



Appeal Decision

Hearing held on 29 January 2015

Site visit made on 29 January 2015

by Jean Russell MA MRTPI

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

Decision date: 31 March 2015

Appeal Ref: APP/F2415/A/14/2225280

James Bond Caravan Site, Moorbarns Lane, Lutterworth, Leicestershire, LE17 4QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs J & P Bond and Jayne Commercial Ltd against the decision of Harborough District Council.
 - The application ref: 13/01906/OUT, dated 24 December 2013 was refused by notice dated 12 March 2014.
 - The development proposed is the erection of dwellings including estate roads and associated infrastructure.
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DECISION

1. The appeal is dismissed.

Preliminary Matters

2. I have given the correct titles for the appellants in the header above.
3. The outline application was made with details of the access arrangements for the proposed development. The matters of appearance, landscaping, layout and scale were reserved for future consideration, but there would be up to 50 dwellings.
4. The appellants proffered a draft planning obligation under s106 of the 1990 Act at the hearing; a signed version was submitted later in accordance with an agreed timetable and with supporting evidence.¹
5. When preparing the obligation, the appellants realised that they own fractionally less land than previously thought. The Council agreed that the appeal could be determined on the basis of a plan submitted with revised boundaries of the 'site edged red'.² I have taken account of the revised plan since the appeal site is reduced in size by such a small extent as to make no difference to my conclusions.

The Site and its Surroundings

6. The appeal site comprises a field and adjoining Travelling Showpeople's (TSP) site. The use of the 'appeal TSP site' for the seasonal parking of showmen's caravans, trailers and equipment was first permitted (ref: 82/00631/3P) on 6 July 1982. Permission has since been granted for the use of the land as showmen's quarters with 40 caravans, but it is agreed that the lawful capacity is 14 plots or yards. The appeal TSP site also includes a warden's bungalow occupied by Mr and Mrs Bond.

¹ Hearing documents 11, 13 and 14

² Hearing plan A; the revision is to the south western corner of the site.

7. It is common ground that the existing yards on the appeal TSP site fall below current standards. The site is narrow and irregular in shape, and it only provides room for 5 plots which would accord with the 2007 *'Travelling Showpeople's Sites – A Planning Focus: Model Standard Package'* by the Showmen's Guild.
8. The appeal site lies on the southern edge but within the 'limits' of Lutterworth, a town with a range of shops, services and amenities. The site adjoins playing fields to the north, a field to the east and the A4303 to the south. The site is accessed from Moorbarns Lane to the west, which forms part of a route out of Lutterworth and leads past the site to a pedestrian bridge over the A4303.
9. Planning permission was granted in 2009 and renewed in 2012 for an extension to the appeal TSP site onto the field to the east. The 'site extension' would include 7 yards but these are not laid out. The appellants also have an option to develop 7 TSP plots on land further south off Moorbarns Lane, on the other side of the A4303, following a grant of permission on 9 January 2014 (ref: 13/00976/FUL). Again, the 'Moorbarns Lane' site is not developed.
10. There is another TSP site nearby, Fairacres, which is to the south west of the appeal site and in separate ownership. An extension to Fairacres (or Phase 2) was permitted on 14 December 2007 (ref: 07/01596/FUL).³

Main Issues

11. An earlier planning application for the proposed development (ref: 12/01579/OUT) was refused for reasons including the prospect of adverse effects upon any buried archaeological remains. The site has now been evaluated and the Council accepts that, subject to conditions, the development would cause no unacceptable harm on archaeological grounds. Accordingly, I consider that the main issues are:
 - The effect of the proposed development on the supply of residential land in the area, with regard to bricks and mortar housing and TSP sites;
 - The effect of the development on highway safety; and
 - Whether the development would make adequate provision for affordable housing and local infrastructure.

Reasons

Residential Land

Policy Context and the Supply of Bricks and Mortar Housing

12. The *National Planning Policy Framework* (NPPF) sets out a presumption in favour of sustainable development. For decision-taking, that means approving development proposals which accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF taken as a whole, or unless specific NPPF policies indicate development should be restricted. The appeal site is not within an area subject to such restrictions.
13. The NPPF seeks to boost significantly the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up to date if the local planning authority (LPA) cannot demonstrate a

³ Hearing plan B shows the location of the existing and approved TSP sites in this area.

five year supply of deliverable sites with a buffer of 5% – or 20% where there has been persistent under-delivery – to ensure choice and competition in the market.

