beyond dispute, therefore, that the dRSSW housing requirement is: based on only one step (demographic projections) of the 3 steps set out in the Framework methodology; out of date as it is based on 2003-based figures; and, a figure constrained by policy considerations.

7.5.21 Applying the *Hunston*, *Northamptonshire* and *Gallagher judgements*, it is unanswerable that the dRSSW housing figure cannot be relied upon, even as a proxy, for this Council's FOAN. It follows inexorably that the Council's HLSM, in relying on the dRSSW figure as the FOAN, is fundamentally flawed. No weight can be placed on it as the approach adopted is unlawfully contrary to paragraph 47 of the Framework.

7.5.22 In the light of the Fairford decision[82], this is neither a surprising nor controversial conclusion. The Inspector concluded:

- Paragraph 9 – In cross-examination, the Council's planning policy witness conceded that (i) the Council did not have an OAN and (ii) did not have a clear understanding of housing needs in their area, as required by paragraph 159 of the Framework;

- Paragraph 10 – at the start of the Inquiry the Council was relying on the dRSSW (345 dpa) in order to establish a 5 years supply of deliverable housing sites;

[79] P13 at 3.41
[80] P13 at 3.41 and 3.42
[81] P13 at 3.43 to 3.45
[82] P9 Appendix 3.

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- Paragraph 10 – at the Inquiry, the Council conceded that the dRSSW figure could not be relied upon as it was based on a constrained approach to the 2003 SNHP, as was clear from the Examination in Public (EiP) Panel report;
- Paragraph 17 – the appellant considered the effect of long-term employment trends in the District;
- Paragraph 19 – the Council did not provide a figure for OAN which took account of employment trends;
- Paragraph 20 - the PPG advises that the OAN should be adjusted to reflect appropriate market signals and other market indicators. The Council has failed to do this; and,
- Paragraph 27 – The Council accepted that (i) it did not have an OAN and (ii) the figures it produced do not represent the OAN for the District.

7.5.23 In the light of the SSoCG, none of the above submissions are, or can be, contested.

The 'Woodhead Report'-A review of future housing requirements for Cotswold District, February 2013[83]

7.5.24 This report concludes that a range between 340 and 355 dpa would reflect the LP and Framework objectives to support economic growth through sustainable development[84]. However, the methodology of Dr Woodhead was the subject of stinging criticism by the Stroud EiP Inspector[85]. The same criticisms apply to his assessment for the Council. The Stroud Inspector concluded that the work of Dr Woodhead did not constitute a proper assessment of OAN[86].

7.5.25 The appellant has yet further criticisms of the Woodhead Report[87], to which there has been no evidential response. Indeed, it is quite clear that the Council has totally disavowed the Woodhead Report. It was not relied upon at the Fairford Appeal[88] and is not relied upon by the Council in the SSoCG. Indeed, the appellant understands that Dr Woodhead is no longer instructed on this issue. Accordingly, no weight can attach to the Woodhead Report as an analysis of the FOAN.

The Gloucestershire Strategic Housing Market Assessment Update March 2014 (SHMA14)

7.5.26 The SHMA14 is based on the Woodhead Reports for Stroud and Cotswold District Councils. For the reasons given above, the SHMA14 can be given no more weight than the Woodhead Report, that is no weight.

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[83] P4 Appendix 10.
[84] P9 at para 3.53
[85] P9 p. 22
[86] P9 at p. 23
[87] P9 at 3.58
[88] P9 Appendix 3 paras 9, 10 and 22.

Nathaniel Litchfield & Partners' (NLP) Assessment of FOAN

7.5.27 NLP's assessment concludes the FOAN is between 575 and 624 dpa. The assessment has been submitted for the purposes of this appeal alone. It is not submitted in order to bind the Council in its LPe. The assessment is, however, sufficiently robust to inform that LPe process[89]. It has used the HEaDROOM framework, which has repeatedly been found to be a sound assessment[90].

7.5.28 The PPG indicates that where evidence in Local Plans has become out dated, policies in emerging plans are not yet capable of carrying sufficient weight and there is no robust recent assessment of full housing needs, then the household projections published by the Department for Communities and Local Government should be used as the starting point[91]. However, as the household projections are trend based they may require adjustment to reflect factors affecting local demography and household formation rates which are not captured by past trends. For example, formation rates may have been suppressed historically by under-supply and worsening affordability of housing. The PPG also indicates that it may be necessary to make adjustments concerning changing employment trends and to take account of market signals[92].

7.5.29 The 2011-based Interim Household Projection (2011-IHP) figures will have been influenced by the period of economic downturn since 2008, during which suppressed household formation rates are likely to have resulted from factors such as the economic conditions, constrained mortgage finance, lack of affordable housing and past housing undersupply. The appellant's evidence indicates that in light of Government Policy promoting economic growth and signs of economic recovery, household formation rates are likely to increase. Initially this is likely to reflect a backlog of pent-up demand from concealed households, and in the longer term return to pre-recession long term trends. In comparison with the 2011-IHP figure of 258 households per annum the 2008-based Household Projection figure for the same period was around 400 households per annum[93].

7.5.30 Against this background, NLP has undertaken an assessment of 5 scenarios (2 demographic and 3 economic led)[94]. It has set out fully its assumptions. Unlike at the Fairford Inquiry, it cannot be concluded that there is limited evidence available on which to determine the FOAN.

7.5.31 Under demographic scenario A, an additional 299 dpa would be required. Under demographic scenario B, an additional 274 dpa are required. Such results are consistent with the Regeneris analysis produced by the appellant at Fairford, which indicated a range of 207 to 315 dpa. However, applying age specific economic activity rates to the projected population shows that scenario A would result in a reduction in the indigenous labour

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[89] P9 at 2.3
[90] P9 at 1.4 to 1.6
[91] ID120 para 4.
[92] P13 para 3.22.
[93] P13 paras 4.9-4.17.
[94] See section 5

force of 1463 people over the plan period, equivalent to 820 fewer jobs. A similar result would apply in scenario B. Scenarios A and B are not sustainable options, having regard to paragraphs 17, 18 and 19 of the Framework[95].

7.5.32 The PPG states that consideration should be given to the likely change in job numbers when considering future housing need[96]. NLP test 3 scenarios. Firstly, applying the conservative employment growth forecast by Oxford Economics, April 2014, relied on by the appellant at Fairford, 575 dpa would be required. Secondly, applying the Council's own Cotswold Economic Study, October 2012, which seeks to inform the employment policies of the LPe, 589 dpa would be required[97]. Thirdly, applying the up to date Experian Business Strategies' employment growth forecast, September 2014, produced independently for this appeal, 624 dpa would be required[98].

7.5.33 Accordingly, NLP concludes that between 575 and 624 dpa are needed to ensure the delivery of between 357 and 428 jobs per annum. This is consistent with the analysis produced independently and presented to the Fairford Inquiry as a range of 575-589 dpa.

7.5.34 The FOAN is for market and Affordable Housing. The latest figure for Affordable Housing need set out in the SHMA14 is 574 dpa. It cannot be rationally argued that the Appellant's range of 575 to 624 dpa is too high, when the need for Affordable Housing alone is 574 dpa. Moreover, Affordable Housing will only be delivered through policy requirements on market housing. Applying the LP Policy 21 requirement of 50%, 1150 units would be required per annum to deliver 574 Affordable Housing units. In the real world, market units have only delivered 32.7%. At this level, 1755 dpa would be required to deliver 574 units. NLP's work is plainly supported by the Council's own analysis on Affordable Housing need. This 'sense check' is plainly passed.

7.5.35 On the basis of the evidence,[99] there can be no doubt that the Council faces significant pressures regarding affordability. Market signals provide a strong indication that there needs to be a relatively large improvement in affordability within the District[100]. This significant upward pressure on the demand for housing strengthens NLP's conclusions that the demographic scenarios do not represent a robust basis against which to establish the FOAN. Whilst taking account of it, NLP do not make any additional allowance for market signals because:

- It requires the exercise of a subjective professional judgment;
- There is no guidance in the Framework, the PPG or from the Courts on how the judgment should be exercised;

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[95] P9 section 6.
[96] P9 para 7.1 & Fairford decision para 19.
[97] P13 at 7.14
[98] P13 at 7.20
[99] P13 section 9
[100] Applying PPG ID 2a-020.

- NLP have erred, therefore, on the side of caution in order to produce a very conservative and robust assessment; and,
- If, which is not accepted, there is any criticism of the NLP assessment, it can only be that the FOAN should be higher than assessed.

7.5.36 Rather, NLP use the evidence of a significant issue regarding affordability in the Borough to reinforce their conclusions that the employment led scenarios are robust. On this basis, NLP conclude that the FOAN is 575 to 624 dpa. It is this range which should form the basis of 5 year land supply calculation, especially as no adjacent authority is proposing to meet any of the Council's unmet housing need through the Duty to Co-operate.

7.5.37 At the Inquiry the CPRE contended for an annual figure of 302 dpa. However, it agreed that this did not take account of factors such as economic forecasts and employment projections, demographic change or the effects of the recent recession. These are highly material to an understanding of need and signal a clear weakness in the CPRE's approach.

7.5.38 The appellant has calculated the 5 year supply on the basis of the evidence of NLP. It has applied the 3 economic scenarios (575, 589 and 624 dpa) and assumed an historic backlog of 209 dwellings to be recovered over 5 years, a supply of sites equivalent to 2,680 units and a buffer of 20%, in common with the HLSM/SSoCG. The appellant concludes that there is between a 3.36 year and 3.6 year supply of sites. There is no evidence of any other figure from the Council, or any other party. This is the range which should inform this decision. It is quite clear, therefore, that the Council cannot demonstrate a 5 year supply of deliverable housing sites. Indeed, this is agreed by the Council.

7.5.39 The policy consequences of the Council's inability to demonstrate a 5 year supply of sites is not in dispute. Indeed, it was considered at the March 2014 session of this Inquiry, when the Council conceded it did not have a 5 year supply. Further, it is addressed by the Fairford decision[101]. The appellant submits that the following policy consequences apply:

- Paragraph 49 of the Framework is engaged;
- LP Policy 19 is out of date;
- Whilst the default position of paragraph 14 of the Framework is engaged, it is displaced by paragraph 116.

7.5.40 In conclusion, the only rational conclusions for the Inspector and Secretary of State to reach are:

- The housing requirement, for the purposes of calculating the 5 year supply, is the FOAN;
- The Council has no evidence or analysis of the FOAN;

[101] P9 Appendix 3 paras 28-32..

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- The only evidence on FOAN is provided by the Appellant, in accordance with the PPG and a methodology which has been endorsed in countless EiP's and section 78 appeals;
- There has been no criticism of the FOAN by the Council in any evidence;
- The FOAN is between 575 and 624 dpa;
- There has been no analysis of how that FOAN can be constrained;
- It is not for a section 78 Inspector to provide an analysis of constraints;
- 575 to 624 dpa is the housing requirement for the purposes of this Appeal;
- The Council has a 3.36 to 3.6 year supply;
- The Council does not have a robust 5 year supply of sites;
- There is a need for market housing to which significant weight must attach, applying paragraph 47 of the Framework; and,
- There is a need for Affordable Housing to which significant weight must attach, applying paragraphs 47 and 50 of the Framework.

The relevance of scale

7.5.41 The suggestion that the weight to be attributed to a negative 5 year supply is influenced by the degree of undershot is wrong and if that heresy is allowed to take hold it risks undermining the whole thrust of housing policy in the Framework.

7.5.42 The Essex appeal decision is wrong[102]. The Inspector there has misunderstood the purpose of paragraphs 47 and 49 of the Framework. The 5 year supply requirement is a floor rather than a ceiling. It is not a target to be aspired towards, but rather a necessary minimum which produces severe consequences if not met. Those adverse consequences, in terms of the dis-application of restraint policies in the Development Plan, arise regardless of whether the shortfall is marginal or substantial. This was the conclusion of the Bourton Inspector at paragraph 59[103] and it is plainly correct. The Council did not dispute the correctness of that approach and the CPRE agreed that it was correct. The appellant would also draw attention in this regard to paragraph 32 of the Honeybourne decision[104].

7.5.43 Paragraph 28 of the Hunston judgement[105] addressed the Green Belt policy test and the Court was not considering the 5 year supply in the context of decision making in an AONB. The Court's judgement must be looked at and read in the proper context.

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[102] ID44 page 7.
[103] P8 Appendix 8.
[104] P6 Appendix 22 .
[105] P13 Appendix 5.

7.5.44 Further, even if the scale of undershoot is thought to be relevant, the key factor here is that the shortfall is greater than the numerical provision of this appeal proposal. The whole of the appeal site is required and a lot more as well. In this context, the scale of the under-supply is a consideration in favour of the appeal proposal, even if it is thought to be a relevant consideration, which it is not.

Locational considerations

7.5.45 It is not just a numbers game. The Framework does not operate a free for all where a 5 year supply cannot be found. National policy imposes a strict requirement that development must be 'sustainable' and that strictly curtails locational considerations. In an AONB the general constraint receives added force by the strict requirements of paragraph 116 of the Framework.

7.5.46 The need to show exceptional circumstances…in the public interest' is satisfied by the identification of a housing need which has a specific focus on Stow. The general need has been discussed above. The specific focus on Stow is based on its role and function in the settlement hierarchy of the District, as outlined in the LPe. Whilst Stow is a beautiful market town, it is much more than that. It is agreed to be a town centre in the retail hierarchy with a strong employment base, sustainable public transport provision and a focus for growth. There is a recognised need for a boost in the economically active population to sustain the local economy. This explains why the uSoCG recognises a need for additional housing to be provided in Stow.

7.5.47 The first bullet point of paragraph 116 of the Framework is unequivocally met in both directions. The need for additional housing in Stow is strong. The consequences of refusing planning permission, upon the local economy would be severe and adverse on the basis of the findings of the Council's own LPe.

7.5.48 The second bullet point invites a consideration of whether the need could be met elsewhere. This reflects the policy imperative of protecting the AONB and only allowing development as a last resort. It is self-evidently impossible to meet the needs of Stow at a location remote from the settlement. This explains why the uSoCG agrees land must be provided at Stow to meet its needs as a principal centre specifically and the District more generally. It is also agreed that the need cannot be met within the town and that greenfield land on the edge of the town will have to come forward to meet the identified need. It is for this reason that the Council agreed at the Inquiry that the second bullet point of paragraph 116 of the Framework does not operate as a restriction on the grant of consent.

7.5.49 It is true that at different stages of the Inquiry process, and in closing, the Council witnesses made attempts to suggest there were preferable locations around the edge of Stow at which the need could be better met. However, the Council agreed that these alternatives are all in the AONB and were therefore subject to the same constraints policy, that none was deliverable with 5 years, that they were too small to replace the appeal site and that the owner of one had different aspirations for the site. Also, no evidence was provided to suggest that they were free of other development control constraints such as ecology and archaeology. In the end the

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Council's landscape and general planning witnesses agreed that there were no viable alternatives to the appeal site.

7.6 Affordable housing need

7.6.1 The beauty and tranquillity of the natural surroundings can hide a profound level of human misery and despair arising from rural poverty. Paragraph 55 of the Framework requires decision makers to address this matter, by encouraging sustainable development in rural areas through the location of housing where it will enhance and maintain the vitality of rural communities.

7.6.2 The Council published its most recent *Strategic Housing Land Availability Assessment in May 2014* (SHLAA14). In addition to the appeal site, it identified 3 other sites with the potential to contribute towards housing land supply in Stow. They are Stow Agricultural Services, site no S_8A; land at Bretton House, site no. S_20; and, Ashton House, site no. S_46.

7.6.3 In relation to S_8A a planning application has been submitted to the Council for the erection of 17 apartments, which it has yet to determine. Whilst Policy would require up to 8 of the units to comprise Affordable Housing, that is subject to viability on which the applicant's position has yet to be published. A planning application for the erection of 26 units is being considered by the Council in relation to S_46, which, subject to viability, would provide 8 units of Affordable Housing. The Council's decision to refuse planning permission for a continuing care retirement community at S_20 is now the subject of an appeal. However, the development is expected to fall within Use Class C2 and under those circumstances the Council has indicated that it would not be the subject to the requirements of LP Policy 21-Affordable Housing [106]

7.6.4 In addition, the SHLAA14 also makes reference to land to the north of Tesco in relation to which the Council has granted planning permission or resolved to do so since April 2014. The SHLAA14 makes reference to 45 units[107]. The appellant understands that this is a reference to an application for 44 extra care apartments and a 48 bed dementia care home. The associated committee report indicated that those units would be expected to fall within Use Class C2. Whilst therefore, under the terms of the PPG, they would contribute towards housing supply[108], it is unlikely that the Council would require a proportion to comprise Affordable Housing [109].

7.6.5 It is clear that these sites are not going to provide the level of Affordable Housing Stow requires over the plan period. At best they would deliver 17 units. In contrast the appeal site would provide 50% Affordable Housing, which equates to around 73 units, in accordance with the LP. This would significantly boost the delivery of Affordable Housing in Stow.

7.6.6 Furthermore, the appellant's evidence indicates that there is a residual unmet need of around 1,650 Affordable Housing units in the District, based

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[106] P9 section 6.
[107] P9 Appendix 8 page 176.
[108] Confirmed by Mr Dunlop in response to Inspector's question.
[109] P9 paras 6.15-6.17.

on a net annual need of 574 dpa set out in the SHMA14 and delivery over the last 4 years of some 645 (574x4-645)[110]. The appeal proposal would go some way to address that problem. This is a clear benefit of the scheme.

7.7 Visual impact

7.7.1 Added to this is the unattractive setting of Stow provided by the existing housing. The Council accepts that the existing housing edge to this part of Stow could be improved to form a more attractive entrance to the town. Furthermore, the introduction of housing would not introduce new visual elements into the landscape. New development can create a positive, well landscaped and sympathetic urban edge which responds to the existing built form of Stow and enhances the AONB. The proposal would rectify what the White Report called 'homogeneous and monotonous' by adding diversity and variety in sympathetically designed content.

7.8 Other benefits

7.8.1 The appellant explained the numerous ways in which the proposal would advance environmental and recreational interests. In accordance with the recommendations of the *Betts Baseline Ecological Site Audit May 2012* (BESA), the biodiversity of the site would be enhanced through the retention and enhancement of planting and stone walls within the site as well as provision of new green infrastructure, such as public open space, and the use of sustainable drainage to create wetland habitat. The layout and lighting of the development would be designed to minimise the impact on the utility of hedgerows as wildlife corridors for species such as bats. Furthermore, bird and bat boxes would be erected to enhance opportunities for roosting/nesting. The green infrastructure incorporated within the scheme, such as walkways, open space and allotments would provide a variety of recreational opportunities for future residents and the wider community, in keeping with the aims of the Framework to promote physical health and well being[111]. The appellant was not challenged about any of that evidence for the clear reason that the Council has not suggested that any harm arises with regard to those 2 interests.

7.8.2 The Council's *Interim Housing Guidance Note and Five Year Housing Land Supply* was produced by the Council to assist in the identification of suitable housing sites that might be required either to meet needs in the period post 2011 while the LPe is being prepared or to deal with any 5 year land supply deficit. The scheme would not conflict with its criteria.

7.8.3 These are the benefits of the proposal. The remarkable feature of the proposal is not the harm, but rather the absence of harm. The uSoCG notes that the appeal proposal has been carefully examined against every relevant index of consideration and has been found to be acceptable subject to qualifying conditions and contributions.

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[110] P8 section 5.
[111] Landscape and Visual Impact Assessment , April 2013 section 5.

7.9 Landscape impact

7.9.1 Landscape is the Council's only residual area of complaint. The appeal decision for Honeybourne[112] establishes the fact that even proposals which 'seriously degrade' the landscape can still perform an environmental role and qualify as 'sustainable development' under the terms of paragraph 6 of the Framework. The appeal proposal is clearly a sustainable form of development and there is a general presumption in its favour. The decision maker is required by the Framework to consider the cumulative benefits of the proposal and then consider whether the presumption in their favour is outweighed by the harm.

7.9.2 The strength of the Council's landscape complaint is diminished immediately by the recognition that greenfield land on the edge of Stow must be built upon to meet housing needs. Some landscape impact is therefore both necessary and inevitable. Impacts which are necessary to achieve a public purpose are therefore acceptable. This key point has not been entirely understood by the Council whose evidence was presented on the implicit understanding that if they successfully oppose the appeal no landscape harm would arise. Not so. The landscape harm would simply be displaced to another peripheral location around Stow. The landscape impact question is therefore not absolute, but comparative. This is important, as no one has suggested to the Inquiry an alternative location which can meet the same need and which is deliverable and less harmful.

