



Department for
Communities and
Local Government

Mr Craig Alsbury
GVA
3 Brindley Place
Birmingham
B1 2JB

Our Ref: APP/G2435/A/11/2158154
Your ref: 01A914928

20 August 2012

Dear Mr Alsbury

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY WILLIAM DAVIS LTD AND JELSON LTD
LAND NORTH OF A511 STEPHENSON WAY, COALVILLE, LEICESTERSHIRE
LE6 0FW
APPLICATION REFERENCE: 10/01208/OUTM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, P E Dobsen MA (Oxon) DipTP MRTPI FRGS, who held a public local inquiry between 7 and 29 February 2012 into your client's appeal against a failure by North West Leicestershire District Council (the Council) to give notice within the prescribed period of decision on an application for outline planning permission for residential development, village centre, including primary school, retail, business and other uses (classes A1, A2, A3, A4, A5, B1, D1 healthcare and D2 community facilities), public open space, recreation areas, play areas, woodland planting, and associated infrastructure including roads, sewers and water storage ponds, on land north of the A511 Stephenson Way, Coalville, Leicestershire, LE6 0FW in accordance with application reference 10/01208/OUTM, dated 23 December 2010.
2. On 11 August 2011 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 a proposal for residential development of over 150 units on a site of more than 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 the appeal be dismissed and planning permission be refused. For the reasons given below, the Secretary of State

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agrees with the Inspector's conclusions and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching his decision, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended. The Secretary of State is content that the ES complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.

Matters arising following the close of the Inquiry

5. The National Planning Policy Framework (the Framework) was published after the close of the inquiry and replaced those Planning Policy Guidance and Statements, Minerals Planning Guidance Notes, Circulars and letters to Chief Planning Officers set out in its Annex 3; reference to which had been made in written evidence and at the Inquiry. The Secretary of State notes (IR304) that the main parties' written representations on the Framework were subsequently invited and received, and that the Inspector has taken them into account in his report.
6. Following the close of the Inquiry, the Secretary of State received representations from those listed in Annex A. The Secretary of State has taken account of all these representations in his consideration of the appeal before him, but is satisfied that they do not raise matters which would require him to refer back to parties prior to reaching his decision. Copies of the representations referred to in Annex A may be obtained on written request to the address at the foot of the first page of this letter.

Policy considerations

7. In deciding these appeals, 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.
8. In this case, the development plan comprises the East Midlands Regional Plan (2009) (EMRP) and the saved policies of the North West Leicestershire Local Plan (2002) (NWLLP). The Secretary of State considers that the development plan policies most relevant to the appeal are those referred to by the Inspector at IR44-50, and IR52-53.
9. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the EMRP is formally revoked by Order, he has attributed limited weight to the proposed revocation in determining this appeal.
10. The Secretary of State has carefully considered the Inspector's conclusions on the weight to be given to the development plan, and the emerging North West

Leicestershire Core Strategy (the Core Strategy) (IR308-312). For the reasons given in those paragraphs, he agrees with the Inspector that the continuing development plan status of the EMRP and the saved policies in the NWLLP should be given most weight, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004; and the emerging Core Strategy only limited weight (IR312).

11. In addition to the Framework, other material considerations which the Secretary of State has taken into account include Circular 11/95: *Use of Conditions in Planning Permission*; and the *Community Infrastructure Levy (CIL) Regulations 2010 and 2011*.

Main issues

Green Wedge

12. For the reasons given in IR322-337, the Secretary of State agrees with the Inspector that the appeal scheme would have a very profound impact on the purposes, identity and character of this part of the designated Green Wedge, and would undermine its purposes, almost nullify its identity, and completely change its character. He agrees with the Inspector that in large part it would be permanently lost (IR336). He further agrees that the overall effect of the proposed development would, by eroding the Green Wedge to a large extent, be tantamount to the undesirable coalescence of Coalville and Whitwick (IR 333-334).
13. The Secretary of State notes that the period the NWLLP covers ended in 2006, but he agrees that the Green Wedge here has served and continues to serve a useful and much valued planning purpose, and that it should only be lost for very compelling land use planning reasons (IR336). He further agrees with the Inspector that, given its value as part of the Green Wedge, the appeal site should be seen as a very important part of the existing green infrastructure of Coalville and its environs (IR337).

Air quality

14. The Secretary of State has carefully considered the Inspector's conclusions on air quality in IR338-343. For the reasons set out in those paragraphs, he agrees with the Inspector that the appeal scheme would probably, though not certainly, cause a worsening of air quality in the Coalville Air Quality Management Area, which abuts the appeal site, through increased nitrogen dioxide emissions (IR379). He agrees that this counts against the appeal scheme in the overall planning balance (IR343).

Best and most versatile agricultural land

15. The Secretary of State agrees with the Inspector that the appeal scheme would entail the loss of about 25 hectares of best and most versatile (BMV) agricultural land (IR345). He notes however that the considerations in IR346-347 mitigate the prospective loss of such land as a factor in the overall planning balance (IR348). The Secretary of State notes that there was no argument that there would be a need to use greenfield land around Coalville to meet future housing needs. He notes the Inspector's finding that although the evidence on whether land of lower agricultural quality is available is not clear cut, other sites

offer the prospect, collectively, of somewhat lower losses of BMV land (IR349). As such, for the reasons given in IR344-349, he agrees with the Inspector that the prospective loss of BMV land is another negative factor in the overall planning balance, although one that would not on its own warrant the refusal of the scheme (IR350).

Prematurity

16. The Secretary of State has had regard to paragraph 216 of the Framework, which indicates the weight that decision-takers may give to relevant policies in emerging plans, as well as to the guidance in *The Planning System: General Principles* referred to by the Inspector. The Secretary of State notes the Inspector's reasoning at IR351-356 and his conclusion that the appeal scheme would be of such a size and scale as to prejudice the outcome of the council's emerging Core Strategy and should therefore be considered premature (IR357 and 378). In reaching his conclusion the Secretary of State notes that a pre-submission Core Strategy was published for consultation in May 2012 after the close of the inquiry. However, the Secretary of State agrees with the Inspector that the emerging Core Strategy should be given only limited weight (IR312). As such he considers that this is a consideration which counts against the proposed development, but is not on its own determinative of the appeal.

Housing land requirements and supply

17. The Secretary of State has very carefully considered the Inspector's conclusions in IR358-367 regarding the housing land requirements and supply in the district. For the reasons set out in those paragraphs, he agrees with the Inspector that there is a demonstrable and significant shortfall in the 5 year land supply in North West Leicestershire, however this is calculated, and therefore a pressing need to identify deliverable housing sites in the district (IR377). He agrees that this is the single most supporting factor for the appeal scheme in the overall planning balance (IR366). He agrees that this supports the case for allowing the appeal and granting planning permission. However, for the other reasons set out in the Inspector's conclusions which count against allowing the appeal, he agrees that this matter is not decisive in this case (IR367).

The presumption in favour of sustainable development

18. The Secretary of State has carefully considered the Inspector's conclusions on the presumption in favour of sustainable development in IR368-376. He agrees with the Inspector that in some respects the proposed development can be regarded as sustainable, particularly in its close and convenient location relative to Coalville town centre, its transport arrangements and connections, and in other aspects of its overall design, including those features which achieve a high CABE "Building for Life" rating. He agrees that it would make a very significant contribution towards meeting the housing needs of the district, both in the short and longer term (IR373). He also agrees with the Inspector's assessment of the merits of the scheme in IR319 which include the provision of affordable housing.