14. Policy CS1 of the 2011 *Harborough District Local Development Framework Core Strategy* (CS) promotes the development of at least 7,700 dwellings between 2006 and 2028. There is no dispute that the Council has insufficient deliverable sites to ensure a five year supply of bricks and mortar houses. The Statement of Common Ground (SCG) confirms that there is a supply for just **3.99 years**. The appeal site was identified as 'suitable', 'available' and 'potentially achievable' in the Council's 2012 *Strategic Housing Land Availability Assessment* (SHLAA); the 2014 *SHLAA Technical Consultation Report* described the site as 'deliverable' within the next five years. The proposed development would provide 50 much-needed homes.
15. The development would also comply with the aims of Policy CS1 to develop Lutterworth as a key centre with additional housing, preferably on previously developed land. CS Policy CS2 seeks the provision of at least 700 dwellings in Lutterworth. I have concerns about the planning obligation, but the appellants accept that 30% of the houses should be affordable, in accordance with CS Policy C3; I will assume here that such provision would be made. The development of affordable and general housing in a sustainable location would be benefits of the proposal – as would the associated jobs in construction and local services.
16. However, the NPPF also expects LPAs to plan for a mix of housing to meet the needs of different community groups – and the parties agreed at the hearing that the appeal site is, in principle, in a sustainable location for bricks and mortar housing or TSP plots. *Planning Policy for Traveller Sites* (PPTS) seeks to increase the number of traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply. LPAs are required to set TSP plot targets which address the likely accommodation needs in their area, and to identify and update annually a five year supply of specific deliverable sites against their locally set targets.

The Supply of TSP Sites

17. CS Policy CS1 seeks to provide for the varied housing needs of the community, including the special needs of TSP. Policy CS4 indicates that minimum provision will be made between 2006 and 2016 for **29** TSP plots. That figure is based on evidence of need set out in the *Leicestershire, Leicester and Rutland Gypsy and Traveller Accommodation Needs Assessment* (GTAA), which was published in 2007 for the period 2006-16, and then 'refreshed' in May 2013.
18. The 2007 GTAA found a clear need for yards in the study area; it recommended that provision should be made where need arises, meaning that a large number of yards would be required in Harborough. The GTAA indicated that any decision to address 'need where it should be met' would have to be taken separately. The appellants query the GTAA approach but it was accepted by the Council. I have not seen any alternative assessment of the need, demand or market for TSP sites that might show the GTAA to be unreliable or out of date.
19. CS Table 7, the 2013 GTAA and a letter from the Council's Traveller Sites and Liaison Officer (TSLO), dated 21 January 2013, give different figures as to the number of yards permitted in the District since 2006.⁴ I agree with the appellant that account should be taken of the 7 yards approved at the site extension, and I will also accept that there could be 20 plots at Phase 2 of Fairacres.⁵ With the 7

⁴ I have also had regard to a letter from the TSLO dated 23 January 2014

⁵ The appellants' planning statement and document RE11 indicate that the 2007 permission for Fairacres related only to the use of the land. The approved plan showed 18 plots but 20 plots were laid out.