7.9.3 The Council was asked at the Inquiry whether it had in mind any alternative location around Stow at which the need could be met without causing the degree of harm contended for by the Council. It did not do so.
This exposes a serious weakness in its case. The Council accepts that it is necessary to build on the periphery of Stow, but it has not attempted to review different possibilities to identify the most accommodating area of land to which that need might be directed.

7.9.4 This, however is not a matter which has been overlooked in a plan making context. The LPe[113] accepts the inevitability of development in Stow and crucially adds '*Stow's development needs will need to be carefully located to ensure that its sensitive hill top setting is protected … it is imperative that the most sensitive views of the town are protected, notably from the west, south and north.*' The appeal site is located due east of Stow. It is the best location around the settlement to avoid the adverse impact on 'sensitive views', which the local plan evidence base regards as 'imperative'.
The appellant submits that, in locational terms, the appeal site is the superior location for accommodating housing needs.

7.9.5 The extract from the LPe also requires careful attention to be paid to integrating the development into the built form of Stow and the surrounding landscape. As to this the appellant draws attention to the uSoCG, which indicates '*it is agreed that as illustrated on the attached revised plan, the concept scheme has sought to achieve an improved link with the rural edge*

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[112] P6 Appendix 22 para 46.
[113] P6 Appendix 14 para 6.115.

beyond the initial proposals, with areas of open space linked by wildlife corridors. It is accepted that substantial sized tree species could be grown in green spaces. It is accepted that with substantial adjustment the initial scheme could be improved to reflect the organic approach which developed the historic centre, with housing more closely following the contours of the site, would help any development to be more sympathetic with the rural surrounds. It is agreed that for housing to be acceptable on this site, the view from the A436, approaching from the east, would need to be one of a more gradual integration of built development and the rural surroundings.'

7.9.6 The experts disagree between themselves about methodology and judgement. The appellant points to the Bourton case[114], which is a triumph of common sense. The appellant draws attention to paragraphs 73-76, which refer for example to the urban context of the site, limited vantage points where the public are likely to linger and views that are likely to attract little attention. Furthermore, it notes that the White Report and the CLCA are not policy documents. It concludes that the development would not cause any significant harm to the aim of conserving and enhancing the AONB's landscape or natural beauty. The appellant submits that a similar analysis is appropriate here.

7.10 Highways

7.10.1 The question of whether transport impacts may constitute a basis for rejecting a planning application is now reduced to advice in paragraph 32 of the Framework. That is; whether the residual cumulative impacts of development are severe.

7.10.2 The Inspector asked a number of specific questions about technical evidence and analysis which underlies the Transport Assessment submitted in support of the proposal. Those issues are dealt with in the supplementary Technical Notes and final statement of the appellant's highways witness[115]. This included evidence to show that the TRICS trip rates used were conservative and not underestimates[116], as suggested by STC. In any event, they are second order issues. The highways issue, to the extent that there is any live highways issue, is correctly resolved by: correctly understanding paragraph 32 of the Framework; and, understanding the planning context of Stow.

7.10.3 The framework requires the decision maker to consider the residual cumulative effect of development. This is correctly interpreted as requiring a focus on the scheme traffic. That is the additional traffic generated by the proposed development. The paragraph 32 question is 'whether the scheme traffic has a severe impact'[117]. It is not correct to aggregate the scheme traffic and existing background traffic in concluding whether the effects are severe. The reason for this is that there are many areas in which the background traffic has already created 'severe' conditions on the local highway network. If scheme and background traffic are aggregated that

[114] P8 Appendix 8.
[115] ID79.
[116] ID34 page 2
[117] ID82.

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would have the effect of restricting all further development, which cannot be the intention of paragraph 32 because it conflicts so strongly with the remaining thrust of the Framework.

7.10.4 The Ronkswood appeal decision Ref. APP/D1835/A/13/2202841[118] is helpful by analogy. In that case the Council argued that the term 'cumulative' permitted an aggregation of the traffic generation arising from development plan allocations and scheme traffic. The Council's argument was rejected as conflicting with paragraph 32 of the Framework on the basis that that paragraph referred only to the effects of the scheme traffic.

7.10.5 This is not to suggest that background conditions should be ignored. The question of 'severity' is necessarily influenced by background traffic, but it remains the case that it is only the contribution of the development to the local highway network which is considered under paragraph 32.

7.10.6 Junction modelling undertaken by the appellant has been accepted as appropriate by the Highway Authority, as set out in the HSoCG. The evidence provided by the appellant proves that the contribution of development traffic to the existing local highway network would be extremely low, calculated by small single digit percentages, and there is no evidence which contends that contribution is severe even when existing conditions are taken into account. It would be irrational to conclude otherwise on the basis of the unchallenged evidence of the appellant.

7.10.7 The Inspector has independently embarked on a process of questioning the underlying basis of some aspects of the appellant's analysis and the appellant considers that its responses to the points raised were satisfactory. If that is rejected, the Inspector might conclude that trip generation rates have been underestimated and, therefore, the predicted impact of development traffic on the local network has been underestimated. That situation still creates no barrier to the grant of consent, as the percentage impacts are so small. For example, the appellant has predicted that the vehicular trips generated by the proposed development would equate to around 3 % of the total traffic using the Unicorn junction[119] in the 'am' and 'pm' peaks. If it is wrong by 100%, the 6% impact on that junction would still be trivial by reference to the Institute of Environmental Assessment *Guidelines for the Environmental Assessment of Road Traffic* (IEMA guidance)[120], which points to changes in traffic in excess of 30%, 60% and 90% as being representative of 'slight, moderate, and substantial impacts respectively'[121].

7.10.8 This scale of marginal impact against the threshold of acceptability reveals that the Inspector's detailed examination of the technical evidence addresses issues which are peripheral and trivial when seen in the wider context of policy and guidance. It is of course undesirable for the appellant to find itself in open conflict with the Inspector, but this is the inevitable product of the procedure pursued in this Inquiry.

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[118] ID78.
[119] The junction of the A429 with the A436.
[120] ID84.
[121] P12 Appendix 10 para 3.8.

7.10.9 The second general answer to the Inspector's concerns about the impact of development traffic on the local network is the uSoCG. It is agreed in fact that further development must come forward around Stow for necessary public purposes. It is therefore, inevitable that additional traffic will be generated on the local highway network. There is no evidence that the origin of the traffic from the appeal site, as distinct from any other area around the settlement, is material or significant. Also there is no suggestion that the trip generation arising from the appeal site is a-typical of any other housing development.

7.10.10 This provides an answer to any residual concern that might still exercise the mind of the Inspector. The trip generation from the appeal site is a necessary and inevitable consequence of meeting the planned needs of Stow-on-the-Wold and must therefore be regarded as acceptable. A decision against this would eliminate any further development in Stow.

7.11 Impact on heritage assets

7.11.1 The Cotswold Archaeology *Heritage Statement June 2013*, submitted in support of the scheme, confirms that a large amount of archaeological investigation has taken place, including desk-based research, geophysical survey and archaeological trial trenching, which has enabled the below-ground remains within the site to be closely characterised, in line with the requirements of the Framework. The findings include that whilst there are remains of archaeological value, which may contribute greatly to regional research objectives, no remains requiring preservation insitu are located within the site. Furthermore, through the imposition of a condition it would be possible to secure appropriate mitigation measures, such as open-area archaeological excavation prior to development with the aim of adding to academic and public knowledge of several periods of history and prehistory[122].

7.11.2 The uSoCG confirms that the proposal would not have a significant adverse effect on the fabric or setting of any Listed Building or Conservation Area within Stow.

7.12 Conclusion

7.12.1 The benefits of the scheme far outweigh the harm and for the above reasons the appellant contends that a qualified grant of permission is appropriate in this case.

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8. THE CASES OF INTERESTED PARTIES WHO APPEARED AT THE INQUIRY

8.1 The case for Stow Town Council (STC)

Accessibility

8.1.1 During the course of the appeal, STC has highlighted many inaccuracies in the Transport Assessments of Stuart Michael Associates, submitted on behalf of the appellant, which casts significant doubt over the reliability of

[122] Griffin Close, Stow-on-the-Wold, Gloucestershire-Heritage Statement by Cotswold Archaeology, June 2013.

its evidence. STC has particular concerns in relation to the accessibility of jobs, shops and services from the site by modes of transport other than the private car and the impact of the scheme on traffic congestion around the town.

8.1.2 The appellant's plans suggest that the site could be linked to the housing estate to the west by a footpath route across the King George V Playing Fields. However, the Town Council, who owns the playing fields, has indicated that this would not be acceptable. From a practical perspective playing surfaces should not be disrupted by hard surfaced paths, which would pose a potential hazard to those playing. In the absence of a short cut across the King George V Playing Fields and walking from the site to the town would take place alongside the A436 and walking distances would be greater than assumed by the appellant. The minimum distance from the site entrance to shops is 1 Km and to the bus stop in the main square around 1.6 Km.

8.1.3 The Institution of Highways & Transportation's *Guidelines for providing for Journeys on Foot* (GJoF) identify a preferred maximum walking distance to a town centre for people without mobility impairment of 800 metres and indicates that additional walking distances or gradients can be crucial in determining if a development is pedestrian friendly[123]. Therefore, any walk into the town would be at the limits of, or beyond the limits of, many people[124]. Given the distances involved and the up hill nature of the route, it is likely that few people would attempt this on foot. These factors together with the busy and narrow nature of local roads would also discourage cycling. It is likely instead that the private car would be used reducing the availability of parking for tourists to the detriment of the economic sustainability of the town[125].

8.1.4 There are little or no opportunities for work in the local area, with around 50% of existing residents commuting away from the town[126]. The majority of future residents of the proposal would also be likely to commute away over significant distances, given the relatively rural, isolation of Stow. Furthermore, the site would not be well served by public transport. The only bus service within 400 metres of the site is the 801 service, operating southbound to Bourton-on-the-Water and Cheltenham, which only calls twice in the morning on weekdays at the King Georges Field estate. All other services, including the returning north bound 801 service and most of the southbound 801 services operate through the main bus stop in the main town square, around 1.6 Km from the site. It cannot reasonably be claimed that the site would be adequately served by good, wide destination access, public transport. Given the limitations of the bus services, it is likely that the railway stations at Moreton-in-Marsh and Kingham would be accessed by residents using private car. However, both stations have very

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[123] ID57.
[124] ID49.
[125] ID9, 35, 49 & 125.
[126] PD4 Appendix 14 para 6.116.

limited parking, especially when the use of spaces by tourists is accounted for[127].

8.1.5 STC contends that the proposal amounts to a dormitory development, which would result in considerable use of the private car and therefore, give rise to a significant penalty in the burning of vehicle fuels. This is not compatible with the aims of either the *Gloucestershire Local Transport Plan 2011-16* or the Framework's aim of locating development in a way that reduces carbon dioxide emissions[128].

The safety and convenience of highway users

8.1.6 STC has raised concerns about the problem of growing congestion on the main roads leading into, and through Stow, particularly in peak tourist holiday periods and the detrimental impact this is having on the vital tourist trade. This congestion manifests itself most prominently in long queues on the main access roads: on the hill on the A429 south of the Unicorn junction[129]; on the approaches on the A429 from the north leading to the Tesco traffic lights; on the A436 from the east leading up to the Unicorn junction; on the A424 Evesham road where it joins the Upper Swell Road at the traffic lights junction with the A429 to the north of the Unicorn junction; and, in between the A429 traffic lights. Any of these delays are detrimental to the town. The primary route is the A429 Fosse Way, which carries by far the greatest level of through traffic. Unfortunately, there are no plans in either the *Gloucestershire Local Transport Plan 2011-16*, or other long term plans up to 2031, to improve this road or provide any relief for Stow.

8.1.7 The proposal would be likely to exacerbate existing traffic congestion through Stow. The appellant has sought, by use of a hypothetical computer simulation, based on incorrect assumptions concerning traffic signal operation and traffic movements, to suggest that these concerns are of no consequence. The appellant is wrong. Furthermore, it places significant reliance on the view of the local Highway Authority that the scheme would be acceptable. However, this is based on the Highway Authority's deliberate policy of not challenging applications based on its interpretation of the Framework[130].

8.1.8 Turning to the incorrect assumptions upon which the appellant's modelling is based, firstly, the survey of existing traffic levels relied on by the appellant's Transport Assessment was undertaken in October 2012 and is unrepresentative of the higher flows likely during peak tourist traffic periods.

8.1.9 Secondly, as regards traffic levels likely to result from the proposal, the appellant has claimed that car ownership, and hence the potential for increased highway movements, in Stow is low at an average of 1.3 per household[131]. However, Gloucestershire County Council's *North Cotswolds*

[127] ID49 & 125.
[128] ID49 & 125.
[129] The junction of the A429 with the A436.
[130] ID125.
[131] P9 volume 1 para 5.16.

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Parking Review Stow-on-the-Wold March 2014 indicates that at Griffin Close, near to the development site, vehicle ownership per property falls within the range 1.6 to 2.0 vehicles[132]. Due to its relative isolation, the distance and adverse conditions for walking/cycling, especially in poor weather, it is not unrealistic to assume that this ownership range will apply to the proposal. This being so, for 146 dwellings, the number of vehicles will be between 234 and 292. Due to the distance from places of work it is most probable that future occupants would have employment over a dispersed area and it is most unlikely that car sharing would occur to the level postulated by the appellant. Few if any would travel by public transport since the choice and variety of final locations served from such limited public transport readily accessible from Stow is very limited.

8.1.10 Little weight should be given to the trip generation data derived by the appellant using the TRICS database and used in the modelling, not least due to the limited number of comparator sites and that they appear to be on the edge of larger towns than Stow, which are likely to have better public transport provision. Stow has a population of around 2,000 with populations within 5 miles of some 6,000, whereas the comparator sites referred to in Appendix 7 of the appellant's Transport Assessment include populations within 1 mile of 5,000-2,000 and within 5 miles populations in the range 25,000-100,000[133].

8.1.11 The appellant's junction modelling results suggest that the overall impact of the development on the Unicorn junction would equate to an increase in traffic during the morning peak hour of only 3.31%. However, the most critical section of road to consider is the eastern A436 approach to the Unicorn junction. The A436 traffic lane for right, north turning traffic at the Unicorn junction is short. The appellant's highway modelling assumes it to be of 7 cars length and identifies that queues of 10 or more vehicles would occur, which means that 3 or more vehicles cannot be accommodated in the turning lane. Consequently, those vehicles must remain in the single lane leading from Sheep Street to that point, thereby blocking the exit of vehicles wishing to turn left at the junction, down the A429[134].

8.1.12 Under existing 'background' traffic conditions long tailbacks extend to the east from the Unicorn junction traffic lights during peak conditions; sometimes past the junction with Union Street. Under these conditions it is difficult to enter the traffic flow from side streets[135]. Furthermore, during peak periods right turning vehicles are frequently prevented from turning right on to the north bound A429, due to congestion caused by the traffic levels and the set of lights to the north. The appellant's computer modelling wrongly assumes that that route is always free of obstructions. As a result of these factors, it is likely that the modelling underestimates the backlogs and delays that occur.

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[132] ID81.
[133] ID98 pages 5-7 and ID35.
[134] ID35 and ID24Stuart Michael Associates Response to Inspector Comments 20/2/14.
[135] ID98 page 4.

8.1.13 Even with all these omissions, the modelling results still confirms that the Unicorn junction can become oversaturated.

8.1.14 Assuming during the morning peak 80% of the traffic departing from the site travels westwards up the critical path to transit the Unicorn crossroads, it would not be unreasonable, based on STC's car ownership assumptions, to expect 100 extra vehicle movements on that route as a result of the proposal. Based on the traffic survey undertaken for the appellant on the 11 July 2013, which recorded 294 vehicles exiting the A436 (Sheep Street) in the morning peak hour, this would equate to a 34% increase. The *Guidelines for the Environmental Assessment of Road Traffic*, relied on by the appellant, indicate that in the context of the operational and capacity criteria of a highway, increases in traffic of 5% are likely to be considered as significant by the Department for Transport.

8.1.15 The appellant takes the view that the overall additional traffic load, at 3.31%, at the Unicorn junction was so low that it could not be considered severe, which would otherwise overrule the presumption of acceptance in paragraph 32 of the Framework. Additionally, the appellant stated in its March closing statement that it considered it was not correct to take into consideration existing 'background' traffic in aggregation in measuring the severity, as existing 'background' traffic had already created 'severe' conditions at many locations on the local highway network at certain peak times and would increase in severity in the future. Consequently, in such circumstances, no future development would be possible in Stow unless this was disregarded. Furthermore, its contention was that the severity created by this development was only to be measured in isolation of any other prevailing circumstances, and limited solely to the anticipated product of the proposed development. This cannot be right[136].

8.1.16 The appellant has suggested that failure to approve this application on traffic grounds would be against the public interest and will effectively block any further development in the area to meet the planned needs of Stow. STC considers that the public interest is not the short term developer gain of planting remote dormitory estates in the Cotswolds that detract from the AONB and compromise the fragile tourist economy of the area for years to come. In the process it would fail to meet the Framework's requirements as regards minimising journey lengths and planning development in locations and ways that reduces greenhouse gas emissions[137].

8.1.17 The stationary traffic generates fumes which are hazardous the soft stoned adjacent buildings in the Conservation Area. *The Planning (Listed Buildings & Conservation Areas) Act 1990 (as amended)* requires, in the exercise, with respect to land in a conservation area, of any provisions of the planning Acts, special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area[138]. Any additional traffic generated by the development will further extend the peak tailbacks and generate more hazardous pollution.

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[136] ID98 page 2.
[137] ID98 page 7.
[138] ID76.

Best and most versatile agricultural land (BMVAL)

8.1.18 The appellant's ALA[139] indicates that whilst 21% of the land within the appeal site is classified as grade 3b, 79% of the land is grade 3a, which falls within the definition of BMVAL, which the Framework seeks to safeguard. It is unfortunate that in response to that document the Council has withdrawn its reason for refusal 3) and has conceded the appellant's argument that the appeal site represents some of the poorest quality land around the settlement edge. STC considers that this is incorrect. The ALA identifies only 2 areas of land of a higher status than the appeal site, that is Grade 2. However, neither is used for agricultural cultivation; one is used as amenity land, from which a hay crop is annually taken, and the other as a paddock. Furthermore, the Bretton House site and the land adjoining Tesco, which are identified as potential housing sites by the *Cotswold District Strategic Housing Land Availability Assessment Review, March 2012*[140], have the potential to accommodate the 134 dwellings that the settlement needs in emerging Local Plan period. In STC's view, neither of these sites is BMVAL[141].

Housing land supply

8.1.19 Stow has an above average proportion of elderly people in its population, a diminishing youth population and no opportunities for providing new employment sites. It follows that housing does not need to be provided to attract a labour supply, since there are no employment sites and the emerging Local Plan does not make provision for any.

8.1.20 The *Stow-on-the-Wold Town Housing Needs Survey Report, June 2012*, commissioned by the Council identified that there were only 27 households with a local connection who have a self identified need of Affordable Housing in the town[142].

8.1.21 In contrast, Stow's qualities, which include its location in the AONB and proximity to London, make it irresistible to city dwellers who want to buy a house in the countryside, whether for permanent or intermittent use. However, there is little point in having an AONB if it is destroyed by uncontrolled and ill-considered housing development. The proposed housing figures promoted by the Council in the emerging Local Plan would act to limit the open market housing, whilst at the same time ensuring that Stow takes as much of the burden of the Government's drive for new housing as its location can sustain.

8.1.22 In the period between the adjournment of the Inquiry in March 2014 and its resumption in November 2014, planning permission has been granted for 6 dwellings and applications are under consideration for more than 200 others. These include applications for 20 plus units at the Ashton House site, 15 plus units at Stow Agricultural Services site, 65 units as part of a care village at Bretton House site and 44 units at a Tesco site. It follows

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[139] P6 Appendix 23.
[140] P6 Appendix 17.
[141] ID8.
[142] ID125.

that there is no need for additional housing in order to meet the need identified by the LPe.

Landscape

8.1.23 LP Policy 45 indicates that where a development site contains, or is bounded by, Cotswold dry-stone or other walls, whatever their condition, every effort should be made to protect and repair them, re-using local stone wherever possible, as part of the development proposal. The scheme details provided by the appellant do not indicate how this would be achieved[143].

8.1.24 Paragraph 115 of the Framework indicates that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Section 85 of the *Countryside and Rights of Way Act 2000* requires decisions on development proposals to have regard to the purpose of conserving and enhancing the natural beauty of AONBs[144].