19. However, like the Inspector, the Secretary of State considers that the proposed development would largely obliterate an area of land which is designated in the

development plan as a Green Wedge and still serving a valuable planning function (IR374). He notes the Inspector's finding that there is no simple answer as to whether the scheme represents sustainable development (IR374). Taking all factors into account, the Secretary of State agrees with the Inspector's conclusion at IR380 that overall the proposals cannot be regarded as sustainable development.

Conditions and obligations

20. The Secretary of State agrees with the Inspector's reasoning and conclusions on the conditions as set out at IR295-298. He is satisfied that conditions 1-34, as set out in Annex 3 to the Inspector's report, are reasonable, necessary and comply with Circular 11/95. With regard to the planning obligation (IR299-303), the Secretary of State is, like the Inspector, not persuaded that Leicestershire Police's request for some £860,000 for policing the development is adequately justified (IR302). With the exception of the entirety of the contribution sought by Leicestershire Police, he agrees with the Inspector that the submitted planning obligation generally meets the tests set out in paragraph 204 of the Framework (IR303) and he considers that it meets the tests of the CIL Regulations. He does not consider that the proposed conditions and obligations would address the unacceptable impacts of the development and overcome his reasons for dismissing the appeal.

Overall Conclusions

21. The Secretary of State agrees with the Inspector's overall conclusions as set out in IR377-380. He considers that the scheme would conflict with and harm the purposes, integrity and character of the Green Wedge between Coalville and Whitwick, a longstanding designation in the development plan that fulfils a valuable planning function. He gives weight to this point and finds that unless material considerations indicate otherwise, the appeal scheme should not be allowed.
22. The Secretary of State agrees that there is a demonstrable and significant shortfall in the 5 year land supply in North West Leicestershire and therefore a pressing need to identify deliverable housing sites in the district. He accepts that the housing policies in the NWLLP are out of date and this is reinforced by paragraph 49 of the Framework due to the Council's inability to demonstrate a 5 year land supply. He considers that, other than being in a designated Green Wedge, the appeal site is in a generally sustainable location for large scale housing development, and that the appeal scheme has various design merits and would bring several benefits to Coalville, including some 280 affordable dwellings.
23. The Secretary of State considers that a precautionary approach on the matter of impact on air quality in the Coalville Air Quality Management Area is appropriate. The proposed development would result in the loss of some 25 hectares of BMV land, which counts against the scheme. He further finds that the proposed development would be of such a size and scale as to prejudice the outcome of the emerging Core Strategy and capable therefore of being considered premature. These considerations add to the disadvantages of the scheme. Taking all factors into account, he concludes that overall the proposals

cannot be regarded as sustainable development. He does not therefore consider that the presumption in favour of sustainable development supports the approval of this development. The Secretary of State concludes that the appeal scheme does not comply with the development plan as a whole and that the material considerations in favour of the development do not outweigh the conflict with the development plan.

Formal decision

24. 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 outline planning permission for residential development, village centre, including primary school, retail, business and other uses (classes A1, A2, A3, A4, A5, B1, D1 healthcare and D2 community facilities), public open space, recreation areas, play areas, woodland planting, and associated infrastructure including roads, sewers and water storage ponds, on land north of the A511 Stephenson Way, Coalville, Leicestershire, LE6 0FW in accordance with application reference 10/01208/OUTM , dated 23 December 2010.

Right to challenge the decision

25. 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.

26. A copy of this letter has been sent to North West Leicestershire District Council, Leicestershire County Council and the Whitwick Action Group. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours sincerely,



Pamela Roberts
Authorised by Secretary of State to sign in that behalf

Post Inquiry Correspondence

Name / Organisation	Date
North West Leicestershire District Council	16 April and 6 July 2012
GVA (on behalf of the Appellants)	22 May 2012
Andrew Bridgen MP	15 June and 9 July 2012

Richborough Estates

Richborough Estates



Report to the Secretary of State for Communities and Local Government

by P E Dobsen MA (Oxon) DipTP MRTPI FRGS

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

Date: 13 June 2012

Town and Country Planning Act 1990

North West Leicestershire District Council

APPEAL BY

William Davis Ltd. and Jelson Ltd.

Land north of A511 Stephenson Way, Coalville, Leicestershire

Inquiry opened on 7 February 2012; closed on 29 February

Land north of A511 Stephenson Way, Coalville, Leicestershire LE6 0FW

File Ref: APP/G2435/A/11/2158154

File Ref: APP/G2435/A/11/2158154**Land north of A511 Stephenson Way, Coalville, Leicestershire LE6 0FW**

- 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 William Davis Ltd. and Jelson Ltd. against North West Leicestershire District Council.
- The application (Ref 10/01208/OUTM) is dated 23 December 2010.
- The development proposed is "Residential development, village centre (including primary school, retail, business and other uses [classes A1, A2, A3, A4, A5, B1, D1 healthcare and D2 community facilities]), public open space, recreation areas, play areas, woodland planting, and associated infrastructure including roads, sewers and water storage ponds".

Summary of Recommendation: that the appeal be dismissed and the application refused outline planning permission**Contents**

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1 Procedural and other preliminary matters

1. The Inquiry was held over 10 sitting days, between 7th and 29th February 2012, at the Council Offices, Whitwick Road, Coalville. I made an accompanied site inspection on 27th February, which was attended by representatives of the main parties and by representatives of the Whitwick Action Group (WAG). I also made unaccompanied inspections of the site and surrounding locations on 29 November 2011, and 20 February and 1 March 2012.
2. A pre-Inquiry meeting (PIM) had been held at the same venue on 28 November 2011 to discuss the timing, programming and other administrative details of the Inquiry. Notes of this PIM [CD-ID3] were subsequently circulated and placed on the Council's website.
3. The Inquiry programme is in Annex 1 to this report. A list of Inquiry documents, including both core documents and documents tabled during the Inquiry, is in Annex 2. Individual documents are referenced throughout this report in [square brackets]. Annex 3 contains a list of recommended conditions in the event of the appeal being allowed by the Secretary of State, and Annex 4 provides a list of abbreviations used. The terms "the applicants" and "the appellants" are used interchangeably, as are "the Council" and "the local planning authority". The footnotes, which I have added, are limited to factual points of information and clarification.
4. At the Inquiry the appellants called 5 witnesses, who addressed mainly the following matters: planning policy (including policy on prematurity) and housing land requirements and supply; scheme design (particularly, the evolution of the master plan); air quality; certain traffic and transport matters; and the loss of best and most versatile (BMV) agricultural land. The Council's 2 witnesses addressed planning policy, prematurity, housing land requirements and supply and BMV agricultural land; and air quality.
5. All of these Inquiry topics derive from the Council's putative reasons for refusing the scheme, as cited below in paras. 13-18. They also inform my statement of the determining planning issues, as set out at the beginning of my conclusions in section 14.
6. There were 3rd party appearances (all raising objections to the proposal) by Andrew Bridgen, the Member of Parliament for North West Leicestershire; WAG, including several individual members speaking on their own behalf; and by Bloor Homes and other landowners/developers who are promoting an alternative site for an urban extension at Coalville.
7. Although not objecting in principle to the proposals, Leicestershire County Council called witnesses to explain and justify its request for various, mainly financial