- yards approved at Moorbarns Lane and another 2 yards at a site in Welham, it seems that provision has been made since 2006 for **36** yards.⁶
20. However, the situation may be more complicated. The 2007 GTAA recorded the existence of 62 yards in Harborough alone. Three sites across the whole study area were deemed unsuitable; one of these was described as having problems with access and the owner seeking to relocate – this was likely the appeal TSP site. The GTAA recommended that 25 yards would be required across the study area for those relocating from the unsuitable sites. Since the other two unsuitable sites had 11 occupiers, it seems that the GTAA sought 14 yards to replace the site with access problems. The 2007 and 2013 GTAA's both appear to have assumed the existence of 14 yards on the appeal TSP site.⁷ If the site can in reality provide only 5, then the GTAA has over-estimated the pre-existing supply by 9.
 21. If the Council has permitted 36 yards since 2006, then it has met and exceeded the target for 29 set out in Policy CS4. However, if the proposed development would cause the loss of 14 lawful yards, it would give rise to a need for 7 yards by 2016.⁸ The same figure would be arrived at if it is considered that only 5 yards would be lost to the development but the existing supply must be reduced by 9. If it is deemed that 5 yards would be lost following the provision of 36, the Council would still have 31 yards, 2 more than are required to comply with Policy CS4. That is the most favourable calculation for the appellants but it is not likely to be consistent with the GTAA.
 22. In any event, it is also necessary to consider whether the Council has a five year supply of deliverable sites. The 2013 GTAA found a need for 25 plots over the 19 year period of 2012-2031 and so the Council suggested at the hearing that there would be a requirement for 1.3 yards per year, or 6.5 over the five year period of 2014-2019. If a buffer of 5% is applied to ensure choice and competition in the market, the five year requirement would be 6.8 (**7**) yards. The appellants conceded that this is a reasonable calculation based on best available evidence.
 23. The planning permission for Moorbarns Lane was granted in January 2014; I shall take it as relating to this five year period.⁹ Since 7 yards were approved at that site, the Council has secured a five year supply of deliverable sites. However, if the proposed development would cause the loss of 14 lawful yards, it would cause a shortfall of 7 or 100%. If the development would only cause the loss of 5 yards, the best approach for the appellants, the result would be a supply of 2 yards – but even this would amount to **less than a two year** supply of deliverable sites.
 24. CS Policy CS4 does not seek to maintain a five year supply; in that respect, it is inconsistent with PPTS and may be out of date. However, that finding does not assist the appellants because the development would conflict with PPTS and the NPPF, by causing the supply of TSP sites to fall short against the best available evidence of the five year need.¹⁰ The supply would also fall short in comparison to that of sites for bricks and mortar housing and this is a serious objection.
 25. The 2007 GTAA indicated that 45 yards would be required across the study area between 2006 and 2011, of which 20 would address need arising from population growth and 25 would be for families relocating from unsuitable sites. From 2011, the 2007 GTAA assumed that the need for sites would arise from family increase

⁶ The yards at Welham were approved under appeal ref: APP/F2415/A/11/2144439

⁷ I heard that 8 former occupiers of the appeal TSP site moved to Fairacres before it was extended, but it is not clear if any or how many of those families had moved when the 2007 GTAA was being prepared.

⁸ The 2013 GTAA suggests that any shortfall could be addressed by 2017, but 2016 remains the CS date.

⁹ Years are more commonly assumed to run from 1 April to 31 March when monitoring development plans.

¹⁰ The SCG states that no conflict is alleged with the NPPF, but that would be the result from an under-supply.

alone. The 2013 GTAA estimated future needs on the basis that 29 plots would be provided in Harborough as required by 2016/2017, giving a base supply of 91 with the pre-existing 62, and then the need would be for 1.5% compound growth per annum for household formation. No further allowance was made for migration.

26. Whether the net provision made from 2006 was for 27 or 36 plots, sufficient were likely permitted to replace unsuitable sites. Indeed, 8 former occupiers of the appeal TSP site have already moved to Fairacres. The appeal TSP site offers space for 5 plots of a standard size, and these are needed either by the remaining occupiers – discussed further below – or for household growth. I shall consider other matters relating to the suitability of the appeal TSP site, but in principle the previously recognised need to facilitate relocations would not justify the effect of the proposed development on the supply of sites.