Conclusion

8.1.25 The appeal should be dismissed.

8.2 **The case for the Campaign to Protect Rural England** (CPRE)

Housing land supply-the case at March 2014[145]

8.2.1 CPRE does not argue that Stow is an unsuitable location for the allocation of some housing. Average household size continues to fall, albeit slowly, so that some new housing is needed just to maintain population levels and to support local services and facilities. Specific needs for Affordable Housing should be met and development plans must make sufficient provision for both market and Affordable Housing.

8.2.2 The Council has put forward housing provision figures for each of the small towns including Stow in the LPe. These figures may change through the development plan process. For the time being, however, the figure of 180 new dwellings over the 20 year plan period up to 2031 seems reasonable to the CPRE[146]. This would equate to an annual requirement of 9 dwellings. The LPe indicates that 46 of those units are already built or committed, which equates to more than 5 years of housing supply at this rate.

District 5 year supply of housing land

8.2.3 Up to and including the March 2014 session of the Inquiry, the appellant argued that the benchmark for the assessment of the 5 year supply position should be the District requirement set out in the dRSSW of 345 dpa for the period 2006 to 2026, subject to further adjustments which it considered appropriate. However, this document never reached adoption.

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[143] Appeal questionnaire-letter from STC, dated 13 June 2013.
[144] ID76.
[145] ID4, 26, 64 as well as ID2 statement dated 28 September 2013.
[146] P6 Appendix 14 The Local Plan Consultation Paper: Preferred Development Strategy May 2013 para 6.15.

Moreover, its housing provision figures were founded, as the EiP Panel Report December 2007 makes clear, on the 2003 based household projections, which are now at least 10 years old. Although it is correct to say that the dRSSW figures were the last to be tested at examination, the EiP concluded in July 2007 and the value of such scrutiny will have been substantially diminished by the passage of time and the availability of new data. On the basis of the 345 dpa figure, the appellant concluded that a 5 year supply of land for housing in the District could not be demonstrated.

8.2.4 In support of this position it made reference to the Secretary of State's decision concerning Highfield Farm, Tetbury, appeal Ref. APP/F1610/A/11/2165778, dated 13 February 2013, which survived legal challenge[147]. The CPRE considers that circumstances have changed significantly since that decision was issued, to the extent that its relevance to the present appeal is much diminished. The appearance more recently of the 2011-based Interim Household Projections (2011-IHP) published by the Department for Communities and Local Government, which constitute the best information for the time being, reduces the weight that can be afforded to the Secretary of State's decision in that case. CPRE maintains its position that the dRSSW figure is out of date.

8.2.5 For its part, up to and including the March 2014 session of the Inquiry, the CPRE has advocated the use of the 2011-IHP as the starting point for the calculation of housing requirements. Whilst they may not be ideal for plan making, as they have a 10 year horizon to 2021, the CPRE considers it unlikely that projections for the Cotswold District for the period 2021-2031 will be significantly greater. The 2011-IHP figures show an increase of 2,583 households between 2011 and 2021. Projecting this forward would result in an increase of 5,166 households for the 20 year period, equivalent to around 260 dwellings per annum. Adding allowances for unmet need as well as second home ownership and vacancy rates, in accordance with the method used by the Highfield Farm Inspector, an annual requirement of some 302 dwellings per annum is derived. This would mean a plain 5 year requirement of 1512 dwellings[148].

8.2.6 It is relevant to consider whether there has been a shortfall in housing provision in the past in order to determine which buffer should be applied in accordance with the requirements of the framework. The housing requirement in the period 2006 to 2011 for Cotswold District was derived from the *Gloucestershire Structure Plan 1991-2011*, and incorporated in the LP. The household projections on which the Structure Plan was based are understood to have been the 1996-based set, the latest available at the time of the Structure Plan's adoption in 1999. The dRSSW did not apply. The housing requirement for that period was 1,538 dwellings (307 dpa), one quarter of the Structure Plan requirement of 6,150 dwellings for the period 1991-2011. To this must be added 520 dwellings, representing 2 years at the 260 dwellings per annum requirement, making a total of 2,058 dwellings. Completions in the period 2006-2013 amounted to 2,163

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[147] P6 Appendices 8 and 10.
[148] ID26 page 5.

dwellings, a surplus of 105 dwellings. Therefore, a buffer of 5% should apply[149].

8.2.7 Application of a 5% buffer to the plain 5 year requirement of 1512 dwellings results in a requirement of 1588 dwellings[150], equivalent to 318 dpa. This would equate to a supply of around 6.57 years, based on the supply figure identified by the Council in its HLSD, of 2088 dwellings. On that basis there would be a 5 year supply of land in the District, and therefore paragraph 49 of the Framework would not be engaged.

The *Woodhead Report*[151]

8.2.8 The CPRE is familiar with Dr Woodhead's work on behalf of the neighbouring Stroud District Council. His report on behalf of Cotswold District Council is similar in its structure and approach. The CPRE considers it a thorough and comprehensive piece of work, without necessarily agreeing with all of it. Indeed, it has considerable uncertainties in the CPRE's opinion. Furthermore, the value of the report is somewhat diminished, as it was published in February 2013, two months before the 2011-IHP were issued. However, what is clear, with reference to Appendix 4 of the report is that the calculations based on the 2008-based Household Projections (Projection D), equivalent to 430 dwellings per annum, carry the highest degree of risk of being too high. The 2010 based SNPP projection (Projection E) equivalent to 255 dwellings per annum, carries a medium to high risk of being too low. However, it is considered that the conversion of the SNPP into household projections in the shape of the 2011-IHP set issued on 9 April 2013 adds weight to the figures. This therefore diminishes the degree of risk; moreover, the kind of risk which can more appropriately be managed than that arising from the overprovision of housing in a Development Plan.

Housing land supply-the case at November 2014

District 5 year supply of housing land

8.2.9 In May 2014 the Council published its latest set of housing land supply figures, HLSM. This had been preceded by a media release in late April announcing that the Council could indeed show a 5 year supply of land for housing. This was the same media release which also acknowledged that the Secretary of State had recovered the appeal for his own determination. The CPRE is concerned about the Council's retreat from that position, as evidenced by the SSoCG, which makes reference to the recent appeal decision Ref. APP/F1610/A/14/2213318 (Fairford), dated 22 September 2014[152]. It is relevant to note that the appellant associated with the Fairford decision did not dispute the availability of any of the sites making up the total supply in the 5 year period of 2,680 dwellings, set out in the

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[149] ID4. Inspector note: a surplus would also be derived if 2 years at 302 dpa (identified in ID26) were to be used in the calculation in place of 260 dpa (identified in ID4).
[150] ID26 page 5.
[151] P3 Appendix 10.
[152] ID120 Appendix 1.

Council's HLSM[153]. The CPRE too accepts this figure, which will be used as the basis for our own calculations set out later on.

8.2.10 The Council's admission at the Fairford Inquiry that the objectively assessed need (OAN) was unknown was particularly disappointing, but there is a difference between it being 'difficult to see', as observed by the Inspector in her decision at paragraph 9 and the conclusion eventually drawn in paragraph 27 that the Council is unable to demonstrate a five-year supply of deliverable housing sites. In respect of paragraph 12 of the decision, the CPRE notes the reference to the Secretary of State's Highfield Farm decision in February 2013 that there had been a record of persistent under-delivery, but refers the present Inspector to our earlier evidence that there was no significant shortfall in housing provision in the Structure Plan period 1991 to 2011, and that because plan periods have not overlapped, events before 2011 should not be taken into account[154].

8.2.11 The CPRE notes that the thrust of the appellant's argument on the subject of the 5 year supply has shifted since the session of the Inquiry in late March. Now the appellant appears to be arguing that the dRSSW figure is out of date and the extent of the full objective assessment of need for housing is the reason why a 5 year supply of land for housing cannot be shown, with reference to the Fairford decision. However, the CPRE regards it as almost inconceivable that the OAN would be as high as the Fairford appellant argued, up to 940 dwellings. Furthermore, the CPRE considers it unlikely that any 'adjustments' would produce an OAN of 2.2 to 2.4 times the unvarnished figure of 260 dwellings per year derived from the interim household projections, that is a range of 575 to 624 dwellings per annum, argued by the appellant in the current case[155]. The significant difference between the OAN figures presented by the appellants in these 2 cases also casts significant doubt over their objectivity. In addition, whatever the merits of the guidance referred to in paragraph 15 of the Fairford decision, which favours reference to household formation rates assumed in the 2008 projections, it must be emphasised that the guidance on household projections states that a new set of projections renders previous sets out of date.[156]

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8.2.12 In many local planning authority areas the OAN and housing requirement may well be broadly similar. However, there are also large numbers of local authority districts in which there are constraints, sometimes severe, of the kind referred to in footnote 9 of the Framework, attached to paragraph 14. Cotswold is one such district, in which the most important of all constraints is the AONB, covering 80% of its territory, and in which the appeal site is located.

8.2.13 Pending the identification of a housing requirement figure through the LPe process the CPRE considers that considerable caution should be exercised in areas like the Cotswold District where the housing requirement is likely to

[153] P9 Appendix 1.
[154] ID26 page 6.
[155] P13 para 11.7.
[156] P3 Appendix 6 page 9 '…each new set of projections replaces in its entirety the previous set.'

be less than the OAN. While it is regrettable that the Council has not yet established either figure, the potential consequence of the further application of the Fairford Inspector's approach would be expose the District to the risk of a much more dispersed pattern of development. That is, more development in the smaller towns and villages than would be desirable, which would not only in many cases have adverse effects on the AONB, but would also be contrary to the principles of sustainable development on which the Government appears to place such emphasis.

8.2.14 Moving on to paragraph 17 of the Fairford decision, which indicates that there is likely to be a reduction in the working population of the District due to ageing and if not addressed this could lead to un-sustainable in-commuting. The CPRE finds it difficult to envisage a situation in which 'unsustainable in-commuting' would ever be a feature of Cotswold District. A large proportion of its resident workforce travels to work in adjoining districts, particularly Swindon and Cheltenham, and smaller but still significant numbers commute from the District's two railway stations at Kemble and Moreton-in-Marsh. An increase in the number of jobs in the District would, subject to the exercise of individual choice, reduce the extent of net out-commuting rather than create additional problems.

8.2.15 The CPRE's approach is to establish what the housing requirement would have to be for the 'years of supply' figure to be reduced below five. This figure is calculated on the basis of the supply figure of 2,680 dwellings, divided by 5.05 to produce an annual figure to which the 5% buffer has been applied. This results in a 'tipping point' figure of 510 dpa. Whilst the Fairford Inspector considered it likely that the OAN would be well over 400 dpa, what constitutes 'well over' in paragraph 26 of her decision is not clear. Based on the tipping point figure identified by the CPRE, it is not self evident that there is a shortfall. This undermines the conclusion drawn at the end of paragraph 26 of the appeal decision regarding the absence of a 5 year supply. On this basis, the CPRE does not agree with the position set out in the SSoCG that the Council is unable to demonstrate a 5 year supply of deliverable housing[157].

8.2.16 The implication of the Fairford decision appears to be that, if the objectively assessed need for housing has not been or cannot at present be established, then there is by definition not a 5 year supply of land for housing. If that is the case, there would have been no need for the appellant to provide the extensive evidence it has in fact prepared to assist it. The Fairford Inspector's conclusion on that issue, crucial to this Inquiry and many others across England, seems to CPRE to fundamentally undermine the very purpose of the Town and Country Planning System; to control the amount and distribution of development, and prevents local planning authorities from exercising their legitimate functions.

Affordable Housing

8.2.17 A common feature of most of the Housing Needs Assessments or equivalent carried out in southern England in the last 12 to 15 years, including those by Fordham Associates, is that they identified an annual need for Affordable

[157] ID120 para 8.

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Housing which approached or even exceeded total annual provision for housing in the development plan. The usually seamless sequence of calculations was then broken at the point at which a percentage figure for Affordable Housing had to be identified in the Plan, which was then normally based on the maximum developers could tolerate in respect of viability.

8.2.18 The CPRE has no evidence to dispute the appellant's assessment concerning the potential of the Stow Agricultural Services, Bretton House and Ashton House sites in Stow to deliver Affordable Housing[158]. Furthermore, the provision of 73 affordable units would indeed significantly increase the supply of Affordable Housing in Stow. This is however not an exceptions site, and in the balance the CPRE considers that provision of a significant amount of Affordable Housing should not be used as a justification for a development where in our view a broader consideration indicates that no development should take place at all.

8.2.19 The appellant has provided details of a BBC report which identifies a number of areas in which houses are less affordable than in London[159]. These include Cotswold District; but the fact that there are 62 such areas means that Cotswold District is far from unique in this respect. The CPRE is well aware of the measure of affordability which compares lowest quartile house prices with lowest quartile incomes. Cotswold District was expensive long before this particular measure was first compiled. The fact that affordability ratios in Cotswold District have worsened is a reflection of the deteriorating position in most parts of the UK rather than purely local conditions. Given this, and the characteristics of housing as good, in terms of factors such as durability and high cost, it would be unreasonable to expect a significant increase in the supply of housing to have much discernible effect on its price in Cotswold District in the foreseeable future.

8.2.20 The priority in this context is therefore that needs should be met, rather than demand. It is significant that the focus of recent appeals and indeed court cases has been 'objectively assessed need'.

Landscape impact

8.2.21 The CPRE endorses the Council's landscape assessment evidence. In particular, it takes up the following points:

- The appeal site was considered by the LP Inspector, who determined that it should not be allocated[160];
- There are alternatives to the appeal site, which would have less significant landscape and visual effects than those associated with the appeal proposal and the scheme would cause significant harm to existing patterns of development;
- The existing housing at Griffin Close is uncharacteristic of the Cotswolds in terms of design, materials and layout. However, the shortcomings of that development would not in any way justify the

[158] P9 section 6.
[159] P9 Appendix 5.
[160] P2 Appendix JO5 page 9-45.

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development of the appeal site. Any improvements to the boundary treatment, which the appellant claims, would be outweighed by the significant extension of the built up area of Stow into the AONB;

- The hilltop setting of Stow-on-the-Wold is a distinctive and invaluable feature of the town. The scheme, which would result in development further down the slopes leading upwards to the centre, would seriously undermine Stow's essential character as a hilltop town; and finally,
- Most of Stow is an asset to the AONB and it is precisely because Stow is washed over by the AONB designation that its setting is important.

Sustainability

8.2.22 The CPRE considers that there are 5 strands to sustainability in this case: the accessibility by sustainable means of local facilities and services; the existence and accessibility of employment opportunities in Stow and the surrounding area; the location of the nearest secondary schools; the size in relation to the number of dwellings proposed; and, the quality of the agricultural land.

8.2.23 The eastern most part of the existing housing within Griffin Close lies further from the centre of Stow, as defined by the market square, than any other part of the town within the settlement boundary. The proposal would extend the town still further in this direction. The proposed access from the A436 is 1 Km from St Edward's hall in the market square, 1.15 Km from the junction of the A436 with the A429 and no less than 1.5 Km to the Tesco Store. These are substantial distances by the standards of a small town and would deter many walkers. Although they are within a range of 5 Km, which may be considered a reasonable cycling distance, there is no dedicated safe cycle route to the town. In addition, the ground level rises from around 185 metres AOD at the proposed site entrance up to about 230 metres AOD at the junction of the A436 with the A429. This would be likely to deter all but the most energetic cyclists. This makes the cycle time between the site and the Tesco store suggested by the appellant's Travel Plan of 5.24 minutes highly implausible. Turning to bus services, they are sparse. Other than to Moreton-in-Marsh and Cheltenham they are not even daily and the main services are so infrequent that they could not generally be relied upon to travel to a job with conventional working hours.

8.2.24 CPRE does not dispute the car ownership figures set out by the appellant[161]. However, it does not necessarily follow that car ownership levels on new developments will be the same as the surrounding area. CPRE remains gravely sceptical about the effectiveness of a Travel Plan in reducing the number of journeys by private car, given the distance from the site to the town's services and facilities, except the primary school, and the gradient of the A436 between the site and the town centre.

8.2.25 Stow has no industrial estate or business park, and no allocations for employment uses are proposed in the LPe other than an 'appropriately and discreetly located site' capable of providing small workshops. The general

[161] P9 volume 1 page 16 table 5.1.

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level of economic activity is less than the other north Cotswold towns, such as Bourton-on-the-Water, Chipping Campden and Moreton-in-Marsh. In contrast, employment in Stow is confined to the service sector, particularly retailing. It seems highly likely therefore that the majority of economically active future residents of the proposed development would seek their employment elsewhere and moreover would rely almost exclusively on the private car to reach it.

8.2.26 Stow does not have a secondary school and pupils resident at the appeal site would have to travel considerable distances to attend other secondary schools in the area.

8.2.27 The site falls into agricultural land classification Grade 3a and is therefore, categorised as among the BMVAL, which is relatively scarce in the Cotswold District. The application form gives the site area as 7.6 hectares and so the proposed development would equate to a gross density of around 20 dwellings per hectare. The CPRE considers that this would not align with the aim of the Framework that development makes economical use of land.

8.2.28 None of the evidence presented in support of the scheme persuades CPRE that the proposal constitutes sustainable development.

Other matters

The Bourton decision

8.2.29 The CPRE strongly disagrees with the view of the appellant that appeal decision Ref. APP/F1610/A/13/2196383, which relates to a site at Bourton-on-the-Water (Bourton decision), supports a grant of planning permission in this case. The appeal site the subject of that previous appeal was promoted by the applicant as an omission site at the LP Inquiry in 2004. The then Inspector preferred another site, now developed, as Bourton's principal allocation. The nature of an AONB designation, particularly a large one such as the Cotswold AONB means that not all parts of it will make an equal contribution. The Bourton appeal site is flat, its intrinsic value is limited, and its relationship with the existing built up area is such that its development would not have such a serious adverse impact on the AONB as that of the Stow site.

8.2.30 The characteristics of the Bourton appeal site mean that in our opinion it could be described as the clear first choice for further development at Bourton on the scale which the LPe envisages. Furthermore, the Bourton Inspector did not have the benefit of the information which CPRE has contributed to this Inquiry, and it is perhaps not surprising, on the basis of the information presented to him, that he concluded that the District did not have a 5 year supply of land for housing. CPRE concludes that the comparison between the cases shows that the Bourton decision should not be relied on in support of the present case.

Prematurity

8.2.31 The scale of the proposed development means that the application is premature on the grounds that it would pre-determine the scale, location and phasing of new developments in Stow. All 3 factors are relevant here:

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- The scale of the proposal would take the level of commitments above the total level of housing provision envisaged in the LPe for the town to 2031;
- There may be better locations for the residual requirement of 134 dwellings; and,
- The phasing of development in Stow would also be affected by the grant of planning permission on this site.

Conclusions

8.2.32 The CPRE agrees with the Council that reasons for refusal 4 to 8 inclusive could be overcome by means of appropriate legal agreements[162]. These are not fundamental reasons of principle. However, the CPRE considers that the first reason for refusal, concerning the AONB, is a fundamental matter of principle. The third reason for refusal, relating to agricultural land quality, is a lesser but still important subsidiary reason. Sustainability is another fundamental issue to which the principal parties have not paid sufficient attention.

8.2.33 Accordingly, the CPRE's view of the balance of planning considerations is quite different from that of the appellant. The appellant duly acknowledges the implications of the site's location in the Cotswold AONB, but concludes that any harm which might be brought about by the development is outweighed by other considerations, notably its interpretation of the 5 year housing land supply position. In contrast, the CPRE considers that the best available evidence shows that there is a 5 year supply of land for housing in the District. This undermines the appellant's reliance on parts of the Framework associated with the absence of a 5 year supply. The CPRE concurs with the view of the Council regarding the adverse impact of the proposal on the AONB and furthermore, considers that the appeal site is perhaps the least sustainable which could be found on the edge of Stow.

8.2.34 The proposal would constitute major development within the AONB to which paragraph 116 of the Framework is relevant. In relation to the first bullet point of paragraph 116, the CPRE disagrees with the appellant's assertion that there is a pressing need for the development. Although the slow progress on the LPe is disappointing, there are sufficient planning permissions to maintain the average rate of development for Stow until that plan is in place. The main positive impact on the local economy would be the employment created in the construction period. However, this would be only temporary.

8.2.35 In relation to the second bullet point of paragraph 116, any development outside the designated area would be at some distance from Stow, due to the extent of the AONB. Some provision for housing will need to be made for the town. Furthermore, it is likely that some of the housing will have to be provided on greenfield land and/or sites in the AONB. Nonetheless, there is likely to be some scope for meeting that need in a way other than

[162] P1 para 14.1.