- contributions - by way of planning obligations - to local infrastructure and services, as did Leicestershire Police and The Leicester, Leicestershire and Rutland Primary Care Trust. I have not identified these requests as a determining issue.
8. A signed and executed Section 106 planning agreement [CD-ID9] was tabled on 29 February, the last sitting day. This is summarised in [CD-ID9A] and in section 13. This section also refers to 34 agreed planning conditions in the event of a successful appeal and a grant of outline planning permission, and a small number which are suggested by one or the other of the main parties, but are not agreed by both [CD-ID8C].
 9. During the Inquiry, I informed the main parties that I would be inviting their further written representations on 2 matters which, it was generally agreed, could have a bearing on the outcome of the appeal. These were the anticipated revocation of the East Midlands Regional Plan (EMRP) and the publication of the final version of the National Planning Policy Framework (the Framework, or NPPF), both of which were expected to occur within a few weeks or months of the Inquiry close.
 10. The Framework was published on 27 March 2012. I have briefly reported the parties' responses to it at the end of sections 7, 8 and 9, but it would be both misleading and impractical to delete from this report all references to previous national policy documents which are now replaced by the Framework (which are as listed in its Annex 3), as these form an essential part of their respective cases at the Inquiry.
 11. At the time of submission of this report to the Secretary of State, the EMRP had not been formally revoked, and therefore it remained a part of the development plan.
 12. This report contains the gist of the parties' cases, including the main points which I think are material to the decision. I have not reported every detail of the cases and have used my own words, rather than relying upon the parties' summaries of proofs of evidence. (The detailed cases are in the proofs themselves, their attached documents, and in the advocates' closing submissions.) For the main parties and WAG, the submissions contain references to various other appeal decisions and court judgments, listed in Annex 2.
 13. Although the Council did not determine the application within the appointed time, it subsequently set out 8 putative reasons for refusing it. 3 of these were later withdrawn following the receipt of further information, or agreement that they could be resolved by way of planning obligations or conditions. The remaining 5 reasons for refusal, as originally numbered, remain at issue and are as follows:
 14. "[1] The proposal is premature to the outcome of the Core Strategy. It is considered that this proposal for 1420 dwellings, part of a larger potential strategic allocation of around 2000 dwellings, is of such a scale that it would prejudice the outcome of the Core Strategy. The need for this site has not yet been determined and is judged premature in the light of the following considerations: (i) the land is currently allocated as Green Wedge, the loss of which is highly controversial and the subject of objection from over 500 households in the local area and as such the matter should properly be addressed through the LDF process. Contrary to paragraph 69 of PPS3 the proposal is not

- consistent with the spatial vision for the area both in terms of the current allocation and the clearly expressed views of local residents in consultation responses made in respect of the emerging Core Strategy; (ii) the potential need for such a strategic housing site is predicated on the basis of the housing figures in the adopted Regional Strategy. This forms part of the development plan for the time being, but it is proposed to be abolished later this year or early 2012, calling into question the need for developing land within the Green Wedge if less housing is required."
15. "[2] The proposal involves a large scale housing development on land which is currently protected as Green Wedge. Any such development would clearly have an adverse effect on the present open and undeveloped character of the Green Wedge. The proposal does not fall within any of the permitted exceptions. The proposal is therefore in conflict with saved policy E20 of the adopted Local Plan. It is also in conflict with paragraph 69 of PPS3 in terms of the suitability of the site for housing.
 16. "[5] Part of the western boundary of the application site abuts an Air Quality Management Area (AQMA), based on the route of the A511 and at the Stephenson Way/Broom Leys Road junction. In the absence of evidence to the contrary, the proposal will generate increased traffic levels and levels of nitrogen dioxide and therefore worsen air quality within the AQMA which is already at unacceptable levels. The proposal is therefore contrary to PPS23, Planning and Pollution Control."
 17. "[6] PPS7 and Policy 26 of the East Midlands Regional Plan provide that the region's best and most versatile agricultural land (i.e. land in grades 1, 2 and 3a of the agricultural land classification) should be protected from permanent loss or damage. The proposal will result in the loss of 25 hectares of the best and most versatile land in grade 3a from agriculture and, taking into account the biodiversity and amenity value of the land, such loss is unacceptable and a cause of objection".
 18. "[8] The appellant has not demonstrated that provision will be made for adequate section 106 contributions in respect of healthcare, policing, libraries, civic amenity waste facilities and long term management of allotments, and the proposal is therefore contrary to Leicestershire County Council's Statement of Requirements for Developer Contributions in Leicestershire."
 19. By letter dated 11 August 2011 the appeal was recovered by the Secretary of State on the basis that "it involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities".
 20. The Secretary of State has not identified any other particular issues for the Inquiry, but I have indicated in my conclusions (section 14) what I think are the main issues upon which a decision should be based.

2 Statements of Common Ground

21. Both before and during the Inquiry, the main parties tabled 3 statements of common ground (SCGs). These address planning policy and other matters,

- certain highways and transport matters, and air quality. All 3 indicate points which are agreed, and any significant remaining points that are not agreed.
22. The SCG on planning etc. [CD-ID1] contains brief descriptions of the site and its surroundings, the appeal proposals, relevant development plan policies, and relevant statements of Government policy and advice (etc.) which were agreed to be material considerations. There is agreement that by the time of the Inquiry not all of the original, putative reasons for refusal remained at issue, as the others could be addressed and resolved either by additional information or by planning obligations and conditions. A section on planning obligations lists those matters which subsequently comprised the completed Section 106 planning agreement.
23. The SCG on highways and transport [CD-ID2] refers to the Transport Assessment and the Framework Travel Plan which accompanied the application, and various assumptions and measurements of baseline traffic flows etc, agreed with Leicestershire County Council as the highways authority. It refers also to other committed development, the proposed highways accesses to the development, agreed walking distances and the contents of a travel plan, as well as off-site mitigation of prospective traffic impacts. Several of these matters are in the completed S106 agreement.
24. The SCG on air quality [CD-NWLDC4D] highlights the extent of agreement and disagreement on the methodology for measuring and predicting nitrogen dioxide levels arising from road traffic, for scenarios with and without the proposed development. This arises from putative reason for refusal number [5].

3 The site and its surroundings

25. The appeal site and its surroundings are described in detail in the SCGs [CD-ID1, 2], the application documents [particularly CD-PA2,3,6,8,12] and, to some extent, in most of the Inquiry proofs.
26. In brief summary, the application site comprises about 74 ha. of mainly arable farmland (about one third, [25 ha.] of which is BMV), located to the north of the A511 Stephenson Way. It lies on the north eastern edge of Coalville, between that town and the much smaller settlement of Whitwick to the north. It is a substantial expanse of urban fringe land, irregular but broadly rectangular in shape, and is mainly divided into large fields, separated by old-established hedges, with a few lines of trees and some isolated trees, but little woodland.
27. The topography is gently sloping uphill towards Whitwick, and there are other minor undulations. The site contains no significant watercourses, but there is a (generally dry) detention basin on the east side of Green Lane, which is the only paved road across it. This connects with some well-used public footpaths, which in combination provide access across much of the site, and also link with parts of the wider countryside.
28. The site - which is entirely designated as a Green Wedge¹ in the adopted local plan - is sufficiently large and open enough to seem part of "the countryside", being almost wholly in agricultural and other rural land use. While by no means

¹ The site comprises most of the eastern section of the Green Wedge, which lies south and east of the central and western sections near Swannington

unattractive, it is not designated in any statutory plan for its landscape character or quality, but has the general character and appearance of fairly typical east midlands farmland.