Other Considerations

27. The appellants submitted at the hearing that supply issues cannot be considered simply on the basis of paper calculations. I heard that houses for the settled community are being built in Lutterworth, indicating a need and healthy market for housing in the area. There is limited evidence on this matter, but I do not dispute that this will be the situation.
28. The appellants also submit that, by comparison, there is a lack of demand for TSP sites; there are 7 vacant plots on the site extension and 7 at Moorbarns Lane. However, the appellants have emphasised that they are not committed to developing either of those sites. Conditions imposed on the permissions have not been discharged and there is little evidence as to whether or how the sites have been marketed. The proposed development would include an access road to the site extension, but the indicative plan does not show what would be there. It has not been shown that there is no demand for the site extension or Moorbarns Lane.
29. The appellants have also referred to 10 vacant plots in Phase 2 of Fairacres. The TSLO confirmed with the owner of Fairacres that there are 'marked out' vacant yards. What may be a single vacant plot, between two that are occupied, was being used for repairing fair equipment at the date of my visit. The remaining vacant yards would be on land in the south eastern corner of Fairacres. This land includes drainage pipes and hardcore, but it is not subdivided.
30. I have seen advertisements for plots at Fairacres. I will assume that the land has been marketed for some two years and the owner would expect buyers or tenants to develop the yards themselves. However, I cannot speculate as to why the yards are not let or sold. The owner was not party to this appeal. One advert refers to a price of £55,000 and there is no evidence as to whether that was realistic; if that remains the sale price; what it might cost to rent the land; what the development costs would be; and if there was any response to any advert. That there is unused land at Fairacres does not demonstrate a lack of need or demand for yards.
31. The appellants argue that the appeal site is unsuitable for use as a TSP site not only because of its layout, but also because it has poor access as described in the 2007 GTAA. TSP use trucks and trailers to transport fairground equipment, but the site must be accessed through Lutterworth town centre and residential roads which are narrowed by on-street parking. However, neither the GTAA nor the appellants' Transport Statement (TS) demonstrates that the access to the site is inherently unsuitable for TSP. I am not aware of any history of accident and the site extension was proposed and approved after the 2007 GTAA was published.
32. Fairacres is served by a wide road direct from the A4303. Being a relatively new site, Fairacres also has a good quality layout, where yards are large, enclosed,

well-surfaced and supported by a social club. I have noted that former occupiers of the appeal TSP site have moved to Fairacres; some current occupiers also intend to move there. Thus, the appeal TSP site may be less attractive than Fairacres – but this is in part a market issue, as dwelling size and transport issues are with any housing development. The site is not obsolete but capable of supporting 5 plots, as the TSLO has suggested. Some TSP might consider it advantageous that the site is sustainably located within Lutterworth.¹¹

33. I heard that yards at the appeal TSP site have not been marketed for some 18 months. Mr and Mrs Bond are known in the TSP community and plot availability may spread by word of mouth. However, where it is proposed to redevelop a site which is in use for a purpose consistent with planning policy, I would expect to see evidence of a rigorous marketing campaign to demonstrate any lack of demand. The SCG indicates that four families occupy the site but I saw the Bonds' bungalow and caravan, a caravan belonging to their daughter and seven other caravans, of which five were occupied. Mr Bond's cousin was storing equipment on the site. The land is in use.
34. CS Policy CS4 does not prevent the loss of TSP sites, but PPTS expects LPAs to work with the planning applicant and affected traveller community to identify a site or sites suitable for relocation of the community if a major development proposal requires the permanent or temporary relocation of a traveller site. LPAs are entitled to expect the applicant to identify and provide an alternative site, providing the development on the original site is authorised.
35. I understand that occupiers of the appeal TSP site have made arrangements to move to Fairacres or out of the District. Although I saw more occupiers than I had been informed about, I will accept that none would be made homeless by any decision to allow the appeal. However, an absence of harm on that count does not outweigh the adverse effect of the development in causing a loss of sites which are not only in use but also required to meet needs for household growth.

Conclusion

36. The TSLO had no current requests for TSP yards and she did not object to the proposed development. However, she did not consider the effect of the proposed development in relation to a five year supply. I conclude that the development would beneficially provide general and affordable homes, but it would cause a serious under-supply of TSP yards and the appellants have provided insufficient evidence to demonstrate a lack of need or demand. The development would cause unacceptable harm in relation to the supply of residential land. It would comply with CS Policy CS2 and potentially CS Policy CS3, but it would conflict with the NPPF, PPTS and CS Policy CS1, if not Policy CS4 – which should prevail in my view.
37. It was found in the 2011 Welham appeal decision that a need for TSP sites was not being met. The Welham site was then approved and the supply of sites has also been boosted since by the Moorbarns Lane permission. However, that there has been recent recognition of need for TSP sites adds a little weight to my view that the proposed development would cause an unacceptable under-supply.