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allowing this appeal. A significant factor in the choice of sites will be the degree of specific harm likely to be caused to the AONB.

8.2.36 In relation to the third bullet point of paragraph 116, the CPRE considers that the appellant's landscape assessment makes light of the likely detrimental impact on the AONB, which is likely to be significant. The significant harm to the AONB and the loss of best and most versatile agricultural land is not outweighed by any other relevant considerations. The overwhelming number of objections made by Stow residents and Stow Town Council demonstrates that the scheme is not in the public interest. The appeal should be dismissed.

8.3 The case for Mr Akerman

8.3.1 I am a long time resident of Stow and have particular concerns with respect to the highway implications of the scheme. Drivers on the section of Oddington Road to the west of the appeal site commonly exceed the 30 mph speed limit and so the proposed footway alongside this road would not be an appropriate route for children to walk from the development site to the local primary school. Furthermore, the position of the proposed roundabout on a bend would increase the risk of accidents, as it would cause articulated vehicles to break on the bend and in wet road conditions this could cause the vehicle to jack-knife.

8.4 The case for Mr A White

8.4.1 Stow is a small settlement that has waxed and waned organically through the ages. As it has never grown disproportionately, its essential character, as an emblematic Cotswold market town, has survived the vicissitudes of many centuries. A very large number of its buildings are Listed, but Stow remains a vibrant sustainable working community. There is adequate space available within its development boundary for the community for many more years of organic growth and renewal.

8.4.2 The proposal would have the effect of making a community, which has less than 5% of the population of the District, absorb, a significant portion of the District's housing shortfall. There is no need for development on this scale and put simply, the proposal would be disproportionate. It would add some 16% to the number of dwellings in the town and a larger increase in its population over a short period. There is no local support or justification for such an increase. Stow, an historic market town that is a magnet for international tourism, would be far better served by more organic growth through the development of a number of smaller sites already identified within the development boundary of the town.

8.4.3 It has been argued that Stow has the capacity to provide for employment growth. That is not evidenced by the Council's plans past, present or future. The Council's stance is that residents of Stow looking for local industrial employment should seek it at Bourton-on-the-Water or Moreton-on-Marsh. No Council plan that I have seen proposed even one square metre of space for new industrial or commercial development in the town. Indeed there is evidence to the contrary, with the recently released builder's merchant's yard being considered as a suitable site for a McCarthy & Stone apartment complex as well as a series of planning consents for properties to be

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converted from retail to residential use. Employment opportunities that the town affords are mainly in the retail and hospitality fields. They are relatively low paid, but are the life of the community. Few of them provide an income to aspire to market housing nor in many cases to Affordable Housing at the rates which current policy dictates. Against this background, the proposal would not help to sustain the community.

8.4.4 The proposed development would be located entirely within the Cotswolds AONB on a sensitive approach to the hill top town. It would damage the distant prospect of Stow and an approach to the town.

8.4.5 Finally, I comment on the issue of forecasts of growth. I do so based on my experience gained as a former H M Treasury Divisional Head, as a Senior Fiscal Advisor with the International Monetary Fund and as a Trustee for a major UK charity. My experience, both here and overseas, is that at best forecasts are a rough guide to the direction of travel at the broadest aggregate level. Their usefulness diminishes sharply the narrower one seeks to focus them. This results in a situation where even projects of national significance may be derailed by the gap between aspirations expressed as forecasts and reality. I have no criticism of the capabilities of either the Council's or the appellant's advisors, but experts, even when they agree, can be wrong.

8.5 The case for the Save Our Stow Group (SOSG)

8.5.1 The AONB and our extensive heritage are the prime assets of Stow as regards attracting tourists, who in turn are the life blood of the town. The proposal would harm the landscape of this part of the AONB.

8.5.2 The Framework supports the protection of the AONB at paragraph 116. Furthermore, the Cotswold Conservation Board's submissions make clear that residential development at sites including Lechlade, Fairford, much of Mickleton and Moreton-in-Marsh, which are within the district but outside the AONB, provide some potential for 'developing elsewhere' and therefore the 'exceptional circumstances' necessary for developing within the AONB do not exist.

8.5.3 We accept that under the terms of the LPe we may be obliged to provide 180 dwellings over the 20 year plan period, 2011-2031. This would equate to 9 dwellings per year, a rate that could be absorbed by the town. SOSG would expect this to include a mix of units on smaller sites. This would include Affordable Housing for which there is a demand for 27 in Stow. There is an advantage in allocating Affordable Housing to local workers, as they can be supported by family and friends. As most development proposals put forward for the town include a number of Affordable units, meeting the identified demand is unlikely to be a problem. The proposal would include around 70 Affordable Units, far in excess of the local need. This would be likely to result in people being relocated to Stow, where there aren't employment opportunities to support them. Most working people will need to commute out of Stow to work and given the limitations of public transport, would be likely to travel by car. This would be contrary to the aims of the Framework, which indicates that developments that generate significant movement be located where the need to travel will be minimised. One of the key aspects of sustainable

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development set out in the Framework, related to the economic role, is providing land in the right place. This is clearly not the right place.

8.5.4 It is unlikely that future residents would regularly walk from the site to the town centre, given the up hill nature of the route, especially if accompanied by a pram, young children and/or shopping. Furthermore, it would be unreasonable to expect people to cycle either into town or to the local train stations, as the roads are busy. The appellant's Travel Plan would be unlikely to change behaviour, as travel by means other than the private car would be unlikely and potentially dangerous. Given that up to 146 houses are proposed it would be conservative to expect around 300 vehicles to be owned by future residents and as there would be commuting, it can be anticipated that there would be a significant impact on the Unicorn junction, potentially making access to the town centre more difficult for tourists.

8.5.5 Based on the letters of objection and petition submitted, there is overwhelming opposition to this proposed large urban development. The majority of residents are clearly not convinced that it would benefit them. Planning permission has been refused for development of the appeal site on a number of occasions since 1990, which sends a clear message regarding its suitability.

8.6 The case for Mrs S Brawn

8.6.1 The uSoCG claims 'with regard to archaeology, it is agreed that subject to conditions there are no adverse impacts'. This is a highly questionable statement. When the entire evidence base of archaeological research, carried out for the appellant by Cotswold Archaeology, makes it abundantly clear that there is evidence that the site contains historic features of regional importance and may contain 3 Anglo-Saxon sunken-floored buildings of potentially 'high archaeological significance'. Whilst Cotswold Archaeology recommended that an appropriate mitigation strategy could be formulated and secured by condition, there appears to be no evidence in the appellant's submissions to show that it supports such measures.

8.6.2 I also understand from Gloucestershire County Council's archaeological team leader that the site is, in their opinion, of sufficient archaeological importance to have been the subject of an application to English Heritage to designate it as a Scheduled Ancient Monument. Although the application was not successful, it is notable that they considered the site to be worthy of the application.

8.6.3 The Framework indicates that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. In addition, the ability to record evidence of our past should not be a factor in deciding whether such a loss should be permitted. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of harm or loss and the significance of the heritage asset. In my view, the prospect of mitigation would not overcome the loss of important archaeological heritage that would result from building over and subterranean development of the site.

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8.7 The case for Mr N Hambleton

8.7.1 I have been a resident of Stow for around 27 Years. Highway conditions in the town are congested, with queues of traffic on most days. The proposal will not help this situation and by adding to the burden on the roads would increase the risk of accidents.

8.8 The case for Mrs J Turner

8.8.1 I run businesses in Stow as well as Moreton-in-Marsh and Bourton-on-the-Water. I am aware of large housing developments that are underway in those other settlements which include a significant proportion of affordable housing, which the developers appear to be having trouble selling. I see no need for more.

9. WRITTEN REPRESENTATIONS

9.1 This section relates to the correspondence received by the Planning Inspectorate in response to the appeal notifications and the consultation responses received by the Council in response to the application for planning permission. The submissions reflect many of the matters raised by the main parties, which I do not repeat in detail here. I summarise the many points raised.

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9.2 Natural England[163]

Landscape

9.2.1 Natural England objects to the original scheme, as it would not deliver environmental benefits commensurate with the location within the AONB. There is scope to improve the current urban edge next to the development site. However, the site itself represents a continuation of the landscape character of the AONB with agricultural fields divided by mature hedges and trees and remnant Cotswold stone walls. There is continuity in the sloping topography, field and hedge patterns. The site can be seen from the Oddington Road and a number of public footpaths as well as from the King George V Playing Fields, which is public open space. From the playing fields there are clear views across the AONB valley, which would be replaced by immediate views of the proposed development.

9.2.2 Development within the AONB should be high quality and sensitive to the character of the AONB. The proposal does not take into account the impacts on the AONB sufficiently; the layout is not sensitive to the landscape context, the density is too high and the provision of green infrastructure is inadequate to mitigate the impacts on the AONB. We would expect the Council to consider opportunities for moderating any detrimental effects on the AONB, including building layout design should be sensitive to local vernacular and the transition between the town and the open countryside.

[163] Appeal questionnaire-letter from Natural England, dated 13 August 2013.

We would expect substantial and well designed green infrastructure to reduce the impact on the protected landscape.

Ecology and biodiversity

9.2.3 As regards ecology, with reference to the BESA carried out in May 2012, the existing hedgerows and trees that provide foraging and commuting routes for bats should be retained and the layout of the development and lighting should be designed to minimise impacts on bats. In keeping with the aims of the Framework and the duty under section 40 of the *Natural Environment and Rural Communities Act 2006*, consideration should be given to securing measures to enhance the biodiversity of the site. For example the incorporation into the design of roosting opportunities for bats and nesting boxes for birds.

9.3 **The Cotswolds Conservation Board** (CCB)

9.3.1 The CCB was established by Parliament in 2004 and has 2 statutory purposes:

- To conserve and enhance the natural beauty of the AONB, and;
- To increase the understanding and enjoyment of the special qualities of the AONB

In fulfilling these roles, the CCB has a duty to seek to foster the economic and social well-being of people living within the AONB.

9.3.2 The CCB is of the view that the proposal would constitute major development in the AONB, not least due to the number of dwellings applied for which would increase the housing stock in Stow by more than 10%. Consequently, the criteria set out in paragraph 116 of the Framework apply. These include the need for consideration to be given to the scope for developing elsewhere outside the designated area.

9.3.3 In the Tetbury case the Inspector concluded '*but importantly, in terms of the harm that would be caused to the AONB, I have not been provided with any evidence to suggest that there is anything other than very limited scope indeed to provide housing within the District on sites that are not part of the AONB*'[164]. The Secretary of State concurred, which indicates that there should be consideration of the scope for developing elsewhere before releasing major sites within the AONB. The SHLAA14 indicates that there is considerable scope for development within the District outside the AONB. Fairford is outside the AONB and, of the potential capacity for around 900 dwellings identified by the SHLAA14, the LPe proposes 260 units in the plan period. Similarly Lechlade is outside the AONB with development of 140 dwellings proposed in the LPe from a potential capacity identified by the SHLAA14 of 170 units. Much of Mickleton and Moreton-in-Marsh is outside the AONB and the LPe also indicates that there is scope for housing development at those settlements. Thus from these 4 settlements alone, there is potential for development within the District outside the AONB. Consequently, the proposal does not meet the 'scope elsewhere' test and

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[164] P6 Appendix 8 Inspector's Report para 14.69.

the exceptional circumstances required by paragraph 116 of the Framework have not been demonstrated.

9.3.4 The same paragraph of the Framework also requires consideration to be given to any detrimental effect on the landscape and the extent to which that could be moderated. The CCB's view is that test is not met either. In so far as the Secretary of State found in the Tetbury case that the '*loss of open fields must inevitably have a detrimental effect on the landscape and environment'*[165] and *'harm the AONB through the loss of open fields'*[166], the same would apply in relation to the current appeal proposal. CCB considers that the appellant's proposed landscaping strategy would be completely inadequate to mitigate the visual intrusion of the proposed development into the panoramic view of the Evenlode Valley obtainable from the significant public vantage point provided by the King George V Playing Fields. The proposal would not conserve the landscape and scenic beauty of the AONB, contrary to the aims of paragraph 115 of the Framework.

9.3.5 The CCB has had regard to the importance placed by Government Policy on the provision of housing to meet a proven need, but considers that in this instance that is outweighed by the significant harm that would be caused to the nationally designated landscape.

9.4 **Gloucestershire County Council** (GCC)

Obligations[167]

9.4.1 Contributions secured by planning obligations would be required towards pre-school, primary and secondary education and library facilities as existing facilities do not have sufficient capacity to meet the likely needs of future residents of the scheme.

Highways[168]

Accessibility

9.4.2 The *Manual for Streets* states walkable neighbourhoods are typically characterised by facilities within a walking range of around 800 metres. This would include the bus stop in King Georges Field, which has very limited service, the local primary school and some shops within the town centre. Guidance within the GJoF identifies a range of acceptable distances between 200 metres and 1200 metres, which would make more of the shops within the centre accessible by foot. However, there is a steep gradient between the proposed site and the town centre which would make walking a less attractive option. This gradient would also make cycling a less attractive option.

9.4.3 The publication '*Public Transport in Development*' produced by the Institution of Highways & Transportation specifies that development should be located within 400 metres of the nearest bus stop. Whilst the nearest

[165] P6 Appendix 8 Secretary of State's decision para 21.
[166] P6 Appendix 8 Secretary of State's decision para 24.
[167] Appeal questionnaire-letter from the Business Management Directorate, dated 13 August 2013.
[168] Appeal questionnaire-letter from Development Management, dated 27 November 2013.

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bus stop to the site is located around 300 metres away on King Georges Field, the service is very limited. More frequent services operate from a bus stop in the town centre, which, consistent with some other residential areas in Stow, is around 1 Km from the site. However, there are two unmarked bus stops on the Oddington Road, which the appellant has agreed to upgrade near the junction with King Georges Field. The railway stations at Moreton-in-Marsh and Kingham have services to London, Oxford and Worcester and would be a viable option for those commuting from the appeal site.

Highway safety

9.4.4 Vehicular access to the development would be from a section of Oddington Road with a current speed limit of 60 mph. The most suitable form of access would be a single lane roundabout and additionally the speed limit being reduced on the approaches to 40 mph. There have been 3 personal injury collisions with the last 5 years in the vicinity of the proposed access, in relation to which it is thought that road geometry contributed to 2 of those incidents. Introducing the 40 mph speed limit and the roundabout, as proposed, may improve highway safety.

9.4.5 The appellant's Transport Assessment was compiled in accordance with the Department for Transport's *Guidance on Transport Assessment* and the Highway Authority has also had regard to the supplementary technical notes. The traffic count data used in the junction modelling undertaken by the appellant is considered to be robust[169]. TRICS was used to assess the likely level of vehicle movements to and from the site using the most appropriate comparators in the database. ARCADY modelling has been used to demonstrate that the proposed roundabout junction at the site entrance would operate well within capacity. The proposed arrangement has been designed in accordance with Design Manual for Roads and Bridges standards and has been the subject of a Stage 1 Road Safety Audit. The Highway Authority considers that the proposed access arrangements for the site would be safe[170]. The appellant's transport consultant has also produced an acceptable LinSig model of the signal controlled Unicorn junction. Whilst this demonstrates that the development would reduce the capacity of the junction, the Highway Authority considers that the cumulative impact of the development would not be severe[171].

9.4.6 The Highway Authority is content that it would be possible to ensure that satisfactory standards of road layout and parking facilities within the site could be secured by condition.

Conclusion

9.4.7 The Highway Authority does not object to the scheme, subject to a S106 Agreement to secure a Travel Plan and a number of identified conditions being attached to any permission granted[172].

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[169] HSoCG section 4.
[170] HSoCG paras 4.8-4.10.
[171] ID46.
[172] HSoCG sections 5 and 6.

Archaeology[173]

9.4.8 English Heritage has confirmed that the site does not merit designation as a Scheduled Monument and that, having examined the available information, the site's archaeological potential is assumed to be limited. GCC notes that some archaeological remains would be lost as a result of the proposed development. However, it does not object to the proposal subject to an appropriate programme of archaeological work to record any archaeological remains within the site being undertaken prior to the development, in order to advance the understanding of heritage assets in accordance with the aims of the Framework. These works could be secured by condition.

9.5 **The Environment Agency**[174]

9.5.1 The Environment Agency does not object to the scheme, subject to the imposition of a condition to control the manner in which surface water drains from the site, in order to safeguard the controlled waters thereabouts.

9.6 **Thames Water**[175]

9.6.1 Thames Water does not object to the scheme subject to the imposition of conditions. Initial investigations have indicated that the existing waste water infrastructure does not have the capacity to accommodate discharges from the proposal. Therefore, a Grampian style condition would be required to prevent development until the extent of any required on/off-site improvement works has been established and the provision of them secured, in the interests of avoiding sewerage flooding and protection of the environment. A similar approach would be required in relation to water supply, which does not have sufficient capacity at present to meet the needs of the proposal.

9.7 **Gloucestershire Constabulary**[176]

9.7.1 Gloucestershire Constabulary raises a number of concerns regarding detailed design matters.

9.8 **Maugersbury Parish Council**[177] (MPC)

9.8.1 There is a spring at the northeastern corner of the site, which is at the head of a larger watercourse. MPC is concerned that the proposed development may interfere with ecology down stream.

9.9 **Bledington Parish Council**[178] (BPC)

9.9.1 BPC objects to the proposal on the basis that it would result in a significant increase in the commuter traffic passing through Bledington on its way to and from Kingham railway station, existing traffic being a major issue.

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[173] Appeal questionnaire-letters from GCC, dated May-August 2013 and ID71.
[174] Appeal questionnaire-letter from the EA, dated 26 July 2013.
[175] Appeal questionnaire-email from TW, dated 29 May 2013.
[176] Appeal questionnaire-letter from GC, dated 13 June 2013.
[177] Appeal questionnaire-letter from MPC, dated 26 June 2013.
[178] Appeal questionnaire-email from BPC, dated 17 June 2013.

9.10 Others

9.10.1 The remaining respondents, of which there are a large number, are either private companies or individuals and the matters set out in this section are not attributed to particular parties. These representations comprise almost entirely of objections to the scheme and include individual letters of objection as well as a petition, signed by those who consider that the scheme '*would not benefit the town and would have an adverse effect on its infrastructure*'. Common concerns raised include adverse impacts on the AONB, traffic congestion and tourism as well as lack of capacity of existing infrastructure.

9.10.2 Other concerns include that:

- the proposed access point to the site is on a sharp bend and so would be unsafe, and the proposed 'compact' roundabout would restrict access by long wheel base vehicles, both along the highway as well as to and from the site;
- The local primary school and 2 available secondary schools are over-subscribed. A larger school and more policing would be required. GP and medical facilities are limited. Whist the youth hostel provides leisure opportunities for some teenagers, more is needed.
- Disruption during construction, with lorries passing through housing estates. A detrimental impact on the outlook and privacy of existing residents whose properties neighbour the site. Harm to wildlife that uses the site.
- It would be necessary for the developer to put in place a mechanism to ensure that the proposed areas of public open space would be maintained in perpetuity.

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10. PLANNING OBLIGATIONS

10.1 UU1 would secure contributions from the appellant towards: Pre-school facilities (£113,653); Primary School Facilities (£51,453); Secondary School facilities (£371,429); and, Library facilities (£28,616).

10.2 GCC has provided information to demonstrate why the contributions are required. This confirms that in relation to education, the proposed development would be likely to give rise to additional demand for pre-school, primary school and secondary school places over and above those which are available in local schools. Each contribution is calculated on the basis of the extra places required and using Department for Education pupil capital cost multipliers. The contributions would be used to fund the additional local facilities needed to support the requirements of future residents of the scheme.

10.3 The increase in population resulting from the proposal would also be likely to place additional demands on the services of Stow Library. The identified contribution is sought towards library services to allow that impact to be

mitigated and is based on a standard cost applied by GCC of £196 per dwelling.

10.4 I am content that the UU1 obligations meet the requirements of LP Policy 49 as well as the tests of CIL Regulation 122.

10.5 UU2 would bind the appellant, should the appeal succeed to: provide and maintain public open space and a surface water drainage system within the site in accordance with schemes previously approved by the Council; and make contributions towards the construction of changing rooms on the King George V Playing Fields (£32,799) and the provision of a cycle parking facility in Stow (£14,317).

10.6 The establishment and future management of the proposed public open spaces and the surface water drainage scheme would be key aspects of the proposed development. I consider that the provisions to secure those matters meet the requirements of LP Policies 34 and 49 as well as the aims of the Framework regarding the promotion of healthy communities and safeguarding the environment respectively. They meet the tests of CIL Regulation 122.