29. Its few buildings include the former Glebe Farm buildings at the southern end of Green Lane (now a kennels establishment), and a pair of Edwardian cottages² a short distance to the north (very close to the proposed village centre). However, it is surrounded on all sides by development, and some of these peripheral buildings are visible, but not visually intrusive, from parts of it. This includes the old-established linear residential development along Hermitage Road to the west, the retail (e.g. Morrisons foodstore) and business uses in Coalville south of Stephenson Way, and the houses and other buildings along Broom Leys Road to the south.
30. Traffic noise from the A511 is also ubiquitous, but except close to the road is not in general disturbing or intrusive, such that the site forms a relatively tranquil island, set apart from and strongly contrasted in character with its urban surroundings.
31. There is a rugby club with pitches, changing rooms etc. to the south, and some old farm buildings (at Broomleys Farm) and a low-rise community hospital on Broom Leys Road. The signal-controlled junction of this road and Stephenson Way falls within an AQMA, which features significantly in the evidence on air quality.
32. The site is about 1km. from Coalville town centre, and the proposed development would have fairly close and convenient proximity to a range of facilities, shops and services, and employment sites there, and in other parts of the town. Thus there is no dispute that it lies in a generally sustainable location for housing, although its "sustainability" and suitability in other respects is disputed by the Council and by 3rd party objectors.
33. There are bus routes along the surrounding distributor roads, and an additional one is provided for in the planning agreement. The village centre of Whitwick is about 500m. to the north. This contains a much more limited range of services and facilities than are found in Coalville.
34. The nearest motorway junction (J22 of the M1 motorway) lies about 6 kms. to the south east of the site, and Leicester city centre is about 20 kms. away in the same direction. J11 of the M42 is about 14 kms. to the south west. Apart from Leicester, the nearest cities are Nottingham and Derby to the north.

4 The proposals

35. The application is in outline, with all detailed matters reserved except for access. The application drawings are listed under suggested condition no.4. [CD-ID8C]
36. It is for a largely residential urban extension, but containing significant areas of woodland ("national forest"), playing fields and other publicly accessible green open space. The illustrative master plan (as amended in a revised design and access statement), indicates a total of 1420 dwellings, including 20% affordable dwellings (280, both social rented and intermediate), at an average density of

² Some of these buildings would be demolished in the proposed scheme

about 32/ha; a village centre (1 ha.) with a convenience store and other small shops, and health and other community uses; a primary school (1.8 ha.) adjacent to the centre; a village green (0.24 ha.); formal and informal recreation areas and facilities; internal access roads and a network of footpaths and cycle ways; and balancing ponds and flood alleviation works.

37. The principal access would be from A511 Stephenson Way in the south west, close to the Broom Leys Road junction, with a secondary access to the north off Hall Lane, Whitwick.
38. It is proposed to build the scheme in 3 phases, over a period of about 10 years following approval of all reserved matters. Thus the scheme is intended to deliver housing both in the short (initial 5 years), medium and longer terms.
39. A much fuller description of the proposals is in the application documents, [CD-PA1-15]. An account of the design origins and evolution of the scheme is in [CD-WDJ3, 4, 4A].

5 Environmental Statement

40. The application is accompanied by an Environmental Statement as required by The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. This ES is in 2 volumes [CD-PA8 and PA9] with a non-technical summary [CD-PA7]. Further work on certain disputed technical matters is in a volume 1 addendum [CD-PA14] and a volume 2 addendum [CD-PA15]. I am content that the ES as amended fulfils the requirements of the regulations.
41. Along with comments from statutory consultees this material constitutes a substantial body of environmental information, which I have taken into account for the purposes of this report.

6 Development plan and other policies

42. At the close of the Inquiry, and when this report was sent to the Secretary of State, the development plan comprised the East Midlands Regional Plan (EMRP, the regional strategy [CD-DP13]) approved in 2009, and the saved elements of the North West Leicestershire Local Plan (NWLLP [CD-DP14]). The latter was adopted in 2002 (following an Inspector's report into a local plan inquiry in the late 1990s) and was intended to cover the period 1991-2006, including appropriate housing allocations. The saving of many individual policies was approved by the Secretary of State in 2008.
43. The following paragraphs summarise the main provisions of these plans which I consider are relevant to the application and appeal.
44. *The East Midlands Regional Plan:* The most relevant EMRP policies are cited in the SCG [CD-ID1]. Whereas the appellants consider that the proposals conform with all of these policies, the Council argues that they conflict in particular with policies 1 (regional core objectives), 26 (protecting and enhancing the region's natural and cultural heritage), 28 (regional priorities for environmental and green infrastructure), and 36 (regional priorities for air quality).
45. The EMRP provides a broad development strategy for the East Midlands up to 2026. Of relevance to North West Leicestershire and Coalville, its Three Cities

Sub-Regional Strategy “contains policies and proposals to create more sustainable patterns of development and movement within and between Leicester, Derby and Nottingham and their hinterlands”. The regional key diagram shows Coalville³ as a sub-regional centre (SRC) within the national forest, subject to policy 3.

46. Policy 1 includes 11 regional core objectives, including those relating to housing, the economy and the environment. Policy 3 - distribution of new development - states that appropriate development (of a lesser scale than in the region’s 5 principal urban areas) should be located in the sub-regional centres, including Coalville, the only SRC in North West Leicestershire. Para 2.2.9 explains that the SRCs have been selected on the basis of their size, the range of services they provide, and their potential to accommodate further growth.
47. Policy 13a sets out the regional housing provision. The total for North West Leicestershire in 2006-2026 is 10200, giving an annual provision (or requirement) of 510.
48. The three cities sub-regional strategy, stated in policy SRS3, provides that in North West Leicestershire the 510 d.p.a. will be “located mainly at Coalville, including sustainable urban extensions as necessary”. The EMRP gives no further indication as to an appropriate location or locations for a SUE at Coalville, as this was to be a matter for local plan policies.
49. Para 4.2.18 refers to Green Wedge policies. It notes that “Green Wedges serve useful strategic planning functions in preventing the merging of settlements, guiding development form, and providing a green lung into urban areas, and act as a recreational resource. Although not supported by Government policy in the same way as Green Belts, they can serve to identify smaller areas of separation between settlements.” It goes on to note that “A review of existing Green Wedges or the creation of new ones in association with development will be carried out through the local development framework process”.
50. Policy 26 - protecting and enhancing the region’s natural and cultural heritage – states, inter alia, that “the region’s best and most versatile agricultural land should be protected from permanent loss or damage”. Policy 36 - regional priorities for air quality - says that local development frameworks etc. should contribute to reducing air pollution in the region, and consider the potential effects of new developments and increased traffic levels on air quality”.
51. *The North West Leicestershire Local Plan*: This was adopted in August 2002 and many of its policies were saved in 2008.
52. Central to this Inquiry is saved policy E20, Green Wedge, which states that “Development will not be permitted which would adversely affect or diminish the present open and undeveloped character of the Coalville-Whitwick-Swannington Green Wedge, identified on the Proposals Map. Appropriate uses in the Green Wedge are agriculture, forestry, minerals extraction and outdoor sport and recreation uses. Any built development permitted within the Green Wedge will be limited to minor structures and facilities which are strictly ancillary to the use of the land for these purposes.”