Highway Safety

38. The Council does not object to the proposed development on highway safety grounds but local residents attended the hearing to raise this matter. Moorbarns Lane leads from Stoney Hollow and Woodmarket, which form a main route to residential areas in the south eastern part of Lutterworth. Woodmarket also

¹¹ The 2007 GTAA notes that some TSP seek sites in areas where temporary jobs are available in the winter

- provides access to a waste disposal site, and to the high school and primary school which stand on opposite sides of Moorbarns Lane close to the appeal site.
39. I heard that Woodmarket was re-built with a weight restriction following the collapse of a sewer. The road has not been brought up to standard, yet permission has since been granted for the waste disposal and appeal TSP sites which generate heavy goods vehicle (HGV) traffic that could damage the carriageway. However, there is no evidence before me of continued structural problems which might make it unsafe to utilise Woodmarket as the means of access to the development.
40. Perhaps a more pressing issue is that on-street parking reduces stretches of the carriageway along Woodmarket to a single lane. There is a high demand for on-street parking by the schools when pupils arrive and leave. I am not aware of any related history of accident or record of unacceptable air pollution. However, I accept that on-street parking in this area will be likely to inhibit the free flow of traffic, reduce forward visibility, and simply inconvenience local residents.
41. It was found in a 1993 appeal decision that the volume of traffic in Moorbarns Lane is alarmingly high given its narrow width. Planning permission was refused for a coal storage and delivery business on the appeal site to avoid prejudice to highway safety.¹² However, that decision was based on the fact that the business would generate HGV movements, albeit in low numbers.
42. When the proposed houses are being built, the impacts of HGV traffic could be managed by imposing a planning condition to require the submission and approval of a Construction Method Statement.¹³ The dwellings themselves would be occupied by settled people; the houses would be unlikely to generate significant HGV traffic when they are constructed and in use. The plan shows that each property would include a drive and there would be shared on-site parking spaces, so the development would not likely cause overspill parking onto Moorbarns Lane.
43. The TS estimates that a housing development on the edge of a town would be liable to generate some 5.3 vehicular movements per dwelling per day; 55 houses would give rise to approximately 31 and 34 vehicular movements into and out of the site during morning and evening peak hours respectively.¹⁴ The proposal is for only 50 houses, but even 34 vehicular movements per hour would equate to less than one per minute. The appellants have agreed to widen a section of Moorbarns Lane between the site access and schools, to mitigate the impact of additional traffic, and this scheme could be ensured by condition. The development would not cause an unacceptable loss of highway safety or increase in congestion.
44. There was discussion at the hearing as to whether the development would afford highway safety benefits. As the TS suggests, the appeal TSP site will generate HGV and residential traffic. I expect that the movement of trucks and trailers associated with the site could exacerbate congestion if not pollution along Moorbarns Lane and Woodmarket. In principle, allowing the redevelopment of the site could improve road conditions for local residents by reducing HGV traffic.
45. However, the appeal TSP site could not accommodate 50 TSP families. The Council officer's report indicates that, despite a local bus service, the development would be likely to increase overall traffic – hence the need to widen Moorbarns Lane. The 2007 GTAA confirms the appellants' submission that TSP tend to travel all year

¹² Hearing document 11

¹³ A Construction Management Statement could include details such as construction and delivery hours; provisions for wheel washing, on-site parking and loading and unloading; and measures to control dirt and dust.

¹⁴ The figures are derived from TRICS, a national database of traffic counts taken at sites with different uses, in different locations and of different scales.

round, not seasonally as in the past, but it is still the case that movements from a TSP site may fluctuate. There is no assessment of the existing traffic impacts of the appeal TSP site. The appellants conceded at the hearing that the likely reduction in HGV movements has not been quantified and so I cannot speculate as to whether the development would provide more than a minor benefit.