10.7 The King George V Playing Fields are an important outdoor sports facility for the town, which are regularly used by its populace. Given the close proximity of these facilities to the appeal site, it is likely that future residents of the development would also wish to use them. The Council has confirmed that the changing facilities need to be upgraded to ensure that the playing fields can be used to their full potential. The contribution sought represents a proportion of the cost of the works; the proportion being equivalent to the percentage increase in the population of Stow that would result from the proposal. I am content that this obligation accords with the requirements of LP Policy 49 as well as the aims of the Framework regarding the promotion of healthy communities. It meets the tests of CIL Regulation 122[179].

10.8 In support of the scheme the appellant has submitted a draft Travel Plan, which contains measures designed to reduce vehicular trips associated with the proposed development and promote the use by residents of more sustainable modes of transport, in keeping with the aims of LP Policy 38 and the Framework. These alternative modes would include cycling between the site and the town. The Council has confirmed that additional cycle parking facilities would be required in the town centre to cater for the potential increased demand associated with the proposed development. Supporting information has been provided for the cost, the provision of which would be secured by UU2[180]. A1 would bind the appellant, should the appeal succeed to providing GCC with a contribution (£52,644) to cover its costs in implementing the Travel Plan associated with the development on behalf of the appellant. The cost, which relates to the proposed number of dwellings, is based on standard rates set out in GCC's *Transport Planning Advice Sheet No. 7: Residential Travel Plans*. I am content that this obligation accords with the requirements of LP Policy 49 as well as the aims of the Framework

[179] P1 section 12 and ID90.
[180] P1 section 9 and ID91.

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regarding the promotion of sustainable modes of transport. They meet the tests of CIL Regulation 122.

10.9 I therefore conclude that the provisions of UU1, UU2 and A1 can be taken into account in determining this appeal.

11. CONDITIONS

11.1 Prior to the Inquiry the Council submitted a list of 25 conditions which it considered should be imposed in the event of the appeal being allowed and a further 3 conditions were put forward before the discussion of conditions at the Inquiry[181]. I have amended the suggested conditions where I consider necessary in light of the discussions and the advice set out in the PPG. The amended list is set out in Appendix D to this report. I recommend that the conditions in that Appendix be imposed if the Secretary of State decides to allow the appeal and grant planning permission for the proposed development.

11.2 The application was submitted in outline with all detailed matters, except access reserved for future consideration. Therefore, it would be necessary to impose the standard conditions setting out the timetable for the submission and approval of reserved matters. A number of the suggested conditions require the submission of details, which while necessary in my view should be resolved at the reserved matters stage, when they can be considered in light of the detailed scheme design. These details include: ground levels and building slab levels; a construction phase waste minimisation statement; access roads, vehicle parking and turning facilities within the site; a scheme for the provision of fire hydrants; landscaping including public open space and play areas; and sound insulation measures.

11.3 Conditions would be necessary, for the avoidance of doubt and in the interests of proper planning, to ensure that: the development would be carried out in accordance with the approved plans insofar as they relate to matters not reserved for future determination; and, that reserved matters would accord with the principles and parameters set out in the Design and Access Statement.

11.4 Conditions would be required, in the interests of ensuring safe and suitable access to the site, to secure: the completion of off-site highway works and the site entrance before other aspects of the development proceed; as well as the provision of off site footway improvement works and the site access roads; and, arrangements for the maintenance of site access roads prior to adoption. It would be necessary to secure the implementation of a construction method statement, in the interest of highway safety and safeguarding the living conditions of local residents. Conditions would also be necessary to secure the provision of bus stop improvements on Oddington Road as well as the provision and implementation of a Travel Plan, in the interests of promoting sustainable modes of transport.

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[181] P1 Appendix 26 & ID85.

11.5 In order to ensure that adequate protection is afforded to neighbouring controlled waters and the living conditions of existing and future residents, a condition would be required to secure a contamination risk assessment and to control any necessary remedial measures. Conditions would also be required to control the discharge of sewage and surface water from the site. The Environment Agency has confirmed that subject to the imposition of its suggested surface water drainage condition, controlled waters hereabouts would be satisfactorily safeguarded. Given Thames Water's concerns that the existing public water supply and sewerage systems do not currently have capacity to serve the scheme, 'Grampian' type conditions are required to ensure that development would not proceed until those matters are satisfactorily resolved; in the case of the sewerage system, in order to safeguard the environment, and in the case of water supply, to ensure reasonable living conditions for future residents.

11.6 A condition would be required, in the interests of biodiversity, to secure the nature conservation mitigation works outlined in the *Betts Baseline Ecological Site Audit, May 2012*. In light of the findings of the *Cotswold Archaeology Heritage Statement* and the advice of GCC, a condition would be necessary to secure a programme of archaeological work.

11.7 Conditions would be necessary to secure the provision of 50% of the proposed dwellings as Affordable Housing, in accordance with LP Policy 21, and in the interest of sustainable development, to ensure that the proposed units achieve Level 3 of the Code for Sustainable Homes.

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12. INSPECTOR'S CONCLUSIONS

12.1 The following conclusions are based on the oral and written evidence given to the Inquiry as well as the accompanied and unaccompanied visits made to the site and the surroundings. The numbers in square brackets [] refer back to earlier paragraph numbers.

12.2 Main issue

12.2.1 I consider that the main issue in this case is whether the proposal would amount to sustainable development, having regard to whether there is a demonstrable 5 year supply of deliverable housing sites and with particular reference to the effect of the proposed scheme on: the character and appearance of the Cotswold Area of Outstanding Natural Beauty (AONB) and the setting of Stow-on-the-Wold (Stow); the safety and convenience of highway users; and, whether adequate provision would be made in relation to any local services or infrastructure necessary to support the scheme.

12.3 Housing land supply

12.3.1 It is not disputed that the appeal proposal does not accord with LP Policy 19. The site is outside the settlement boundary, it would not be development appropriate to a rural area, with reference to the reasoned justification for the Policy, and it would include a substantial amount of new build open market housing.

12.3.2 However, Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 5%. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%. Paragraph 49 confirms that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites.

Supply

12.3.3 The Council and appellant agree that the Council has identified specific deliverable housing sites sufficient to provide around 2,680 dwellings over the relevant 5 year period [6.4.7]. This is not disputed by anyone and I have no reason to do so. In order to apply the '5 year' test it is necessary to make an assessment of the Council's housing requirements.

Housing requirement

12.3.4 The LP covers the period from 2001 to 2011 and so its housing requirement figures are now time expired [7.5.19]. The Gallagher Homes Ltd judgement clarified that where there is no Local Plan, then the housing requirement for a local authority for the purposes of paragraph 47 is the full, objectively assessed need.[7.5.14]

12.3.5 The Council's HLSD indicates that until the emerging Local Plan 2011-2031 is in place, it considered that the most appropriate figure for objectively assessed housing need for the District is that drawn from the proposed changes to the dRSSW, which were published by the Secretary of State in 2008 and included provision for 345 dpa in the period 2006 to 2026[182]. Although the dRSSW provision was never adopted, it represents the most recent figure for which the evidence base has been tested at an Examination in Public [8.2.3]. In support of that approach the HLSD[183] also quoted a study commissioned by the Council, entitled '*A Review of Future Housing Requirements for Cotswold District, January 2013*' (the Woodhead Report) which recommended a figure in the range 300-355 dpa up to 2031.

12.3.6 Against that background, the Council and appellant agreed at the March 2014 sessions of the Inquiry that it was appropriate to use a figure of 345 dpa to represent the Council's housing land requirement for the purposes of assessing the 5 year supply position. The Council's HLSM[184] took the same approach.[6.4.3]

12.3.7 However, at the Fairford Inquiry, in July 2014, the Council confirmed that it no longer relied upon the dRSSW figure, as it was based on a policy constrained approach to 2003 Sub National Household Projections[185]. The SSoCG also confirms that the Council no longer relies upon the dRSSW

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[182] P6 Appendix 8 para 14.9.
[183] ID13.
[184] ID102.
[185] P8 Appendix 3 para 10.

figure, this position has not been disputed by others and I have no reason to do so, particularly in light of the *Hunston*, *Northamptonshire* and *Gallagher cases*. [7.5.21]

12.3.8 As to the reliance that can be placed on the findings of the Woodhead Report, at the Fairford Inquiry the Council did not follow the Woodhead Report recommendation. Instead it promoted a possible range for the objectively assessed need for the District of 345-400 dpa, although it acknowledged that its figures did not take account of employment considerations or market signals, contrary to the requirements of the PPG. Furthermore, evidence submitted by the appellant, in advance of my November 2014 Inquiry sessions, indicated that the methodology used and some of the assumptions made by the author of the Woodhead Report indicate that the findings of the report are unreliable. The appellant also confirmed that the approach mirrored that used by the author to produce a similar report for Stroud District Council; a view echoed by the CPRE [8.2.8]. That report was considered at the Stroud Local Plan EiP in April 2014 and the EiP Inspector found fault with the approach in a number of respects. [7.5.24-25]

12.3.9 The Council chose not to respond to these criticisms of the Woodhead Report at the November 2014 sessions of the Inquiry or present any new housing land supply evidence. It acknowledged the finding of the Fairford Inspector that the objectively assessed needs for housing in the District are likely to exceed 400 dpa and confirmed that whilst it is working to establish a figure, it is not currently at a stage at which it is able to confirm a definitive OAN calculation of its own [6.4.4, 6.4.6]. Under these circumstances, I consider that there is considerable doubt as to the reliability of the findings of the Woodhead Report and the range of 345-400 dpa suggested by the Council at the Fairford Inquiry. I give them little weight.

12.3.10 The SHMA14 is based on the Woodhead Reports for Stroud and Cotswold District Council's and, for the reasons given above, I give the SHMA14 no more weight than the Woodhead Report [7.5.26].

12.3.11 The PPG indicates that where evidence in Local Plans has become out dated, policies in emerging plans are not yet capable of carrying sufficient weight and there is no robust recent assessment of full housing needs, then the household projections published by the Department for Communities and Local Government should be used as the starting point. [7.5.28]

12.3.12 The most recent of these are the 2011-Interim Household Projection figures (2011-IHP). They indicate that the number of households in the District would be likely to increase by 2,583 in the period 2011 to 2021, which is equivalent to around 258 households per annum [8.2.5]. However, the PPG indicates that as the household projections are trend based they may require adjustment to reflect factors affecting local demography and household formation rates which are not captured by past trends. For example, formation rates may have been suppressed historically by under-supply and worsening affordability of housing. The PPG also indicates that it may be necessary to make adjustments concerning changing employment trends and to take account of market signals. [7.5.28]

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12.3.13 The CPRE considers it is unlikely that projections for the Cotswold District for the period 2021-2031 will be significantly greater than 258 dpa. Furthermore, projecting this forward and adding allowances for unmet need as well as second home ownership and vacancy rates, in accordance with the method used by the Highfield Farm Inspector, an annual requirement of some 302 dwellings per annum would be derived. [8.2.5]

12.3.14 However, I consider that the 2011-IHP figures will have been influenced by the period of economic downturn since 2008, during which suppressed household formation rates are likely to have resulted from factors such as the economic conditions, constrained mortgage finance, lack of affordable housing and past housing undersupply. The appellant's evidence indicates that in light of Government Policy promoting economic growth and signs of economic recovery, household formation rates are likely to be higher than suggested by the 2011-IHP. Initially this is likely to reflect a backlog of pent-up demand from concealed households, and in the longer term return to pre-recession long term trends. In comparison with the 2011-IHP figure of 258 households per annum the 2008-based Household Projection figure for the same period was around 400 households per annum [7.5.29]. In the absence of any compelling evidence to the contrary, I have no reason to disagree. Furthermore, the approach taken by the Highfield Inspector to estimation of objectively assessed need based on household projection data, set out above, did not take account of all factors identified by the PPG, which were published after the Highfield decisions. Under the circumstances, I give the approach to the assessment of the FOAN advocated by the CPRE little weight.

12.3.15 At the November 2014 Inquiry sessions, the appellant, having taken account of the factors identified by the PPG, provided an assessment of the FOAN for the District for the period 2011 to 2031 based on 2 demographic and 3 employment led scenarios. The conclusions drawn are that the demographic scenarios, which give rise to a range of 274-299 dpa, would result in a reduction in the indigenous labour force when age specific economic activity rates are taken into account. They would not support growth in the workforce and therefore, would be unsustainable. The 3 employment led scenarios are based on three employment growth forecasts. The mid-range forecast is drawn from the Council's *Cotswold Economy Study, October 2012*, which is being used to inform the employment policies of the LPe. These scenarios give rise to a range of 575-624 dpa. Having considered factors such as affordable housing need and market signals, the appellant considers that the FOAN for the District lies in the range 575-624 dpa. This is consistent with the analysis produced independently and presented to the Fairford Inquiry as a range of 575-589 dpa. [7.5.30-36]

12.3.16 Whilst that range is not accepted by the Council, it chose not to challenge the appellant's evidence either through cross-examination or the presentation of its own figures [6.4.5]. Although the CPRE considers it unlikely that the FOAN would be that high or that a lower figure may lead to in-commuting, it has not provided any detailed evidence to counter the approach taken by the appellant [8.2.11 & 14]. Based on the evidence presented, I consider that for the purposes of this appeal it would be reasonable to regard the range of 575-624 dpa as the FOAN for the District. That would equate over 5 years to a range of 2,875-3,120 dwellings.

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12.3.17 I acknowledge there is no certainty that the same conclusion would be reached when the LPe is examined in public, not least as it is likely that that process will be informed by a great deal more evidence than is before me, including a reasoned position from the Council as to its assessment of its FOAN[186]. The relevant FOAN would then depend on the evidence presented and a separate exercise of judgement upon it. Consequently, my assessment of the FOAN in this case would not necessarily bind the Council in its preparation of the LPe or other Inspectors at appeal. [6.4.6, 7.5.10]

Calculation of the 5 year housing land supply position

12.3.18 The Council and appellant agree that when assessing the overall supply requirement, some account should be taken of historic undersupply; in this case a shortfall of 209 units relative to the dRSSW requirement of 345 dpa between 2006 and 2011. Furthermore, that shortfall should be recovered over the next 5 years, the Sedgefield approach. In addition, they consider that in calculating the land supply necessary to meet the Council's 5 year housing land requirement a 20% buffer, rather than a 5% buffer, needs to be added due to persistent under delivery of housing. Based on the supply and FOAN figures I have identified together with those allowances for historic undersupply and the 20% buffer, the Council and appellant agree that the level of supply is between 3.36 and 3.6 years. [7.5.38]

12.3.19 The CPRE argues that when determining whether a 20% or 5% buffer should be applied, past performance up to 2011 should be gauged against the Development Plan requirement set out in the LP of 307 dpa [8.2.6]. In the HLSD and HLSM the Council has used the more up to date dRSSW figure for the period 2006-2011 of 345 dpa. Whilst the dRSSW was never adopted, the figure was supported by the proposed changes published by the Secretary of State in 2008 following the EiP and so, in my view, the Council's approach in using the more up to date figure of the 2 is not unreasonable. Nevertheless, in 2013 the Secretary of State concluded that over the previous 5 years there had been persistent under delivery against the requirement of 307 dpa. I consider that 5 year assessment period to be reasonable and it follows the same could be concluded in relation to the higher dRSSW figure[187]. The Council's housing requirement from 2011 onwards has yet to be formally determined through the LPe process. In the meantime, as I have indicated the requirement is the FOAN. Housing completions in the period 2011 onwards, as set out in the HLSM[188] have fallen well short of the FOAN range identified above. I consider therefore, that a 20% buffer is appropriate in this case. [7.6.6] Furthermore, it appears to me that, even without the buffer and undersupply additions, the supply would fall short of the 5 year requirement based on the FOAN range.

12.3.20 Under these circumstances, I conclude that the Council, as it and the appellant agree but the CPRE disputes, is unable to demonstrate a 5 year supply of deliverable housing sites, under the terms of the Framework. [6.4.4, 7.5.40, 8.2.15]

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[186] ID82.
[187] P8 Appendix 3 para 12.
[188] ID102 page 9.

Implications of the 5 year housing land supply position

12.3.21 In accordance with paragraph 49 of the Framework, given the lack of a 5 year supply of deliverable housing sites, relevant policies for the supply of housing in the Cotswold District can not be considered up to date. This is the case irrespective of the scale of the shortfall and the relevant policies in this particular case include LP Policy 19, which seeks to restrict open market housing development outside development boundaries [6.2.2, 6.4.9, 7.4.1, 7.5.41-42]. Therefore, the identified conflict with this Policy does not weigh against the scheme.

12.4 The character and appearance of the AONB and the setting of Stow-on-the-Wold

12.4.1 The Council and appellant agree that in comparison with the initial proposals, the revised concept scheme shown on drawing no. C1558 P001-A[189] has sought to achieve an improved link with the rural edge beyond the initial proposals. Furthermore, they consider that with substantial adjustment the initial scheme could be improved to reflect the organic approach which developed in the historic centre, with housing more closely following the contours of the site, which would help the development to be more sympathetic with the rural surroundings[190]. However, the Council's view is that in order to achieve an acceptable scheme in these respects it may be necessary to reduce the number of dwellings proposed from up to 146 down to 50 or potentially around 10 units [6.5.4].

12.4.2 I accept that as the planning application in this case is in outline, with all detailed matters except access reserved for future consideration, detailed design of the scheme may provide an opportunity for the impact of the scheme on the character and appearance of its surroundings to be mitigated to a greater extent than is suggested by the illustrative plans before me. However, I am also conscious that planning permission is sought for up to 146 dwellings and I consider that any substantial reduction of that number, such as the Council suggests may be necessary, would significantly alter the proposal for which planning permission is sought in this case. It would not be reasonable to seek to secure such a reduction through the imposition of a condition, as those with an interest in the scheme, including those not represented at the Inquiry, could reasonably expect to have an opportunity to comment on such a change, which would consequently necessitate a new application. I have borne these matters in mind.

12.4.3 Paragraph 115 of the Framework indicates that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Section 85 of the *Countryside and Rights of Way Act 2000* requires decisions on development proposals to have regard to the purpose of conserving and enhancing the natural beauty of AONBs[191]. [8.1.24]

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[189] ID69.
[190] ID21 uSoCG para 6.14.
[191] ID76.

12.4.4 LPe Policy Proposed Strategy 15 indicates that Stow's development needs will need to be carefully located to ensure that its sensitive hill top setting is protected. The LPe indicates that while it is inevitable that even relatively modest levels of development will have some impact, it is imperative that the most sensitive views of the town are protected, notably from the west, south and north [7.10.4]. In my judgement, it does not automatically follow from this broad position statement that any development accommodated to the west, south or north of the town would have an unacceptable effect on the most sensitive views of the town[192] [6.3.26]. The Council has recently granted planning permission or resolved to do so for residential development of land to the north of the town and this reinforces my view [7.6.4]. Nor does it follow that development can be accommodated anywhere to the east without harm. It is necessary to consider sites on their merits.

12.4.5 My attention has been drawn to the White Report entitled *Study of Land surrounding Key Settlements in the Cotswold District June 2000*. It was produced as part of the review of the adopted Local Plan. I understand that it is also being used by the Council as part of its evidence base for the LPe, it has not been revised since it was published and it has no policy status in its own right. The White Report indicates that to the east of the town '*the houses tend to be standard house types and the overall image is of a homogeneous, monotonous suburban edge which does not complement the landscape or the town*' and suggested environmental improvements comprise tree screening to the housing as well as along the eastern boundary of the playing fields[193]. The appellant has suggested that over the intervening years since 2000 it is likely that changes will have occurred to the landscape, such as the maturation of planting along field boundaries. Consequently, the visual context of the edge of Stow seen from the east may have substantially altered, affecting the reliability of the assessment of potential impact and the resulting conclusions set out in the White Report. It suggests that what may have been a more exposed and discordant urban edge is now an urban edge filtered by vegetation[194]. I agree and consider that the same may be said in relation to other locations around the settlement that were considered in the report. I consider that, in the absence of any review of the document, the passage of time reduces the reliance that can be placed on the findings of the White Report.