³ Coalville currently has a population of about 31,000

53. The Council and most 3rd party objectors consider this the most directly relevant and important development plan policy in the appeal. The appellants accept that the scheme would conflict with it, but argue that it would nevertheless comply with several other saved local plan policies, and that in any event there are compelling reasons to make an exception to the Green Wedge policy (see section 7).
54. The local plan's housing provision, including its land allocations, extended only up to 2006, and is agreed to be out of date. It was not much discussed at the Inquiry.
55. *The emerging North West Leicestershire Core Strategy*: At the time of the Inquiry, the Council was in the process of preparing the submission version of the CS. It was anticipated that this would be considered at a special meeting of the full Council in late April 2012⁴, after which it would be subject to a regulation 27 public consultation.
56. According to [NWLDC7] submission is expected "in the summer of 2012". The appeal site, together with other parts of the existing Green Wedge, will be identified as an Area of Separation (using a term from the EMRP), and will not be allocated for any form of development.
57. Whereas the appellants argue that the emerging CS merits little weight in this appeal, the Council at this pre-submission stage would give it some, albeit limited weight. This will increase at the date of submission.
58. The next sections of this report give the gist of the cases for the applicants, the local planning authority, Leicestershire County Council, the Whitwick Action Group, Andrew Bridgen MP, and other third parties. Some documents and proofs of evidence are referred to [in square brackets].

7 The case for the applicants

59. *Background to the application and appeal, and the main planning issues*: 3 of the Council's putative reasons for refusal were withdrawn before the Inquiry. The remaining ones do not stand up to scrutiny. Given the urgency of the housing land supply situation, and the inherent suitability and sustainability of the appeal site and proposals, outline planning permission should now be granted without delay. [WDJ1, 1A, ACS]
60. Much factual and background information has been agreed with the Council [CD-ID1], including: the key issues outstanding; descriptions of the site and its surroundings, and of the proposals; the development plan policies, and the extent to which the proposals are in accordance with them; the other relevant material considerations. The scheme is at odds with only two development plan policies⁵, but is agreed to conform with many others. Overall, it is in accordance with the development plan. [WDJ1]
61. The submitted planning obligation [CD-ID9] contains a number of provisions that will bite, assuming the Secretary of State agrees that they comply with the CIL

⁴ According to the Council's Framework submissions, this duly occurred, and the Council agreed to publish its CS for consultation prior to submitting it to the Secretary of State

⁵ This is a reference to Policy 26 of the EMRP and policy E20 of the NWLLP

- regulations and are lawful. The appellants' view is that not all of them do so.⁶ (These are clearly indicated in the obligation itself.) [WDJ1,1A]
62. *Development plan policies:* Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the appeal must be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise. The development plan consists of the East Midlands Regional Plan, issued in 2009, and the saved elements of the North West Leicestershire Local Plan. Adopted in 2002, this was intended to cover the period 1991-2006, and in many respects is out of date. [WDJ1]
63. The EMRP provides a policy framework designed to promote a sustainable pattern of growth in the region. Policy 1 lists 11 core objectives. The appeal scheme will help to satisfy each and every one. This is a useful pointer to the many attributes, merits and benefits of the proposals. [WDJ1]
64. The EMRP goes on to describe the basis on which new development should be distributed, highlighting the Principal Urban Areas and the Growth Towns as the primary focus, and thereafter, the Sub-Regional Centres, including Coalville. [WDJ1]
65. EMRP policy 13a sets the housing requirements for the region and the individual districts. These are expressed both as totals, for the period 2006-2026, and as annual requirements. North West Leicestershire is required to deliver at least 10200 dwellings in total, at a rate of 510 per annum. Policy Three Cities SRS3 states that this new development should be located mainly at Coalville. [WDJ1]
66. [WDJ1, appendix 1] describes how the policy 13a requirements were generated and how they evolved over time. This was a process which was supported by the Council. The overarching development strategy, with its focus on Coalville, is also something the Council has resolved to maintain. Indeed, no party at this Inquiry disputes that the bulk of the district's new housing to 2026 should be located at Coalville. [WDJ1]
67. Section 109 of the Localism Act provides for the revocation of regional strategies. Although the EMRP remains a part of the development plan at the time of this Inquiry, it may be revoked before this appeal is determined. In that event, North West Leicestershire will be left without any form of up to date development plan. It will also lack an adopted housing requirement, and an up to date development strategy. But until that time, the EMRP housing requirements remain in force. [WDJ1]
68. The NWLLP (local plan) was drafted to be in general conformity with the Leicestershire Structure Plan 1991-2006, a document compiled in the early 1990s. It looked no further forward than 2006 and made no specific provision for development requirements other than those defined by the Structure Plan in the early 1990s. [WDJ1]
69. When the Secretary of State approved the saving of certain local plan policies in 2007, she did so on the understanding that this was not an opportunity for the Council to delay DPD preparation and made it clear that she expected the saved policies to be replaced promptly, by fewer DPD policies [CD-WDJ10].

⁶ See below, and section 13

70. In addition, she stated that: *“The extension of saved policies listed in this Direction does not indicate that the Secretary of State would endorse these policies if presented to her as new policy. It is intended to ensure continuity in the plan-led system and a stable planning framework locally, in particular, a continual supply of land for development.”* She also wrote: *“Where policies were adopted some time ago, it is likely that material considerations, in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions”.* [WDJ1]
71. Only one local plan policy, E20, is referred to in the putative reasons for refusal. That is concerned with development in the Coalville-Whitwick-Swannington Green Wedge. The Council refers also in its evidence to local plan policies S2 and H4/1. These were designed to focus new development in the most sustainable locations, i.e. in the urban areas. However, they were formulated with historic development requirements in mind, and do not allow for the growth envisaged by the EMRP, PPS3, or the Government statement *Planning for Growth*. [WDJ1]
72. That said, although it is entirely greenfield land the appeal site is within the Coalville urban area as defined in the NWLLP and its development will make a positive contribution to the creation of a compact and sustainable urban form. [WDJ1]
73. *The emerging CS*: [WDJ1 appendix 2] charts the Council's slow progress since 2005 with its emerging CS. The Council remains a considerable way off having a sound, up to date development plan for its area. [WDJ1]
74. In the period since 2005, the Council has considered how it might plan for 3 different levels of growth. Since August 2010 it has been looking at reducing significantly its housing requirement. More recently, it has sought to justify working towards a housing requirement much lower than that set in the EMRP: just 388 dwellings per year, or 9700 in total in the period 2006-2031. For this it has relied upon the analysis undertaken for several Leicestershire LPAs by GL Hearn etc. [CD-LDF16]. But given the limited amount of co-operation between the various Leicestershire LPAs to date, this new requirement for 388 per year seems, to say the least, untested and highly questionable. [WDJ1]
75. Nevertheless, the Council's preferred development strategy, with its focus on growth at Coalville, remains unchanged. However, it seems to be putting all its eggs into the basket of south-east Coalville (a.k.a. SECSUE⁷ or Bardon Grange) as the single major growth area, a strategy which is limited in choice and flexibility. And its decision to ignore the sustainability merits of the appeal site for housing, and to keep it in an open land designation (as a so-called Area of Separation) should be seen mainly as a way of appeasing local objectors, rather than being in the best interests of the planning of the area. [WDJ1]
76. Local objections may be a material consideration in the appeal, but are not determinative [WDJ1, ACS]
77. *Other material considerations*: At the time of the Inquiry, the following documents are of particular importance to this appeal: PPS3 [CD-NPP3]; The Planning System: General Principles [CD-NPP2]; the Ministerial statement,