46. I conclude that the proposed development would cause no unacceptable loss of highway safety. It would comply with the NPPF, which expects provision of safe and suitable access – and that development is refused on transport grounds only where the residual cumulative impacts would be severe. The development would also be likely to reduce HGV movements on local roads, but for the reasons given above I attach little weight to this benefit.¹⁵

Affordable Housing and Local Infrastructure

47. The planning obligation is made in the form of a unilateral undertaking (UU) by the appellants. Unfortunately, the UU is not dated, meaning that it is not completed.¹⁶
48. To do justice to the appellants, I shall still consider whether the contributions proffered would meet the tests set out under Regulation 122 of the *Community Infrastructure Levy (CIL) Regulations 2010*: be necessary for the development to proceed; directly related to the development; and fairly and reasonably related in scale and kind to the development.¹⁷ In relation to necessity, the NPPF indicates that planning policies and decisions should deliver the social, recreational and cultural facilities and services that the community needs. CS Policy CS12 indicates that, where appropriate, development will be required to contribute to funding elements of the Infrastructure Schedule (IS).
49. The NPPF also promotes the creation of safe environments where crime and fear of crime do not undermine quality of life or community cohesion. The IS states that, contributions may be required towards the expansion and refurbishment of the Police Station in Lutterworth, and towards communications infrastructure, vehicles and staff equipment needed to police new areas. Leicestershire Police (LP) argues that, by extending the size of this town, the development would increase demands on the police force.¹⁸ LP seeks contributions for accommodation, vehicle and equipment. The facilities would not be for exclusive use at the site, but proportionate contributions are requested based on the scale of the development.
50. Part 1 of the First Schedule of the UU provides for a payment of £305 per dwelling for the 'police'. This is the sum sought but there is no reference to LP or what the monies would be for. The supporting statement confirms that the Council would collect the 'police' contribution, and what accommodation, vehicle and equipment would be funded.¹⁹ However, this statement is not cited in or formally appended to the UU. A contribution would be necessary in accordance with CS Policy 12, but the UU is not worded to ensure a direct relationship to the development, a fair relationship in scale and kind, or certainty of delivery.
51. The appellants undertake to contribute towards provision of off-site open space, in accordance with the NPPF and CS Policies CS8 and CS12. The IS indicates that

¹⁵ In considering the issue of highway safety, I have taken no account of the permissions granted for the site extension or Moorbarns Lane, which could be implemented regardless of the outcome of this appeal.

¹⁶ There is a date in the document footer but there is no indication that this is when the obligation was signed.

¹⁷ Clause 3.2 of the UU provides that the appellants would not be liable to pay contributions insofar as and to the extent that the contributions would not satisfy the requirements of Regulation 122.

¹⁸ The *Growth Infrastructure Assessment* report identified a police funding deficit, while the current capital programme shows a 'budget gap'. This evidence is of little relevance as to whether a contribution is necessary for the proposed development to proceed.

¹⁹ Hearing document 14

- open space contributions in Lutterworth should be determined by local analysis; the UU makes detailed obligations in relation to parks and gardens, children and young people's space, semi-natural greenspace, allotments and cemeteries, in accordance with information provided in an email dated 28 February 2014.²⁰ The contributions would be based on the scale of the development and paid to the Council as the relevant authority. They would comply with the CIL tests.
52. CS Policy CS12 seeks contributions towards community facilities. The Council officer's report referred to provision of a village hall but the IS indicates that contributions would be required in Lutterworth towards the expansion of the leisure centre. The sums proffered are based on a formula that is relevant to either type of facility and calculated on a per dwelling basis.²¹ However, I am concerned that the UU does not specify which community facilities would be funded, and there is no further explanation in the supporting statement. It is not sufficiently clear that the contribution would be directly or fairly related to the development.
53. Part 2 of the First Schedule makes provision for a contribution for 'libraries'. Leicestershire County Council has provided information as to the likely effects of the development on Lutterworth Library, which is described in the IS as likely to be in need of additional resources for loan or reference stock to sustain borrowing and choice. However, even if the contribution would be necessary, the UU does not state that it would be utilised for Lutterworth Library, raising a question again of whether there would be a direct or fair relationship to the development.
54. The Second Schedule of the UU concerns affordable housing. The NPPF expects LPAs, where affordable housing is needed, to set policies for meeting this need on site. CS Policy CS3 expects the provision of affordable housing from developments of one dwelling upwards and so it does not comply with Government policy that contributions for affordable housing should not be sought from developments of ten units or less.²² However, the proposal is for more than ten houses. Since the provision of affordable housing is raised as a point in favour of the development, I shall proceed on the basis that it would be necessary.
55. In accordance with Policy CS3, the UU provides that 30% of the new dwellings would be affordable, in excess of the sixth new dwelling; 60% of the affordable homes would be for affordable rent and 40% for intermediate housing.²³ A scheme for the provision of affordable housing would be submitted to the Council for approval prior to the commencement of development and implemented as approved; the affordable housing would be made available for occupation before all other dwellings on the site are occupied.
56. The UU does not set out, as I would expect, how affordable housing would be distributed in the development; who would be responsible for its construction and management; if and when there would be a transfer of land to a Registered Social Landlord; and what arrangements might be made to secure a Registered Provider and allocate the affordable housing. Crucially, the UU does not include an obligation to the effect that the affordable housing would be retained as such. Such details might be included in the 'scheme' but there is no certainty of that.
57. I conclude that the UU is not dated and the contributions pertaining to the 'police', 'community facilities' and 'libraries' are not drafted to ensure that they would be