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Landscape

12.4.6 There is no dispute that the AONB is a high value landscape. Furthermore, the CCB's *Cotswolds AONB Landscape Character Assessment* (CLCA)[195] indicates that Stow is unique in the Cotswolds, being a small town situated on the High Wold Plateau, Landscape Character Type (LCT): 7C. In contrast, the appeal site lies within LCT: 15B Vale of Moreton Farmed Slopes; a transitional landscape between the High Wold and the pastoral lowlands of the Vale of Moreton LCT 17B[196]. Although the site lies on the

[192] P6 Appendix 14.
[193] P10 Appendix 3 para 18.9.
[194] P10 para 4.6.
[195] P6 Appendix 16 and P2 page 27.
[196] P3 page 115 Figure C and page 67.

eastern urban edge of Stow, which marks the edge of the High Wold Plateau hereabouts, in my view, it does not itself exhibit urban features. With reference to the CCB's *Cotswold AONB Landscape Strategy and Guidelines* (LSaG), the site exhibits a number of the key features of the LCT 15B, including its sloping topography, medium field size, open agricultural land use and strong pattern of hedgerows. Whilst the CLCA and LSaG are not Policy documents, they provide guidance on the distinctive characteristics of the landscape to inform, amongst other things, planning decisions as confirmed by the CCB's *Cotswold AONB Management Plan 2013-18 March 2013*[197]. As such they assist in the assessment of the attributes of the site and the impact of the scheme. [6.3.6]

12.4.7 Whilst Farmed Slopes fall away to the west, south and east of Stow, giving it its unique hill top location, to the east the area of Farmed Slopes between Stow and the Vale, which includes the appeal site, is relatively narrow. Given the level of consistency with key features of LCT 15B and the limited extent of the transitional landscape between the High Wold and Vale hereabouts, I consider that the appeal site makes a valuable contribution to the character of the landscape and the hill top setting of Stow and it would be highly sensitive to change [6.3.6]; it is not a degraded or of low sensitivity, as assessed by the appellant[198].

12.4.8 Although the current boundary features could be enhanced as part of the proposed landscaping works and the design would be likely to include some areas of landscaped public open space, wetland as well as diversification of planting, in the main the site would be characterised by housing development; a major alteration of the landscape within the site [7.8.1]. I acknowledge that housing development is not alien to the local landscape and the proposal would result in the loss of a comparatively small area of Farmed Slopes, and in that context the magnitude of impact would be moderate adverse. Nonetheless, given the sensitivity of the landscape hereabouts, in terms of overall significance the effect would be high, permanent and adverse. The loss of transitional Farmed Slopes resulting from the extension of the built development of Stow down the slope towards the pastoral lowlands of the Vale would erode the character of the landscape and also the hill top character of the settlement for which it is known. [6.3.13]

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Visual impact

12.4.9 The uSoCG identifies a series of viewpoints which are accepted by the Council and appellant as providing representative views of the site, including vantage points in the adjacent urban area as well as on roads, footpaths, public rights of way and locations open to the public in the vicinity of the site[199]. The representative nature of these viewpoints has not been disputed by others.

12.4.10 I consider that the attention or interest of users of local public rights of way is likely to be focussed on the landscape and I regard them to be high sensitivity receptors in common with users of the playing fields. Whilst this

[197] CD4 page 21.
[198] P3 page 51, appellant's Landscape and Visual Impact Assessment, April 2013 para 6.3.
[199] ID120.

approach is consistent with that taken by the Council, it differs from that of the ALVIA, in which the sensitivity of users of local public rights of way was downgraded. Consequently, the weight I give to the findings of the ALVIA concerning visual impact are reduced. [6.3.15]

12.4.11 Longer distance views from public vantage points to the south, west and north are restricted by the urban form of Stow and/or topography. However, there are a number of locations from which the scheme would be seen to have a marked effect.

12.4.12 They include, vantage points within the King George V Playing Fields, which, as well as providing views of development within the settlement, provide views to the east which are broad and sweeping in nature down across the appeal site and the Vale beyond, towards distant hills. In my judgement, those views are not curtailed to any significant extent by planting along the boundaries of the site. They allow a clear appreciation of the setting of the settlement within the wider landscape of the AONB. The introduction of housing, whilst not alien to the existing visual character, would be likely to result in either loss of or substantial interference with those views over the AONB from the playing fields. Whilst the visual impact of the built development could be softened by planting, it would be likely to further screen the wider AONB from view. In my judgement, the magnitude of effect would be substantial[200] adverse and the significance of residual effect post mitigation would be high and adverse[201]. [6.3.17]

12.4.13 Views of the northern section of the appeal site are available from a number of vantage points along Monarch's Way, which is located to the north of the site. The Council has confirmed that it is a heavily used public right of way. From there the sloping topography of the eastern section of the appeal site appeal site can be clearly appreciated as can the role of Farmed Slopes in providing a transition between the settlement to the west and the flatter topography of the lowland vale to the east. The effect of the proposal when seen from Monarch's Way would be to extend the settlement further down the slope towards the vale, eroding the hill top character of the settlement. Whilst planting along the northern side of the site, by way of mitigation, would be likely to filter views of the built development, it is likely that it would still be visible to a degree. As views from this public right of way are intermittent, I consider that the magnitude of impact would be medium and, accordingly the significance of residual effect post mitigation would be high and adverse[202]. [6.3.18]

12.4.14 Views of the site from public rights of way to the east are over relatively long distances and are intermittent. Nonetheless, from there the transitional nature of the site between the hill top settlement and the lowland vale can be seen. The proposed development would not look out of place, as it would be seen against the backdrop of existing development. However, it would result in the loss from the view of the transitional Farmed

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[200] 'high' using the appellant's methodology-Landscape and Visual Impact Assessment Appendices, April 2013 page 11.
[201] P2 page 57 and Landscape and Visual Impact Assessment Appendices, April 2013 page 11.
[202] P2 page 57 and Landscape and Visual Impact Assessment Appendices, April 2013 page 11.

Slopes, to the detriment of the hill top setting of the town. Whilst over time boundary planting would soften the appearance of the built development, the visual gap between the settlement and the lowland vale would not be restored. Due to the distances involved, I consider that the magnitude of impact would be minor and the significance of residual effect post mitigation would be medium adverse. [6.3.19]

12.4.15 Although people travelling through the affected landscape in vehicles are generally considered to be low sensitivity visual receptors, the Council has indicated that as the A436 is a well used route, including by buses, receptor sensitivity should be taken as medium, rather than low as assessed by the appellant [6.3.20]. I consider medium to be reasonable. Views of the site from vehicles passing by along the A436 are intermittent, due to intervening planting along the highway. To the east of the entrance to King Georges Field the existing residential development to the north of the A436 is set well back from the highway, such that the magnitude of its visual impact is minor. However, in contrast, even with enhanced boundary planting, it is likely that the proposed built development would be noticeable, not least as the proposed access arrangements would slow traffic passing the site and the proposed roundabout junction would open up views into the site. The proposed development would also urbanise the adjacent section of the A436. In my view, the magnitude of impact would be medium adverse and the significance of the effect would be medium, permanent and adverse.

12.4.16 It would be possible, through careful control of reserved matters, to ensure that the proposed development would not have a 'homogeneous or monotonous' appearance as was attributed to the existing development adjoining the appeal site by the White Report. However, in my view, from the public vantage points to the east of the site, due to the intervening distances, insofar as those characteristics are exhibited by existing development, they are not easily discernable and so have little visual impact. The same could be said in relation to vantage points from the north and in any event, views from there of the existing development would not be reduced to any significant degree by the proposal, the visible parts of which would be sited further to the east. Whilst the character of the existing built development can be appreciated from the playing fields, in my view, any benefit of proposed development in terms of reducing the visual impact of the existing buildings, perhaps by screening them from view, would be far outweighed by the adverse impact I have identified on views of the AONB from the playing fields. Furthermore, as I have already indicated, views of the existing development from the A436 are intermittent and filtered by planting. I give little weight therefore to the appellant's view that the proposal would rectify what the White Report called 'homogeneous and monotonous' existing development. [7.7.1]

12.4.17 I consider that overall, the significance of the visual effect of the proposal would be high, permanent and adverse. [6.3.21]

Conclusion

12.4.18 I conclude overall that the proposal would have a significant adverse effect on the character and appearance of the AONB and the setting of Stow. In

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this respect it would not conserve the landscape or scenic beauty of the AONB, contrary to the aims of the Framework. [6.3.21-23, 7.8.1]

12.4.19 The circumstances here are not directly comparable to those either in the 2 Tetbury cases or the Bourton case. At Highfield Farm, Tetbury[203] it was found that the setting of Tetbury would be enhanced and the fields that would be lost, which were subdivided and used as paddocks, had a more domestic character than the larger, more open neighbouring fields. At Berrells Road, Tetbury[204] the field in question was surrounded on 3 sides by existing development and a busy road, and was found to make little contribution to the overall character of the AONB. At Station Road, Bourton-on-the-Water[205] the site is described as being enclosed by the town on 3 sides and on the fourth the site is separated from the open countryside by the Fosse Way, a main road. [6.2.5, 7.9.6, 8.2.29]

12.5 The safety and convenience of highway users

12.5.1 Vehicular access to the development would be from a section of Oddington Road with a current speed limit of 60 mph. The Highway Authority has confirmed that the most suitable form of access would be a single lane roundabout with the speed limit being reduced on the approaches to 40 mph. I am content that it would be possible to ensure the provision of such arrangements and that the roundabout meets appropriate design standards through the imposition of conditions. I understand that there have been a number of accidents along this section of highway in recent years and agree with the Highway Authority that the proposed works, which would reduce traffic speeds, have the potential to improve safety. I consider that the effect of the proposed access and associated highway modifications on the safety of highway users would be acceptable. [8.3.1, 9.4.4]

12.5.2 I turn now to the concerns raised with respect to congestion on the local highway network. The Framework indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The PPG confirms that Transport Assessments can be used to establish whether the residual transport impacts of a proposed development are likely to be severe. Furthermore, the information included in a Transport Assessment should include data about current traffic flows at junctions. In addition, the PPG makes clear that it is important to give appropriate consideration to the cumulative impacts arising from other committed development. That is, development which is consented or allocated where there is a reasonable degree of certainty it will proceed within the next three years. I consider therefore, that when judging the residual cumulative impact of the scheme, with reference to paragraph 32 of the Framework, it is legitimate to take account of the cumulative effect of the existing and committed traffic together with that likely to be associated with the proposal after any mitigation. [7.10.3, 8.1.15]

12.5.3 It appears that the Council in the Ronkswood appeal case had gone further and were arguing that the impact of all allocated future development during

[203] P6 Appendix 8.
[204] P6 Appendix 9.
[205] P8 Appendix 8.

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an emerging plan's period should be taken into account. As the Inspector observed, that goes beyond that which the Framework expects under paragraph 32. Those circumstances are materially different from the case before me. [7.10.4]

12.5.4 The appellant has indicated that around 77%[206] of the total development traffic would enter/exit the site from the west via the 'Unicorn junction' close to the town centre; the junction between the A436 and the A429 Fosse Way, which is the main north-south route hereabouts. The appellant has modelled that junction using LinSig software, at the Highway Authority's request, in order to demonstrate the likely impact of the appeal traffic on its operation. During the appeal process the modelling has been refined to more accurately reflect the operation of the junction. I give greatest weight to the most recent modelling results submitted during the course of the Inquiry[207].

12.5.5 STC has raised the concern that some of the data upon which the modelling is based, such as traffic count data, queue lengths, car ownership and trip rates, is inaccurate and the model is not reasonably representative of the operation of the junction. [8.1.8-12]

12.5.6 However, the appellant has provided traffic count data which indicates that traffic levels during holiday periods are not significantly different from those at the other times used in the modelling[208]. STC has indicated that the model does not reflect that traffic queues sometimes: extend back from the Unicorn junction along the westbound A436 to the Union Street junction, making it difficult to enter the traffic flow from side streets; and, prevent vehicles turning north onto the A429 [8.1.12]. However, no survey information has been provided to support this contention. In contrast, the appellant has undertaken a queue survey to verify that the model is reasonably accurate[209]. I give little weight to STC concerns in relation to these matters.

12.5.7 The LPe indicates that around 50% of travel to work journeys involve commuting out of Stow. Whilst plans to develop care homes in the town may generate some employment, if they proceed, the LPe does not indicate at present that any substantial areas of employment land would be allocated in the plan period [8.1.4, 8.2.25, 8.4.3]. It appears likely therefore, that a significant number of the residents of the proposed development would also commute out of town to work. Whilst the Council's *Role and Function of Settlements Study Local Plan: Evidence Base July 2012* indicates that relative to other settlements in the District public transport provision in Stow is reasonably good, based on the evidence before me, public transport links between Stow and the wider area are nevertheless limited in practice [6.5.4, 8.1.4]. Whilst it would be possible and necessary to secure the implementation of a Travel Plan, through the imposition of a condition, to encourage non-car modes of transport, I consider it likely nonetheless that a

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[206] P12 para 3.17.
[207] P12 page 11.
[208] ID24 hResponse to Inspector's comments, dated 20/2/14, page 4/5.
[209] P12 volume 11 Appendix 2.

common mode of transport for commuters is likely to be the private car. [8.2.24, 8.5.4]

12.5.8 Furthermore, much of the town centre and the Tesco store would be further from the site than the preferred maximum walking distance to a town centre of 800 metres set out in the Institution of Highways & Transportation *Guidelines for providing for Journeys on Foot*. These circumstances, together with the up hill nature of the route, would be likely to discourage walking and some future residents would be likely to go by car instead, potentially adding to competition for limited parking space within the town. Whilst cycling could be encouraged through Travel Plan measures and the provision of cycle stand facilities in the town, the terrain and busy nature of the highways would be likely to limit the up take of that option. [8.1.3, 8.2.23]

12.5.9 The appellant has indicated that census data confirms existing car ownership in Stow is 1.3 per dwelling. Whilst not disputed by STC, it suggests that, due to the relative isolation of the site it is unrealistic to assume that the same level of ownership would apply at the appeal site [8.1.9]. However, the Gloucestershire County Council's *North Cotswolds Parking Review Stow-on-the-Wold March 2014* indicates that in most if not all of the area surrounding Stow including parts further from the town centre than the appeal site, car ownership lies in the range 1.2-1.6 per dwelling[210]. In this context, the appellant's car ownership assumptions appear reasonable.

12.5.10 The TRICS database has been used by the appellant to provide an estimate of the likely number of trips associated with the scheme. Whilst the comparator sites may not be directly comparable to the appeal site in all respects, it does not automatically follow that they are not the best fit available or that the rates are not reasonably reliable [7.10.12, 8.1.10, 9.4.5]. There is no evidence to show that either car sharing, peak spreading or implementation of a Travel Plan can be relied on to significantly reduce the peak hour trip rates arising from the scheme and no associated reduction has been assumed in the modelling[211].

12.5.11 The Highway Authority is content with the accuracy of the latest modelling and in the absence of any survey results or expert analysis to the contrary, I am content that it can be relied upon. [9.4.5]

12.5.12 The modelling indicates that the vehicular trips generated by the proposed development would equate to around 3% of the total traffic using the Unicorn junction in the am and pm peaks [7.10.7]. However, of particular interest is the west bound A436 link which would be used by traffic from the appeal site to approach the Unicorn junction. The scheme would result in an increase in the traffic using that link in the am peak hour of around 15% and in the pm peak hour an increase of approx 6%[212].

12.5.13 In support of its view that these traffic impacts would be trivial, the appellant has quoted IEMA guidance, including guidelines indicating that a

[210] ID81.
[211] ID79 and Mr Ohrland's responses to Inspector's questions.
[212] ID101.

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change in traffic levels of 30% should be considered to be a slight impact and 90% a substantial impact [7.10.7]. However, those guidelines relate to environmental impacts from traffic, such as impacts on pedestrians in terms of severance and intimidation. The guidance confirms that '*It should be noted that the Department for the Environment suggests……..that increases in traffic of 5% are likely to be considered as significant by the Department for Transport. The context of such a statement relates to the operational and capacity criteria of highway and not its environmental impacts.*'
It recommends that the criteria quoted by the appellant are more relevant to the assessment of environmental impacts[213]. Under these circumstances, I consider those guidelines to be of little relevance when considering the likely impact of traffic resulting from the proposal on the operation of the Unicorn junction.

12.5.14 In any event, the appellant's modelling results indicate that the capacity of the Unicorn junction is already exceeded during the pm peak period and as a result of expected background traffic growth, before any account is taken of the impact of the appeal scheme, it will also be exceeded in the am peak hour. The result is congestion, manifested as queuing and delays.
Based on the modelling results, I consider that the proposal would be likely to significantly add to congestion on the west bound A436 up to the Unicorn junction[214]. Furthermore, I have no doubt that this is a matter of serious concern to STC and others who have raised the matter [8.1.11-16]. However, having had regard to the margins by which the capacity of the junction would be expected to be exceeded and the associated queue lengths, in my judgement the cumulative residual impact of the scheme, taking account of exiting traffic levels and future growth, would not be severe. In this context, refusal of planning permission on transport grounds would not be supported by the Framework. This is a view shared by the Highway Authority, having had regard to the concerns raised by STC[215].

12.5.15 The trip distribution agreed between the appellant and GCC indicates that only a relatively small proportion of the appeal site traffic would travel east from the site and not all of that traffic would be destined for Kingham railway station, via Bledington[216]. Therefore, in my judgement, additional traffic arising from the scheme would be unlikely to have a significant impact on highway conditions in Bledington.

12.5.16 I conclude overall that the effect of the proposal on the safety of highway users would be acceptable and whilst it would harm the convenience of highway users, by adding to congestion, this would not on its own justify refusal of planning permission.

12.6 Local services and infrastructure

12.6.1 The appellant has provided UU1 and UU2 which made adequate provision for the additional education, library and cycle parking facilities necessary to

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[213] ID84 pages 14/15.
[214] P12 volume 1 page 11.
[215] ID46.
[216] P12 Volume 1 page 9.

meet the needs of future residents of the scheme, in accordance with the requirements of LP Policy 49. [10.9]

12.6.2 In its consultation response to the original application, Thames Water indicated that initial investigations had concluded that the existing local water supply and sewerage disposal infrastructure does not have the capacity to serve the proposed development. However, it did not object to the scheme, subject to the imposition of 'Grampian' type conditions to ensure that the necessary capacity improvements were identified and secured before development proceeds [9.6]. I have no reason to believe that the necessary improvements are unlikely to be possible. On the contrary, at the Inquiry, the appellant indicated that it understands that improvements to the sewerage network are expected to be complete in 2015 [7.2.2]. I consider therefore that through the mechanism suggested by Thames Water it would be possible to ensure that water supply needs of the development could be met and that sewage discharges from the site to the local sewerage network would not unacceptably increase the risk of overflows to the detriment of the environment.

12.6.3 Notwithstanding concerns expressed by a number of local residents concerning waiting times at the local doctor's surgery, no case has been made by either the Council or a health service provider to demonstrate that needs of future residents of the scheme could not be met by existing service providers. Similarly, whilst some local residents have suggested that the Police would not be able to cope with the increased population, no such case has been made by either the Council or Gloucester Constabulary. [9.10.2]

12.6.4 I conclude that, subject to the imposition of conditions, the proposal would make adequate provisions for the service and infrastructure needs generated by the appeal scheme, in accordance with the requirements of LP Policy 49.

12.7 Other matters

12.7.1 The indicative plans submitted in support of the application suggest that a footpath link would be made at the southwestern corner of the site to the adjacent King George V Playing Fields [8.1.2]. At the Inquiry, the appellant confirmed that this link would not be pursued, following concerns raised by STC with respect to damage to the grassed playing surfaces[217]. I consider that this is a matter which could be controlled at the reserved matters stage, when determining the layout and landscaping of the site.

12.7.2 The Cotswold Archaeology *Heritage Statement June 2013*, submitted in support of the scheme, which was based on research of records, geophysical survey and archaeological trial trenching, concluded that whilst there are remains of archaeological value within the site, none require preservation insitu. Furthermore, through the imposition of a condition it would be possible to secure appropriate mitigation measures, such as open-area archaeological excavation prior to development, which may contribute greatly to regional research objectives [7.11.1]. This is a view shared by both the Council and GCC [9.4.8]. Having had regard to the concerns raised by

[217] During discussion of the suggested condition no. 5-P1 Appendix 26.

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others, I consider that the potential loss of heritage assets resulting from the proposal would not be significant and it would be offset by the benefit of enabling research. It would not conflict with the aims of the Framework[8.6]. It would also be possible to ensure at the reserved matters stage that the remains of Cotswold dry-stone walls within the site would be protected and repaired, in accordance with the requirements of LP Policy 45 [8.1.23]. In addition, there is no evidence to show that exhaust fumes generated by traffic associated with the proposal would be likely to have a material detrimental effect on the stone facades of buildings within the Stow Conservation Area [8.1.17]. Based on the anticipated percentage increases in traffic, I consider it unlikely [12.5.12]. I give the unsupported concerns raised in relation to that matter little weight.