⁷ “South east Coalville sustainable urban extension”

Planning for Growth [CD-NPP7]; the draft Framework [CD-NPP12]; Laying the Foundations – A Housing Strategy for England [CD-NPP22]; and parts of the Council's Core Strategy evidence base, in particular: The Prince's Foundation Trust Regeneration Strategy for Coalville [CD-EBLDF3]; the North West Leicestershire Settlement Fringe Assessment [CD-EBLDF4]; the Green Wedge background paper [CD-EBLDF2] and the GL Hearn Housing Requirements Study [CD-LDF16]. [WDJ1,1A]

78. It is not necessary to describe all these. In general, they emphasise and support the strong and pressing imperative of delivering more housing in the district, and the potential suitability of the appeal site for housing. From them, the following conclusions in particular may be drawn:
79. a) the Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs, and its clear expectation is that the answer to development and growth should wherever possible be "yes", except where this would compromise the key sustainable development principles set out in national planning policy;
80. b) building houses has a direct, positive and material impact on job creation and economic output, and the Government is therefore committed to unblocking the housing market;
81. c) increasing the supply of housing is amongst the Government's strategic housing policy objectives;
82. d) the Council has failed to plan for or deliver an appropriate quantity of housing development in recent years, and as a consequence the District does not have a 5 year supply of deliverable housing sites as required by PPS3 – therefore the appeal proposals must be considered favourably, in accordance with para. 71 of PPS3;
83. e) the eastern part of the Green Wedge (i.e. that part which contains the appeal site) fulfils only one of the aims of Green Wedge policy, which is to protect structurally important areas of open land which influence the form and direction of urban development, prevent coalescence and maintain the physical identity of adjacent settlements;
84. f) the appeal site can accommodate a sustainable urban extension without this harming the physical identity of either Coalville or Whitwick, and without causing these two settlements to merge. [WDJ1,1A]
85. *Prematurity*: For prematurity to constitute a credible and supportable reason for refusal, the Secretary of State must be satisfied of two things – first, that prematurity is not the only reason for rejecting the scheme (there must be other sound reasons as well), and second, that it is clear how the grant of planning permission would prejudice the outcome of the DPD process, in this case the preparation of the North West Leicestershire Core Strategy. [WDJ1,1A, ACS]
86. But, as the appellants' evidence amply demonstrates, there are no sound reasons for refusing the scheme, and to grant permission would not, in fact, prejudice the outcome of the CS. [WDJ1,1A, ACS]
87. Moreover, the merits of this scheme, balanced with its impacts, can be fully and properly assessed through this appeal, and do not have to await submission of

- the CS. As a consequence, to grant planning permission now would not be prejudicial. [WDJ1,1A, ACS]
88. Several other considerations show that allowing this development would not be premature or prejudicial to the emerging CS. These may be summarised as follows: a) by its own admission, the Council is still some months away from submitting its CS to the Secretary of State for examination. It still has much work to do on it, not least further public consultation, and significant hurdles to overcome; b) in any event, the CS will not identify a 5 year supply of deliverable sites, nor will it identify specific, deliverable sites for years 6-10 or years 11-15. The Council has acknowledged that this will be the function of a site allocations DPD, but that is unlikely to be adopted before 2015; c) the Council's development strategy is underpinned by, and reliant upon a single strategic housing allocation (Bardon Grange). That is both inflexible and inherently risky. And even if Bardon Grange is developed as the Council anticipates, it will not satisfy the Council's preferred housing requirement for Coalville, as additional greenfield land around the town will need to be released for housing; d) as at the date of this Inquiry, the district only has between 1.5 and 2 years worth⁸ of deliverable housing sites. This is woefully inadequate according to all Government guidance, and needs to be addressed immediately; e) the appeal scheme would deliver a significant amount of new homes in the first 5 year period 2012-2017; f) the appeal site is suitable for housing development, and the appeal scheme would deliver a range of other benefits; and g) the proposals are consistent with the development plan read as a whole, as well as with all relevant national planning policies. [WDJ1,1A, ACS]
89. The Council has greatly delayed bringing forward its CS. This has created much uncertainty in the forward planning of the district. And it has proved very difficult to say with any certainty how much development the Council will need to provide for. The fact that much further work needs to be done on the CS, with no clear indication yet as to when it might be adopted, means that it would be wholly inappropriate to delay the delivery of sustainable development. [WDJ1, ACS]
90. It would seem from its evidence that the Council's only reason for regarding the appeal scheme as premature is its impact on the Green Wedge. But this is not a logical or proper prematurity argument, or a sustainable reason for refusal. [WDJ1, ACS]
91. The Council is also muddled about the effect of the Localism Act. There is nothing in the Act or in Government policy to say that planning applications should be determined in accordance with the will of a majority of local people. Instead, it is a well established principle of planning law and policy that planning decisions are based on land use considerations, and not the popularity, or otherwise, of a proposal. [WDJ1, ACS]
92. Finally under the heading of prematurity, Mr. Murphy for the Council refers to 4 Secretary of State appeal decisions from the period September 2010 to October 2011. 3 of these - Winchester, Cheshire East, St. Austell - are now being challenged through the courts. Thus the Secretary of State's decisions should

⁸ This figure was subsequently revised downwards by the appellants in the light of the Framework

- have no weight in this appeal, at least until these cases are finally resolved. The 4th case - Ipswich - has not been challenged, but its circumstances are different from the appeal scheme in several important respects, and so it does not set any kind of precedent for this appeal. [WDJ1, ACS]
93. On the other hand, there have been several other recent Secretary of State decisions [Blaby, CD-AD5; Cornwall, CD-AD6; and Wiltshire, WDJ1, appendix 5] which do have important features in common with the appeal scheme, and where planning permission was granted. These all concerned substantial developments on the edge of settlements, contrary to the provisions of the adopted local plan. They all gave rise to significant opposition locally, and the Council in each case was in the process of preparing a CS. But in each case, the Council concerned was unable to demonstrate a 5 year land supply, and the Secretary of State determined that no material harm would be caused by releasing the site immediately. [WDJ1, ACS]
94. Other details of these cases need not be laboured. The Secretary of State will doubtless be familiar with them all, and able to draw the appropriate conclusions. [ACS]
95. *Housing land supply:* There is a critical need for new housing to be delivered in the district now (over the next 5 years), and also in the medium term. [WDJ1 appendix 3] shows that, when tested in the light of the EMRP requirement (510 per annum), North West Leicestershire only has a supply of deliverable housing sites capable of accommodating 0.97-1.23 years' worth of development. Even if one applies the reduced target (388 per annum) set by the Council in October 2011, by the appellants' calculation it still only has a supply of between 1.4 and 1.7 years. To have such a limited supply against the 5 year housing land requirement is simply not acceptable. It must be remedied.
96. Nor has the Council provided for the medium term. It has only a limited reserve of deliverable sites with planning permission. The owners of SECSUE/Bardon Grange have met with various difficulties which have delayed them bringing forward comprehensive proposals, and although a planning application has now been made there for 800 houses, the applicants have appealed against non-determination⁹. Thus the role that Bardon Grange might play in delivering housing in the medium term is very uncertain. [WDJ1]
97. By contrast, the appeal proposals would make a real difference in terms of the delivery of both market and affordable housing in both the short and the medium term. In the first 5 years after permission is granted (assumed to be in late 2012) the scheme would deliver 465 new dwellings, including about 90 affordable dwellings. In the medium term, the rate of delivery will increase to about 180 dwellings per annum, including some 36 affordable. This will continue through years 6 to 11. But even this significant scale of housing delivery will not prejudice the Council's ability to identify, plan for and facilitate other significant proposals elsewhere in Coalville. Indeed, that will be necessary to ensure that the district's housing requirements are satisfied, and that a rolling 5 year supply of deliverable land is maintained. [WDJ1]