²⁰ Appended to document 14; see also *Supplementary Planning Guidance Note 16*

²¹ The calculations are recommended in *Assessment of Local Community Provision and Developer Contribution*

²² The change to policy on planning obligations and affordable housing is set out in the Written Ministerial Statement of 28 November 2014; paragraph 23b-013-20150227 has subsequently been added to the PPG. The PPG was updated after the hearing but it makes no difference to the outcome of the appeal.

²³ The reference to the sixth new dwelling reflects the fact that there are five existing habitable TSP plots.

directly or fairly related to the proposed development. The obligation relating to affordable housing also lacks clarity and certainty. Since the contributions discussed would be necessary for the development to proceed, the flaws in the UU mean that the development would not mitigate its impacts on local infrastructure, in conflict with the NPPF and CS Policy CS12. As currently written, I cannot be satisfied that the UU would make appropriate provision for affordable housing so as to accord with the NPPF or CS Policy CS3.

Conclusion

58. Although the proposed development would cause no unacceptable harm in respect of highway safety, I conclude that it would cause a serious under-supply of TSP sites. This is a compelling consideration and the harm caused in this respect would significantly and demonstrably outweigh the benefits afforded by the provision of general and perhaps affordable housing, and by reducing HGV traffic. I would refuse permission on this ground alone, but I also find that the development would fail to mitigate its impacts on local infrastructure. It would conflict with CS Policies CS1, CS4 and CS12, the NPPF and PPTS. For the reasons given and with regard to all other matters raised, I conclude that the appeal should be dismissed.

Jean Russell

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Mr Roger Etchells	The appellants' agent
M Paul Brown QC	The appellants' barrister
Mr James Bond	Appellant
Mrs Peggy Bond	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Mark Patterson	Principal Planning officer
Mr Christopher Brown	Council officer

INTERESTED PERSONS:

Mr Michael Lambert	Growth and Design Officer, Leicestershire Police
Mr A Drake	Local resident
Mr Trevor Jelly	Local resident

DOCUMENTS

- 1 The Council's letter of notification regarding the hearing and list of those notified
- 2 Statement of Common Ground
- 3 *Harborough Core Strategy Policy CS8 and supporting text*
- 4 *Harborough Core Strategy Policy CS12 and supporting text*
- 5 *The Council's Supplementary Planning Guidance Note 16, March 2003*
- 6 *The Council's Planning Obligations Developer Guidance Note, September 2009*
- 7 *Report for the Council, October 2010: Assessment of Local Community Provision and Developer Contribution*
- 8 Email to Mr Patterson, dated 28 February 2014, setting out the open space contributions required for the proposed development
- 9 Schedule of requested planning obligations and CIL/policy compliance
- 10 Appeal decision ref: APP/F2415/A/92/214833, dated 10 February 1993
- 11 Draft unilateral undertaking (UU) proffered at the hearing
- 12 Letter from the Planning Inspectorate to the Council and the appellant, dated 30 January 2015, concerning the submission of the UU
- 13 Final UU with cover letter
- 14 Bundle of documents submitted in support of the UU, including a signed joint statement from the Council and the appellant; an email from the Library Services Development Manager, dated 14 January 2014; the letter from Mr Lambert dated 10 October 2014; and documents listed as 7 and 8 above.

PLANS

- A Revised site plan, no. 02-01 L1001 Rev A
- B Location plan plotting the appeal site, approved site extension, approved site on Moorbarns Lane, Fairacres Phase 1 and Fairacres Phase 2