12.7.3 Whilst some local residents have raised concerns with respect to a number of detailed design matters, such as the potential for overlooking from the proposed houses towards their own, I consider that it is likely to be possible to layout and design the scheme in manner which would not cause unacceptable harm to the living conditions of the residents of neighbouring properties [9.10.12]. These are matters which the Council could control at the reserved matters stage.

12.7.4 I have had regard to the view of the appellant that the scheme meets the criteria set out in the Council's *Interim Housing Guidance Note and Five Year Housing Land Supply*[7.8.2]. However, the guidance confirms that potential detrimental impact on interests of acknowledged importance, such as the AONB, remain a material consideration and in relation to this matter I have found that the scheme would cause significant harm. In any event, this guidance note is not a supplementary planning document and there is no indication that it has been subject to any formal consultation procedures[218]. Therefore, I give compliance with its criteria little weight.

12.7.5 A significant number of previous appeal decisions have been drawn to my attention. I have referred to those I consider to be of particular relevance in this case, but as a general principle, whilst consistency is desirable[219] each proposal must be considered on the basis of its own merits and site specific circumstances [7.2.3]. None are directly comparable to the proposal before me. The Roman Way development proposal, which has been drawn to my attention[220], appears to involve a site with residential development to the south, an industrial estate to the north and northwest, some farm buildings to the northeast and a lane along its eastern boundary. It is not comparable to the appeal site, which adjoins fields to the north and east.

12.8 Whether the proposal would amount to sustainable development

12.8.1 Paragraph 14 of the Framework indicates that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision taking this means where relevant policies of the Development Plan are out of date, as is the case here, granting planning permission unless, amongst other things, specific policies in this Framework

[218] P8 Appendix 8 para 18.
[219] P6 Appendix 10 page 22 of 24.
[220] P6 Appendix 11.

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indicate development should be restricted, for example those policies relating to an AONB.

12.8.2 The Council and appellant agree, as do I, that the proposed development of up to 146 dwellings would constitute major development in the AONB [6.2.2]. Paragraph 116 of the Framework indicates that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. It indicates that consideration of such applications should include an assessment of a number of factors, which I deal with below.

The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy

The District's housing requirements

12.8.3 The proposal, which is 'deliverable' would make a significant contribution towards housing land supply in a District where the level of supply falls significantly short of the 5 year requirement set out in the Framework, by around 1.5 years. [7.1.1-3]

12.8.4 I understand that approximately 80% of the area within the Cotswold District falls within the AONB designation and acknowledge that this is likely to make the Council's task of identifying deliverable housing sites more difficult than if the designation did not apply. I have also had regard to the view of the Council, with reference to the Hunston Properties Judgement and in particular paragraph 29[221] that it is unsurprising that there is not a 5 year supply of housing land when measured against the FOAN identified in this case, which appropriately takes no account of such constraints. Whilst this may be so, it is not for me to determine the extent to which, if any, such constraints would be likely to result in the housing requirement falling below the FOAN; that is a matter to be determined by the emerging Local Plan. In the absence of an in date Development Plan housing requirement figure, the FOAN forms the basis of the requirement to be met for the time being, as a means of ensuring that housing supply is significantly boosted in line with the Government's aim. In this case there is a serious shortfall relative to the 5 year housing supply requirement of the Framework and the contribution made by the proposal weighs heavily in favour of the scheme. The circumstances, in terms of shortfall, are materially different from those before my colleague who determined the Essex appeal Ref. APP/C1570/A/13/2201844. [6.4.10-13, 7.5.41-44, 8.2.12]

12.8.5 The proposal would also provide up to 73 units of Affordable Housing, which is consistent with the requirements of LP Policy 21. I give little weight to the appellant's calculation that there is an unmet need of around 1,650 Affordable Housing units in the District based on a net annual need of 574 dpa set out in the SHMA14 [7.6.6]. The SHMA14 indicates that whilst the 574 dpa figure is a requirement for additional housing, it is not equivalent to the number of new affordable units that need to be built, as that is only one way of meeting the needs of those households in need; another being the private

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[221] P13 Appendix 5.

rented sector. It indicates that a much lower figure is representative of the way in which housing need is experienced in current market conditions[222]. Nonetheless, I have no reason to doubt that there is an ongoing need for the provision of Affordable Housing in this District, where on average property prices exceed the national, regional and county averages[223] [8.2.19]. Furthermore, the proposal would make a policy compliant 50% contribution towards meeting that need, in the form of up to 73 units.

12.8.6 The proposal would make a significant contribution towards meeting the District's market and Affordable Housing needs. The scheme would comply with LP Policy 21 and would be consistent with the aims of the Framework as regards meeting the Council's requirements with respect to market and Affordable Housing supply. These matters attract substantial weight in favour of the scheme.

Stow's housing requirements

12.8.7 The LPe identifies a requirement for up to 180 new dwellings at Stow during the plan period. The LPe indicates that of the identified requirement of 180 dwellings, 46 of those units are either already built or committed and so the required balance is 134 units [6.5.4].

12.8.8 The LPe is at a relatively early stage towards adoption and the housing requirement figure may change as the process proceeds [8.2.2]. The LPe housing figure for Stow was identified in the context of an assumed housing requirement for the District of 345 dpa[224]. Whilst I have indicated that the District's FOAN is likely to be significantly higher, it does not automatically follow that the housing requirement for Stow would increase, not least as the LPe indicates that the figure was limited in order to ensure that the town's important setting and historic character are maintained. I have also found that the proposal will add to congestion in Stow and the appellant has indicated that this is a likely outcome where ever development is situated around the settlement. The LPe seeks to reduce congestion and so this factor may well weigh against the housing figure identified by the LPe and any increases to it. Furthermore, it is clear from the evidence of some objectors that this level of housing does not have universal support. [8.4.2]

12.8.9 Against this background, whist I am unable to endorse the specific figure set out in the LPe, it appears likely to me that some development will have to take place within the AONB at Stow if future housing needs are to be met and that some of this growth will be on greenfield land at the periphery of the settlement[225]. The proposal would contribute towards meeting that need. I share the view set out in the uSoCG that there is no objection to the scheme on prematurity grounds, contrary to CPRE's view, not least as the LPe is not at an advanced stage towards adoption [8.2.31][226].

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[222] P8 Appendix 4 & 6.
[223] P6 Appendix 4.
[224] P6 Appendix 14.
[225] ID21 uSoCG para 6.1(5).
[226] PPG ID 21b-014-20140306.

12.8.10 As regards Stow's Affordable Housing needs, whilst the LPe indicates that the need is sizeable, it is not quantified. The only formal assessment of those particular needs to which my attention has been drawn indicated a requirement for 27 units [8.1.20]. The proposal would easily meet that requirement.

The local economy

12.8.11 The LP indicates that Stow is designated as a Principal Settlement largely due to its role in providing for the retailing needs of the wider rural area, and some of the essential services to a more localised catchment, rather than as a location for more development [7.5.48][227]. Nonetheless, the LPe indicates that some development is needed to help ensure that the town remains vibrant and viable as a local service centre and to help to sustain existing services and facilities[228]. As I have indicated, the proposal would fulfil the remaining requirement. I acknowledge that in these terms economic benefits are likely to be associated with the provision of housing. Furthermore, a 'new homes bonus' grant would be provided by central Government[229]. Whilst employment created during the construction period would also have a positive effect on the local economy, it would be temporary [8.2.34].

12.8.12 However, no compelling evidence has been provided to show that there is an urgent need to meet the LPe housing target in order to secure the benefits identified above. According to the LPe, currently Stow town centre is healthy and vibrant. If a steady delivery rate over the plan period is assumed, the commitments already identified by the LPe would equate to around 5 years of supply, which suggests that the release of further housing land to meet local needs is not urgent [8.2.2, 8.2.34].

12.8.13 The LPe also indicates that tourism is crucial to the long term economic prosperity of Stow, and the high quality of the town's environment has been a key factor in its economic success. It emphasises the importance of ensuring that the town's setting and historic character are maintained. I have concluded that this particular proposal would harm the setting of Stow. In this respect it would be likely to have an adverse effect on tourism and thereby the local economy. The LPe also highlights that enhancing the town centre further by reducing congestion is also seen as an important economic priority. I have found that the scheme would add to congestion.

12.8.14 Setting to one side, for the time being, the question of whether there are likely to be alternatives, I consider overall that the scheme would be unlikely to provide a significant benefit to the local economy.

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[227] P6 Appendix 13 page 152.
[228] P6 Appendix 14.
[229] P1 para 14.11.

***The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need in some other* way**

The District's housing requirements

12.8.15 The Council is unable to identify a 5 year supply of housing land and it follows that the contribution made by the proposal towards making up this shortfall could not be met elsewhere or in some other way [6.5.3]. The same could be said in relation to the provision of 73 units of Affordable Housing, as it is generally enabled by market housing. There is no evidence to show that the settlements identified by the CCB have sites with capacity to deliver housing within 5 years that have not already been accounted for in the HLSM [9.3.3]. These contributions towards meeting the District's housing needs attract substantial weight.

Stow's housing requirements

12.8.16 It is self-evidently impossible to meet the needs of Stow at a location remote from the settlement, such as those locations identified by the CCB [7.5.48, 8.5.2, 9.3.3]. However, that is not to say that there are no alternatives to the proposal. The housing provision requirement for Stow set out in the LPe, is a requirement over the plan period, as opposed to the next 5 years. Whilst the *Cotswold District Council Infrastructure Delivery Plan Interim Version May 2013* identified one suitable site, on land to the east of King George V Playing Field[230], the Council has since published its *Strategic Housing Land Availability Assessment* in May 2014 (SHLAA14)[231]. In addition to the appeal site, it identified 3 other sites which, whilst recognising potential constraints, have the potential to contribute towards housing land supply in Stow during the LPe period. They are sites S_8A, S_46 and S_20 [7.6.2].

12.8.17 I acknowledge that none of these sites have the potential to provide development on the same scale as the appeal site. However, this being the case, whilst they are within the AONB, it does not automatically follow that they would be subject to the same constraints policy as the appeal site, as smaller sites are less likely to accommodate major development, to which paragraph 116 of the Framework applies [7.5.49].

12.8.18 S_8A and S_46 are identified by the SHLAA14 as being deliverable within the next 5 years, notwithstanding the identified potential constraints. Planning applications for residential development of those sites are with the Council for consideration and would involve the erection of a total of 41 units [7.6.3]. S_46 is within the settlement. S_8A is brownfield land towards the western edge of the town, which fronts onto the highway with development on 2 sides[232]. In my view, residential development of these sites would be unlikely to have a significant detrimental effect on either the character or appearance of the AONB or setting of Stow. If these sites were to be taken forward the remaining dwellings required to meet the LPe

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[230] P6 Appendix 20 page 162.
[231] P8 Appendix 8.
[232] P8 Appendix 8.

requirement would fall from 136 to 95, significantly less than the number proposed in the case before me. Furthermore, the SHLAA14 also indicates that the Council has granted planning permission or resolved to do so for residential development of land to the north of Tesco and it indicates a capacity of 45 units [7.6.4].

12.8.19 Therefore, as the Council has indicated, there is likely to be scope for meeting Stow's market housing requirements, as currently identified by the LPe, through the development of a number of the alternative sites together with development of a much smaller area of land to the east of Stow than is proposed in the case before me [6.5.4], thereby potentially reducing the detrimental impact on the landscape and scenic beauty of the AONB and the setting of Stow.

12.8.20 As regards Stow's identified Affordable Housing need of 27 units, a significant proportion of those may be provided by development of S_8A and S_46 [7.6.3 & 5]. If not, the appellant has indicated that market units typically deliver 32.7% Affordable Housing [7.5.34] and on that basis I calculate that a development of only around 83 units (27/0.327) would be likely to meet the requirement.

12.8.21 Whilst the proposal would add to congestion in the town, as there is no evidence to show that the same could not be said of development elsewhere around the settlement, this factor does not weigh against the scheme when judging it against potential alternatives. [7.10.9]

12.8.22 Nonetheless, overall, it appears likely that there is significant scope for meeting the housing requirement for Stow, as currently identified by the LPe, other than through the development of the appeal site as proposed. This offers the potential to cause less harm to the character and appearance of the AONB and setting of Stow, and consequently tourism and the local economy. I have not been provided with any evidence to show that the cost of developing those other sites would be prohibitive in comparison with the appeal site. No compelling evidence has been provided to support the appellant's contention that the consequences of refusing planning permission in this case upon the local economy would be severe and adverse or to show that the economy would be harmed if the whole of the LPe housing requirement is not fulfilled within the early part of the plan period [7.5.47]. Under these circumstances, I give little weight to the benefits of the scheme in meeting Stow's housing requirements.

Any detrimental effect on the landscape, environment and recreational opportunities, and the extent to which that could be moderated

Landscape

12.8.23 I have concluded that the proposal would have a significant adverse effect on the character and appearance of the AONB and the setting of Stow. In this respect it would not conserve the landscape or scenic beauty of the AONB, contrary to the aims of the Framework. With reference to the Framework which indicates that great weight should be given to conserving landscape and scenic beauty in AONBs, this weighs heavily against the grant of planning permission in this case.

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Environment

12.8.24 The Framework indicates that developments which generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised, thereby supporting reductions in greenhouse gas emissions. As I have indicated, it appears likely that a significant number of the residents of the proposed development would commute out of town by car, with an associated impact in terms of increased greenhouse gas emissions. However, the LPe confirms a need for some housing development at Stow in order to help ensure that the town remains vibrant and viable as a local service centre. Furthermore, the framework recognises that opportunities to maximise sustainable modes of transport will vary from urban to rural areas. In this context, I give little weight to the likely impact of the scheme in terms of increased greenhouse gas emissions from car usage. [8.1.16, 8.5.3]

12.8.25 The Framework indicates that where significant development of agricultural land is proposed local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. Whilst a small proportion of the site is of a lower quality, the majority comprises BMVAL, grade 3a. However, the appellant's ALA also confirms it is likely that, unless there are localised patches of poorer quality land, all the land peripheral to the settlement will be grade 2 or 3a; that is BMVAL. I give little weight to the finding of the ALA that the appeal site is amongst the poorest land around the settlement: firstly, as that view is based on limited survey data; secondly, it only positively identifies 2 parcels of grade 2 land; and thirdly, as the site is still predominantly BMVAL. Nonetheless, under these circumstances, I consider that the loss of BMVAL resulting from the proposal does not weigh against the scheme. [7.1.5, 8.1.18, 8.2.27]

12.8.26 Whilst a number of residents have expressed concern with respect to the impact of the scheme on biodiversity, the only formal impact assessment before me in relation to those matters is the *Betts Baseline Ecological Site Audit May 2012* (BESA), submitted in support of the scheme by the appellant. Subject to the implementation of the BESA recommendations, which could be ensure by condition, I am satisfied the proposal would provide some enhancement of biodiversity within the site overall. Whilst in these respects the scheme would accord with the aims of paragraph 118 of the Framework, these are common requirements of development. I give them little weight. [7.8.1, 9.2.3, 9.10.2]

Recreational opportunities

12.8.27 In accordance with LP Policy 34 and the aims of the Framework to promote physical health and well being, the scheme would incorporate green infrastructure, such as walkways, open space and allotments, which would provide a variety of recreational opportunities for future residents and the wider community [7.8.1]. These measures could be secured by condition and submitted planning obligations. However, I consider that the benefits to the wider community resulting from these measures would be small, as they already have access to the King George V Playing Fields. The proposed contribution towards new changing facilities at the playing fields would

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benefit the wider community [10.7]. However, I give these benefits, which would be limited overall, little weight.

12.8.28 I acknowledge, as set out in the Honeybourne decision, that even a site which has the effect of seriously degrading the character of an area can have an environmental role [7.9.1]. It may also have a recreational role. However, in this particular case the environmental and recreational opportunity benefits of the scheme would be relatively minor overall, whereas the landscape harm would be considerable.

Conclusions

12.8.29 Whilst I have not found any other conflict with the requirements of the Development Plan, the scheme would conflict with LP Policy 19. However, as the Council is unable to demonstrate a 5 year supply of deliverable housing sites, that Policy is considered out of date and the conflict with it does not weigh against the scheme. Paragraph 14 of the Framework indicates that where relevant policies of the Development Plan are out of date, as is the case here, planning permission should be granted unless, amongst other things, specific policies in the Framework indicate development should be restricted. Paragraph 116 of the Framework indicates that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest.

12.8.30 The scheme would have a significant adverse impact on the character and appearance of the AONB and the setting of Stow-on-the-Wold. In this respect it would not conserve the landscape or scenic beauty of the AONB, contrary to the aims of the Framework. I attached great weight to this harm.

12.8.31 As to the benefits of the scheme; it would make a significant contribution towards meeting the serious shortfall in the District relative to the Framework requirement to demonstrate a 5 year supply of deliverable housing sites [7.6.21]. It would also make a notable contribution towards meeting the need for Affordable Housing. No other site has been identified that would provide the same level of benefits on its own. These matters attract significant weight in favour of the scheme.

12.8.32 Whilst the scheme would also fulfil the requirements of the LPe as regards the market housing requirements of Stow, it appears likely that there would be scope to meet these local market housing needs other than through the development of the site as proposed and with a reduced detrimental impact on the landscape and scenic beauty of the AONB. The scheme would significantly exceed the formally identified Affordable Housing needs of Stow, which could potentially be met in other ways. Under these circumstances, I give little weight to the benefits of the scheme in meeting the housing needs of Stow. Furthermore, I give little weight to the limited environment and recreational opportunities benefits of the scheme and also the possibility that it would improve highway safety along the A436 in the vicinity of the site. The proposal would make adequate provisions for the service and infrastructure needs generated by the appeal scheme.

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12.8.33 Notwithstanding the absence of any identified conflict with the provisions of the Development Plan, other than LP Policy 19, and having had regard to the economic, social and environmental impacts of the scheme, I consider on balance that the benefits of the proposal would be far outweighed by the environmental harm that it would cause. In my judgement, the exceptional circumstances necessary to justify this major development in the AONB do not exist and the scheme would not be in the public interest. Although there would be some notable economic and social benefits, the overall level of environmental harm would be such that the scheme would not amount to sustainable development, contrary to the aims of the Framework.

12.9 Conclusion

12.9.1 I conclude, for the reasons given above, that the appeal should be dismissed and planning permission refused.

13. INSPECTOR'S RECOMMENDATIONS

13.1.1 I recommend that the appeal is dismissed and planning permission refused.

I Jenkins

INSPECTOR

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APPENDIX A - APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Ormondroyd
Of Counsel

He called

Mr R Eaton BA (Hons) MTPL MRTPI	RJE Planning.
Mr J Overall BA(Hons) CMLI	Ovelier Consultants.
Mrs G Wood BSc(Hons) MA MRTPI	Cotswold District Council.

FOR THE APPELLANT:

Mr A Crean
QC
MR G Cannock
of Counsel

They called

Mr D Dunlop BA(Hons) MRTPI	D2 Planning Limited.
Mr R Tisdall BSc(Hons) M.Phil MPH CMLI AIEEM	Tisdall Associates Limited.
Mr M Ohrland BA(Hons) MA CMILT	Stuart Michael Associates.
Mr S Coop BA MSc MRTPI MIED	Nathaniel Lichfield & Partners.

STOW TOWN COUNCIL:

Mr C Turner	Stow Town Council.
Mr C Ayers	Stow Town Council.
Mrs M McGhie	Stow Town Council.
Mr A Eastabrook BA BArch(Hons) RIBA	Eastabrook Architects.

OTHER INTERESTED PARTIES:

Mr Akerman	Interested person.
Mr A White Chairman, Stow Town Council	Interested person.
Mr D Crofts	Gloucestershire Campaign to Protect Rural England.
Mr G Williams	Save Our Stow Campaign Group.
Mrs S Brawn	Cotswold & Vale Action Alliance.
Mr N Hambleton	Interested person.
Mrs J Turner	Interested person.

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APPENDIX B – DOCUMENTS

CORE DOCUMENTS (CD)

1 Guidelines for Landscape and Visual Impact Assessment 2nd edition, Spons, 2002.
2 Landscape and Character Assessment-Guidance for England and Scotland, Scottish Natural Heritage, 2002.
3 Topic Paper 6: Techniques and Criteria for Judging Capacity and Sensitivity, Scottish Natural Heritage, 2002.
4 Cotswold AONB Management Plan 2013-18: Cotswold Conservation Board, 2013.
5 Study of the land surrounding Key Settlements in Cotswold District: White Consultants, 2000.