⁹ An Inquiry into this appeal was scheduled to start in May 2012 but has been postponed

98. The Council has an up to date SHLAA [CD-EBLDF9] published in November 2011, but this has a number of shortcomings, including the lack of an assessment report and a housing trajectory. As a result, there are serious doubts as to the deliverability of several of the brownfield sites listed in the SHLAA; in fact, Coalville has little scope for accommodating growth on PDL, and the overwhelming majority of new dwellings that will be needed in and around the town will have to be developed on greenfield sites. [WDJ1]
99. Of the available greenfield options, the appeal site is demonstrably the best and the most sustainably located. It is the closest to Coalville town centre, and to shopping and employment uses on the eastern edge of the centre. It is adjacent to the principal highway through the town, and close to leisure facilities, local schools and the new college. And being located between Coalville and Whitwick, residents from both settlements will benefit from the open space, recreational areas, woodland and other facilities that the development proposals will provide. [WDJ1, ACS]
100. [WDJ1A] updates the appellants' housing land supply evidence in response to Mr. Murphy's evidence for the Council. The Council accepts that it cannot demonstrate a 5 year supply of housing land, and that even if one considers the reduced requirement it is seeking to adopt, it still would not have a 5 year supply. In any event, the Council's housing land supply calculations are flawed. For example, the Council has included a windfall allowance of 62 dwellings per annum, contrary to para. 59 of PPS3 and the draft Framework. This allowance is not justified and should be deleted. Also, it has made a large allowance for development occurring on land south of Grange Road, Hugglescote. But this has not been subject to any rigorous assessment, and for various reasons is clearly not very suitable compared with other potential housing sites. [WDJ1A]
101. [WDJ1A appendix 2] is an update of [WDJ1 appendix 3]. It re-calculates the district land supply, but ignores the Council's windfall allowance and the Grange Road site. The tables take 2 scenarios for the 5 year period 2012-2017: based respectively on the EMRP, or on the Council's reduced requirement; and addressing the shortfall in the short term, or in the long term. The EMRP-based tables confirm that as at this Inquiry, the district has only between 1.5 and 2 years' worth of deliverable housing sites. [WDJ1A]
102. Indeed, it must be remembered that until it is formally revoked, the EMRP remains in force. But even when it is revoked, the housing requirements specified in it will remain the only fully tested figures available. By contrast, the Council's stated intention to reduce its housing requirement will not be properly tested (through the CS examination) for some time, and cannot yet be regarded as sound. [WDJ1A]
103. The Council claims that Bardon Grange is capable, ultimately, of accommodating 4500 dwellings. But this is based on a number of highly questionable assumptions about its suitability and deliverability. And it is notable that part of it (land north of Grange Road) has been allocated for housing for many years, but as yet has not even got planning permission, let alone commenced. [WDJ1A]
104. It is only reasonable to conclude from all this that the Council is relying on Bardon Grange for a large tranche of housing only because it is a soft option, with (as yet) little apparent public opposition. [WDJ1A]

105. In fact, the Council does not yet have a coherent and robust view on how its development requirements will be met in the medium and longer term. Even on its own evidence (Mr. Murphy's appendix 9) it will have to identify significant development sites, in addition to Bardon Grange, to satisfy even its preferred reduced housing requirement. Without that, the CS will not deliver the scale of housing development which the district needs. [WDJ1A]
106. *Other benefits of the appeal scheme:* The scheme's planning merits go well beyond housing delivery. It would also bring several significant benefits to Coalville and to the district as a whole, as well as providing a large amount of much needed and well designed housing in a highly sustainable location. [WDJ1,1A]
107. These benefits include the following: a) assisting with the ability to build communities; b) assisting with the Council's aspirations for, and supporting the vitality and viability of Coalville town centre; c) the generation of a major financial boost from the New Homes Bonus (this could be more than £3.5m, most of it going to the Council and the remainder to LCC); d) provision of some 280 affordable homes and a new primary school; e) the creation of about 5500 jobs (a calculation based on a multiplier of about 4 new jobs for each house built); f) the delivery of highway improvements, and a new bus service between the village centre and Coalville town centre; and g) provision of large amounts of both formal and informal open space, as well as woodland planting in this part of the national forest. [WDJ1,1A, ACS]
108. On the last item alone, there would be some 16.47 ha. of new green infrastructure, much of it located in the northern half of the site, where it would help to maintain physical separation between Coalville and Whitwick. Notable individual features and facilities would include a village green; 4 separate areas for childrens play; and a substantial, 8.3 ha. recreation ground located in the north east corner of the site, adjacent to Hall Lane. Collectively, these features would more than compensate for the loss of greenfield land to housing and other built development, and would maintain the function of the area as a green lung for the surrounding population. [WDJ1]
109. *The scheme design, and its effect on the Green Wedge:* As this is an outline application, the Council has confirmed that design is not a contentious issue at this Inquiry, but the Secretary of State will wish to be informed about the process which has shaped the master plan, and how the scheme performs against the CABE "Building for Life" assessment. [WDJ3,4,4A]
110. The scheme master plan has evolved through a lengthy, iterative, consultative process, which has considered the detailed views of the Council's officers, key stakeholders, members of the public, and other planning/design initiatives. Thus the appellants' design team has been open to many suggestions for amending the scheme as it has evolved, notably from the officers and the work carried out for the Council by The Prince's Foundation [CD-EBLDF3], which forms part of the LDF evidence base. [WDJ3,4,4A]
111. Indeed, the appellants have taken great pains to listen to local opinions, and to amend the scheme accordingly. The end result has been an unusually high quality design response to the site and its wider context. [WDJ3,4,4A]