PROOFS OF EVIDENCE (P)

1 Proof of evidence of Mr R Eaton.
2 Proof of evidence of Mr J Overall.
3 Rebuttal proof of Mr J Overall.
4 Proof of evidence of Mrs G Wood.
5 Rebuttal proof of Mrs G Wood.
6 Proof of evidence of Mr D Dunlop (separately bound Appendices 1-23), December 2013.
7 Rebuttal proof of evidence of Mr D Dunlop, December 2013.
8 Second rebuttal proof of evidence of Mr D Dunlop, February 2014.
9 Proof of evidence of Mr D Dunlop, October 2014.
10 Proof of evidence of Mr R Tisdall (separately bound appendices).
11 Rebuttal proof evidence of Mr R Tisdall.
12 Proof of evidence of Mr M Ohrland (volumes 1 and 2).
13 Proof of evidence of Mr S Coop (separately bound Appendices 1-20).

INQUIRY DOCUMENTS (ID)

1 Letters notifying interested parties of the appeal and Inquiry arrangements.
2 Correspondence in response to the appeal notifications.
3 Revised red line plan, drawing no. C1558 P004 Rev A.
4 Letter from the CPRE to the Planning Inspectorate (PINS), dated 3 January 2014 (objection).
5 Letters from Councillor N Moor to PINS, dated 3 November 2013 and 2 January 2014 (objection).
6 Draft unilateral undertaking (public open space, surface water drainage, changing room facilities and affordable housing).
7 Draft unilateral undertaking (education, libraries and cycle shelter).
8 Stow Town Council's (STC) rebuttal to Mr D Dunlop's proof of evidence appendix 23.
9 Email from S Brawn to the Council, dated 3 January 2014 (footpaths).
10 Letter from STC to the Council, dated 14 August 2013 (objection).
11 Opening submissions on behalf of the appellant.

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12 Letter from STC to PINS, dated 1 October 2013 (objection).
13 The Council's 5 Year Housing Land Supply-December 2013.
14 Email from F Brereton to D Dunlop, dated 6 January 2014 (Highfield Farm)
15 Email from the Council to PINS, dated 19 December 2013 (housing land supply)
16 Cover sheets for reference documents relied on in Mr Overall's proof of evidence.
17 Example 5 year housing land supply calculation, based on ONS 2011 figures.
18 The Queen on the application of Edward Poole v Secretary of State for Communities and Local Government, Cannock Chase District Council [2008] EWHC 676 (Admin) 2008 WL 1968898.
19 Email from STC to PINS, dated 14 January 2014 (King George V Field footpath).
20 Email from Fields in Trust to PINS, dated 17 January 2014 (King George V Field footpath).
21 Email from the appellant to PINS, dated 31 January 2014 (updated SoCG).
22 Email from the Council to PINS, dated 7 February 2014 (circulation list).
23 Email from the Council to PINS, dated 4 February 2014 (SoCG concern).
24 Letter from the appellant to PINS, dated 20 February 2014 (housing/landscape proofs, highways statement, and draft s106s).
25 Letter from the Council to PINS, dated 21 February 2014 (housing proof).
26 Email from the CPRE to PINS, dated 5 March 2014 (housing supply statement).
27 Letter from the Council to PINS, dated 7 March 2014 (housing rebuttal).
28 Email from the appellant to PINS, dated 10 March 2014 (re. CPRE statement).
29 Email from PINS to the appellant, dated 12 March 2014 (responding to CPRE statement query).
30 Email from PINS to interested parties, dated 13 March 2014 (PPG).
31 Email from the appellant to PINS, dated 14 March 2014 (various matters inc. 2 no. judgements-South Northamptonshire Council v Secretary of State CLG & Barwood Homes Ltd [2014] EWHC 570 (Admin), South Northamptonshire Council v Secretary of State CLG & Barwood Land & Estates Ltd [2014] EWHC 573 (Admin)).
32 Email from PINS to the appellant and the Council, dated 19 March 2014 (red line, highways).
33 Email from G Williams to PINS, dated 19 March 2014 (time estimate).
34 Email from the appellant to PINS, dated 18 March 2014 (Highways-Technical Note, dated 8 March 2014).
35 Email from STC to PINS, dated 18 March 2014 (highways).
36 Email from the CPRE to PINS, dated 19 March 2014 (time estimate).
37 Email from A White to PINS, dated 20 March 2014 (time estimate).
38 Email from the appellant to PINS, dated 20 March 2014 (Planning Practice Guidance).
39 Email from STC to PINS, dated 20 March 2014 (time estimate).

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40 Email from the Council to PINS, dated 21 March 2014 (time estimates).
41 Email from the appellant to PINS, dated 20 March 2014 (clarification re. background to TN 8/3/14)
42 Email from the appellant to PINS, dated 21 March 2014 (red line modification).
43 Email from the appellant to PINS, dated 21 March 2014 (time estimates).
44 Appeal decision Ref. APP/C1570/A/13/2201844 (attached to email from the Council to PINS, dated 24 March 2014.
45 Inquiry resumption notification letter from the Council to interested parties, dated 9 January 2014.
46 Email from the Highway Authority to STC, dated 21 March 2014 (highways).
47 Email from CBRE Ltd to D2 Planning Ltd, dated 10 March 2014.
48 STC Briefing note-NPPG (Extracts from the letter to coalition MPs from Rt, Hon. Nick Boles MP of 10 March 2014 reiterating National Planning Policy Guidelines released on 6 March 2014)-Implications for Stow-on-the-Wold.
49 Transport & Traffic Aspects-Inquiry Notes by STC.
50 Draft Unilateral Undertaking pursuant to section 106-public open space, surface water drainage, changing room facilities and cycle shelter.
51 Draft Unilateral Undertaking pursuant to section 106-education and libraries.
52 Draft Agreement pursuant to section 106.
53 Statement of Mrs S Brawn-Inquiry notes relating to historical and archaeological principles of the above site.
54 Landscape Institute-guidance on transition to GLVIA3.
55 Out-Law.com article-High Court dismisses challenge to Winchester Core Strategy.
56 Extracts from Gloucestershire's Local Transport Plan 2011-26.
57 Guidelines for Providing Journeys on Foot-The Institution of Highways and Transportation.
58 Extracts from The Design Manual for Roads and Bridges, August 2007.
59 Extracts from A Handbook on Environmental Impact Assessment-Scottish Natural Heritage.
60 Extract from DCLG 2011-Interim Household Projection Figures.
61 Ten key principles for owning your household number-finding your objectively assessed needs-Planning Advisory Service et al.
62 Extract from the PPG- ID 3-030.
63 Statement of Mr A Eastabrook.
64 Statement of Mr D Crofts.
65 Statement of Mr A White.
66 Drawing no. 1303-SK-203 rev A-additional viewpoint locations.
67 Extract from the PPG- ID 8-002 to 006.
68 Appeal ref. APP/F1610/A/13/2196383- Extract from Council's proof of evidence on landscape issues pages 80 & 81.
69 Drawing no. C1558 P001-A Illustrative site plan.
70 Development Services-Landscape response form, dated 28 August 2013.
71 Email from Cotswold Archaeology to the appellant, dated 26 March 2014 (response to Mrs S Brawn's statement)
72 Drawing no. 1303-SK-204 rev A location of the appeal site Bourton-on-

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	the-Water.
73	Statement Mr R Tisdall-Response to landscape officer comments:28 August 2013.
74	Landscape Institute Advice Note 01/11-Photography and photomontage in landscape and visual impact assessment.
75	Visual Representation of Windfarms-Good Practice Guidance, 29 March 2006 by Horner + Maclennan and Envision.
76	Statement of STC-legislation and policy notes.
77	Extract from Manual for Streets 2.
78	Appeal decision Ref. APP/D1835/A/13/2202841.
79	Statement from appellant-MO-cross examination note 28 March 2014.
80	Oddington Road and Evesham Road speed surveys, February 2014.
81	Gloucestershire Council Council-North Cotswolds Parking Review.
82	Extract from the PPG- ID 3-033 to 034, ID 42-006.
83	Extract from Frequently asked questions on TRICS Good Practice presentation by JMP Consultants Ltd.
84	Institute of Environmental Assessment-Guidelines for the Assessment of Road Traffic.
85	Suggested conditions-Affordable Housing, Travel Plan and water supply infrastructure.
86	Formally completed Unilateral Undertaking, dated 26 March 2014, pursuant to section 106-public open space, surface water drainage, changing room facilities and cycle shelter.
87	Formally completed Unilateral Undertaking, dated 26 March 2014, pursuant to section 106-education and libraries.
88	Gloucestershire County Council-Transport Planning Advice Sheets-Residential Travel Plans.
89	Gloucestershire County Council-Travel Plan Guide for Developers, July 2011.
90	Budget cost plan-football and hockey changing rooms Stow-on-the-Wold.
91	Cycle shelter –cost overview.
92	Closing submissions-Mr G Williams.
93	Closing submissions –Stow Town Council.
94	Closing submissions -the Council.
95	Closing submissions -the appellant.
96	Letter from the appellant to PINS, dated 2 April 2014 (formally completed s106 Agreement and associated documents)
97	Letter from STC to PINS, dated 4 April 2014 (highways)
98	Letter from STC to PINS, dated 11 April 2014 (response to Statement from appellant-MO-cross examination note 28 March 2014)
99	Email from the appellant to PINS, dated 15 April 2014 (highways)
100	Email from PINS to the appellant, dated 16 April 2014.
101	Technical Note 24 April 2014-Stuart Michael Associates.
102	Email from the Council to PINS, dated 29 April 2014 (housing land supply).
103	Emails from the appellant to PINS, dated 30 April 2014 (housing land supply).
104	Letters from PINS to the Council and the appellant, dated 1 May 2014 (notification of recovery).
105	Email from STC to PINS, dated 1 May 2014 (requested opportunity to respond to appellant's Technical Note).

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106 Email from PINS to the Council, dated 2 May 2014 (housing land supply).
107 Email from the appellant to PINS, dated 2 May 2014 (housing land supply).
108 Email from the Council to PINS, dated 7 May 2014 (housing land supply).
109 Email from the appellant to PINS, dated 8 May 2014 (housing land supply).
110 Email from PINS to the Council and the appellant, dated 9 May 2014 (Inspector's note- housing land supply and the need to resume the Inquiry).
111 Email from PINS to STC, dated 12 May 2014 (Inspector's note-declining STC's request to respond to Technical Note).
112 Email from PINS to the Council and the appellant, dated 13 May 2014 (MP's letter)
113 Email from the Council to PINS, dated 11 July 2014 (Inquiry resumption notification).
114 Email from PINS to interested parties, dated 8 September 2014 (resumption arrangements).
115 Email from STC to PINS, dated 22 September 2014 (Letter from STC to PINS, dated 22 September 2014 (highways)).
116 Appeal decision Ref. APP/F1610/A/14/2213318 (Email from the appellant to PINS, dated 24 September 2014).
117 Email from the appellant to PINS, dated 30 September 2014 (housing land supply).
118 Email from the Council to PINS, dated 1 October 2014 (housing land supply).
119 Email from Save Our Stow to PINS, Dated 2 October 2014.
120 Email from the Council to PINS, dated 3 October 2014 (Supplemental SoCG).
121 Email from PINS to interested parties, dated 3 October 2014 (confirming resumption and circulating Supplemental SoCG and email from Save Our Stow, dated 2 October 2014).
122 Email from PINS to interested parties, dated 7 October 2014 (resumption arrangements and inviting appellant's comments on STC's letter of 22 September 2014).
123 Email from PINS to the CPRE, dated 7 October 2014 (extension of time until 21 October 2014 for comments on the supplemental SoCG).
124 Email from the CPRE to PINS, dated 10 October 2014.
125 Email from STC to PINS, dated 17 October 2014 (Housing land supply).
126 Email from the CPRE to PINS, dated 17 October 2014 (Housing land supply).
127 Submissions of the appellant.
128 Update to closing submissions-Council.

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APPENDIX C – ABBREVIATIONS

A1	Section 106 Agreement-Travel Plan contribution.
ALA	Agricultural Land Assessment.
ALVIA	Appellant's Landscape and Visual Impact Assessment, April 2013.
AOD	Above ordnance datum.
AONB	Area of Outstanding Natural Beauty.
BESA	Betts Baseline Ecological Site Audit May 2012.
BMVAL	Best and most versatile agricultural land.
BPC	Bledington Parish Council.
CCB	Cotswolds Conservation Board.
CIL	Community Infrastructure Levy Regulations 2010.
CLCA	Cotswolds AONB Landscape Character Assessment.
Council	Cotswold District Council.
CPRE	Campaign to Protect Rural England.
dpa	Dwellings per annum.
dRSSW	draft Regional Spatial Strategy for the South West.
EiP	Examination in Public.
FOAN	Full, objectively assessed need.
Framework	National Planning Policy Framework.
GCC	Gloucestershire County Council.
GJoF	Institution of Highways & Transportation's Guidelines for providing for Journeys on Foot.
HLSD	5 Year Housing Land Supply December 2013.
HLSM	5 Year Housing Land Supply May 2014.
HSoCG	Highways Statement of Common Ground, agreed between Gloucestershire County Council and the appellant, dated December 2013.
LP	Cotswold Local Plan 2001-2011, adopted in 2006.
LPe	Local Plan Consultation Paper: Preferred Development Strategy May 2013-Help Shape the Future.
LSaG	Cotswold AONB Landscape Strategy and Guidelines.

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MPC	Maugersbury Parish Council.
OAN	Objectively assessed need.
PPG	Planning Practice Guidance.
SHLAA14	Strategic Housing Land Availability Assessment in May 2014.
SHMA14	Gloucestershire Strategic Housing Market Assessment Update March 2014.
SoCG	Statement of Common Ground, agreed between the Council and appellant, dated November 2013.
SSoCG	Supplemental Statement of Common Ground, agreed between the Council and appellant, dated September 2014.
STC	Stow Town Council.
Stow	Stow-on-the-Wold.
TTWA	Travel to work area.
uSOCG	Updated Statement of Common Ground, dated January 2014.
UU1	Section 106 Unilateral Underatking- education and libraries
UU2	Section 106 Unilateral Undertaking- public open space, surface water drainage, changing room facilities and cycle shelter facilities
White Report	Study of Land surrounding Key Settlements in the Cotswold District June 2000

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APPENDIX D – SCHEDULE OF CONDITIONS

1) 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.

2) 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.

3) 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.

4) Applications for the approval of the reserved matters shall be in accordance with the principles and parameters described and identified in the Design and Access Statement. A statement shall be submitted with each reserved matters application which demonstrates that the application proposals comply with the Design and Access Statement or, where relevant, explaining why they do not.

5) The development hereby permitted shall be carried out in accordance with the following approved plans: C1558 P004 rev A; and, 4208.009.

6) The details submitted in accordance with condition no. 1) above shall include:

- Existing and proposed ground levels, the slab levels of the proposed buildings and the slab levels of existing adjacent buildings;
- A construction phase waste minimisation statement;
- Access roads, vehicular parking and turning facilities within the site;
- A scheme for the provision of fire hydrants, to be served by mains water supply, including a programme for installation;
- Public open space, including play areas; and,
- Sound insulation measures, based on the recommendations set out in Noise Assessment July 2013 Ref. 4208/NA issue status: issue.

7) The development hereby permitted shall not commence other than the works required by this condition until the first 20 metres of the site access road including the roundabout junction linking the site access road to Oddington Road and other off-site highway works, including speed limit reduction measures and visibility splays, have been completed in accordance with drawing no. 4208.009.

8) The development hereby permitted shall not commence until details of the pedestrian footway and crossing facility from the site access to the existing footway on the northern side of Oddington Road have been submitted to and approved in writing by the local planning authority. The footway and crossing facilities shall then be constructed in accordance with those agreed details before first occupation of any of the dwellings hereby approved and shall be maintained in accordance with those details until or unless adopted as part of a public highway.

9) The development hereby permitted shall not commence, 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

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Statement shall be adhered to throughout the construction period. The Statement shall:

i) Specify the intended hours of working on site during the period of construction;

ii) Provide for the parking of vehicles of site operatives and visitors;

iii) Provide for the loading and unloading of plant and materials;

iv) Provide for the storage of plant and materials used in constructing the development;

v) Provide for wheel washing facilities;

vi) Specify measures to control the emission of dust and dirt during construction; and,

vii) Provide for a scheme for recycling/disposing of waste resulting from demolition and construction works.

10) The development hereby permitted shall be served by access roads laid out and constructed in accordance with details to be submitted to and approved in writing by the local planning authority at the reserved matters stage. No dwelling hereby permitted shall be first occupied until the carriageway (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling has been completed to at least binder course level and the associated footways to surface course level.

11) The development hereby permitted shall not commence until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The street shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a dedication agreement has been entered into.

12) The development hereby permitted shall not commence until engineering details of the public transport facilities, including 2 shelters with seating and lighting and bus clearway road markings, to be provided on Oddington Road have been submitted to and approved in writing by the local planning authority. No dwelling hereby approved shall be first occupied until the public transport facilities have been installed in accordance with the approved details.

13) No dwelling hereby approved shall be first occupied until a Travel Plan setting out objectives and targets for maximising use of non-car travel modes has been submitted to and approved in writing by the local planning authority. The implementation of the approved Travel Plan shall commence prior to the first occupation of the first dwelling hereby approved and thereafter continue for as long as the approved use exists in accordance with the details therein unless otherwise agreed in writing by the local planning authority.

14) The development hereby permitted shall not commence until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority

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before any development hereby approved begins. If any significant contamination is found during the site investigation, a report specifying measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before development commences. The report shall include an implementation programme.

The remediation scheme, as agreed in writing by the local planning authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the local planning authority in advance of the works being undertaken. On completion of the works the developer shall submit to the local planning authority written confirmation that all works were completed in accordance with the agreed details.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then the development shall halt on that part of the site affected by the unexpected contamination until a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted has been be submitted to and approved in writing by the local planning authority. The report shall include an implementation programme. The measures in the approved remediation scheme shall then be implemented in accordance with the approved programme and a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved in writing by the local planning authority before development recommences on that part of the site affected by the unexpected contamination.

15) The development hereby permitted shall not commence until a surface water drainage scheme for the site, based on the *Flood Risk Assessment and Drainage Statement, dated April 2013, Ref. 4208/FRA&DS, issue status: 01* and *Flood Risk Assessment and Drainage Statement Supplementary Technical Information, dated July 2013, Ref. 4208/FRA&DS (STI) issue status: 01* has been submitted to and approved in writing by the local planning authority. The scheme shall include: an implementation programme; the drainage design for each plot, phase and parcel of land; source control measures; and, a management plan for the completed drainage system. The scheme shall be implemented in accordance with the approved details.

16) None of the dwellings hereby permitted shall be first occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have been submitted to and approved in writing by the local planning authority.

17) The development hereby permitted shall not commence until an impact study of the development hereby permitted on the existing public water supply system has been submitted to and approved in writing by the local planning authority. The study shall determine the details of any additional capacity required in the network, a suitable connection point and the timing of any off site works required. The development hereby permitted shall not commence until the approved off site works have been carried out in accordance with the approved details.

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18) The development hereby permitted shall not commence until an impact study of the development hereby permitted on the existing public sewerage system has been submitted to and approved in writing by the local planning authority. The study shall determine the details of any additional capacity required in the system, a suitable connection point and the timing of any off site works required. The development hereby permitted shall not commence until the approved off site works have been carried out in accordance with the approved details.

19) The development hereby permitted shall not commence until a Landscape and Ecological Plan, to show how the nature conservation mitigation works outlined in the *Betts Baseline Ecological Site Audit, May 2012* will be implemented has been submitted to and approved in writing by the local planning authority. The Plan shall be implemented in accordance with the approved details prior to the first occupation of any of the dwellings hereby approved.

20) The development hereby permitted shall not commence within the site until the appellant or their agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

21) The dwellings hereby approved shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be first occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

22) The development hereby permitted shall not commence until a scheme for the provision of Affordable Housing as part of the development has been submitted to and approved in writing by the local planning authority. The Affordable Housing shall be provided in accordance with the approved scheme and shall meet the definition of Affordable Housing set out in the National Planning Policy Framework, or any future guidance that replaces it. The scheme shall include:

- The numbers, type, tenure and location on the site of the Affordable Housing provision to be made, which shall consist of not less than 50% of the total number of dwellings permitted;
- The timing of the construction of the Affordable Housing and its phasing in relation to the occupancy of the market housing;
- The arrangements for the transfer of the Affordable Housing to an Affordable Housing provider, or alternative arrangements for the future management of the Affordable Housing;
- Arrangements to ensure that the Affordable Housing is affordable not only for the first occupiers but also for subsequent occupiers; and,
- The occupancy criteria to be used for determining the identity of occupiers of the Affordable Housing, and the means by which the occupancy criteria will be enforced.

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Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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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.