112. The Prince's Foundation report [CD-EBLDF3] was an important starting point. It establishes a settlement structure plan and a green infrastructure plan as part of the recommended regeneration principles [CD-EBLDF3, figs. 1D,1E]. These plans identify the necessary separation and integration between Coalville and Whitwick, and suggest the location of playing fields. They have had a significant influence on the direction in which the master plan evolved. The master plan draws upon those origins, and reflects their spirit, alignments, and land use. [WDJ3,4,4A]
113. In 2009 the evolving scheme was presented to OPUN (Architecture and Design Centre for the East Midlands). The design solutions were well received, and no fundamental criticisms were raised. [WDJ3,4,4A]
114. The scheme meets a very high standard when assessed against the Building for Life design criteria, as established by CABE. The assessment is based on 20 searching questions about the design, and its success in meeting key design and sustainability criteria. The scheme attains a score of 11.5 out of 20, with a further 7 points to be gained at the reserved matters stage. This is almost the same as the Council's own Building for Life assessment. [WDJ3,4,4A]
115. The proposals would have a low visibility from the surrounding area, with visibility restricted to a small number of distant viewpoints (viewpoints A-D), a number of viewpoints within 200 m. of its southern, western and northern boundaries, and of course within the scheme itself. [WDJ3,4,4A]
116. It should be noted that the existing experience of the Green Wedge within the site is largely restricted to quite circumscribed locations, such as the footbridge over and other lengths of Stephenson's Way, about 300 m. of Hall Lane, Whitwick, and views from parts of the residential development and public footpath to the south. [WDJ3,4,4A]
117. With regard to Green Wedge purposes, the Prince's Foundation report [CD-EBLDF3] identifies a "Hermitage Greenway" green corridor to separate and integrate Coalville and Whitwick. Owing to this, and to other parts of the proposed green infrastructure, there would not be any coalescence between the two, and both settlements would retain their separate identities and character. Those who suggest otherwise are greatly exaggerating the effect of the scheme upon the larger urban form. In fact, the proposals in the master plan would preclude the merging of settlements, whilst guiding development form, acting as a green lung, and greatly increasing the recreational value and opportunities of the land. [WDJ3,4,4A]
118. On the planning policy aspects of the Green Wedge, the following points must be emphasised. Taken together, they show that the site's location in a Green Wedge should not be seen as a significant - and much less an overriding - constraint to its development. [WDJ1,1A]
119. First, the appeal scheme would result in less than 20% of the designated Green Wedge (i.e. all 3 parts of it) being developed. And about a third (27.4 ha.) of the appeal site would not be developed, but would comprise its green infrastructure. [WDJ1,1A]
120. Second, the Green Wedge should be regarded as an obsolete policy tool, and in this case as merely a relic of an out of date plan. The Council's own officers'

report [CD-EBLDF2] shows that it only performs a few of its intended functions. [WDJ1,1A]

121. Third, and crucially, the appeal scheme can be accommodated whilst still maintaining separation between Coalville and Whitwick, and also maintaining the separate physical identities and character of the two settlements. This is demonstrated by the detailed design and technical studies. With reference to the design concepts of “integrators” and “separators”, the Prince’s Foundation report had identified where separation between Coalville and Whitwick needs to be maintained, and the scheme as it has evolved shows that the two settlements would not coalesce, or become merged. Mitigation, in the form of woodland planting, the scale of the green buffers, and care taken over the housing layout design would enhance the perception of separation. [WDJ1,1A]
122. Fourth, the proposals have been shaped to ensure the provision of ample green infrastructure, both around the development and penetrating through it. [WDJ1,1A]
123. Fifth, they will not reduce but will positively enhance the ability of this part of the Green Wedge to act both as a recreational resource, and as a green lung with plenty of public access, of benefit not only to future residents of the development but to local people in general. [WDJ1,1A]
124. With the preceding points in mind, by contrast the Council’s case is superficial, and notable for its lack of detailed analysis of the scheme’s impact on the Green Wedge. It has not looked closely enough at the nature and form of the appeal proposals, and how they relate to Coalville, Whitwick and the wider Green Wedge. And it seems to have ignored the findings of both the Prince’s Foundation report and the North West Leicestershire settlement fringe assessment [CD-EBLDF4], both of which show that development can be accommodated without harming the purposes or essential character of the Green Wedge. [WDJ1A]
125. Finally under this heading, it should be noted that the Inspector at the old local plan inquiry was required to consider very different circumstances from those obtaining today, including a much less pressing housing land requirement and supply situation. Thus his conclusions, while perhaps apposite at the time, have little relevance to this Inquiry, and the Secretary of State should give them little or no weight. [WDJ1,1A]
126. *Agricultural land:* In 2009 the appellants undertook an agricultural land quality and soil resource survey of the site. The findings are in the ES, which also considers the impacts of the proposed development on agricultural land, and their significance. [WDJ7,7A,8]
127. Relevant information is derived from a number of sources, including the aforementioned survey; desk studies; information from Natural England on agricultural land quality surveys commissioned by MAFF in the 1980s and 1990s, and MAFF’s guidelines for land classification; and, with reference to other potential greenfield housing sites, the Council’s SHLAA. [WDJ7,7A,8]
128. On the agricultural quality of the application site, the spade and auger survey was adequately thorough, with about one observation per ha. The main soil forming material is glacial till, which is predominantly clayey, with local loamy

- intrusions, giving significant variations in the natural drainage. This is an important factor in cultivation and harvesting. [WDJ7,7A,8]
129. Sub-grade 3a land, which is defined as BMV, is mainly found on the minor ridge top near Hall Lane, Whitwick, and in the western part of the site. In total, 3a land comprises 25 ha, which is 35% of the application site. The remainder (47ha, 65%) is sub-grade 3b, which is not BMV. [WDJ7,7A,8]
130. The main benefit of BMV land is in the opportunities it gives for growing a greater range of crops, and crops of higher value, rather than higher yields as such. But given the irregular distribution of the grade 3a land, its use in farming practice is controlled and limited by the surrounding grade 3b land. The present tenant farmer, who is in a good position to judge, has told the appellants that cropping options are quite limited. [WDJ7,7A,8]
131. The desk study allows comparison of the site with other greenfield land around Coalville, in particular SHLAA sites which by definition are potential candidates for housing development. From MAFF mapping and English Nature's database, much of it is in sub-grade 3a, with some in grade 2. Overall, the SHLAA sites comprise at least 370 ha. of agricultural land, about one quarter of which - on the south west, west and north west fringes of the town - is BMV. Evidently, the Council has not ruled out these areas from consideration for housing. Nor should it have done so in this case. [WDJ7,7A,8]
132. Indeed, para. 28 of PPS 7 advises that the presence of BMV land is merely a factor to be taken into account in a planning application, alongside various other sustainability considerations. Given the relatively small proportion of BMV land in this case, and all the sustainability credentials of the site, it should not be seen as a reason for refusing the scheme. There is no grade 1 or even grade 2 land in the site. In addition, some of the sub-grade 3a BMV land is not proposed for development, but, as can be seen from the master plan, would become playing fields or woodland. Therefore it could in principle revert to agriculture if for any reason that were thought desirable in the future. Thus it would not be permanently lost, or even damaged. [WDJ7,7A,8]
133. *Traffic and transport:* As the SCG on highways and transport matters makes clear, there are no contentious issues under these headings between the appellants and the Council or LCC, which is the local highways authority. However, the Secretary of State should note that the Council's original putative reasons for refusal included two, (numbered 1iii] and 3) which were related to highways and transport. [WDJ5]
134. With respect to original reason 1iii], the addendum to the TA identifies a package of highways infrastructure works that would satisfactorily mitigate the scheme's traffic impact on the local highways network. The package includes appropriate improvements to the A42 junction 13 and M1 junction 22 and also demonstrates that the scheme's impact on the network can be accommodated without the provision of a Bardon Relief Road. Therefore the Council has withdrawn reason 1iii). [WDJ5]
135. With respect to original reason 3, the form and layout of the site access junctions onto the A511 Stephenson Way and Hall Lane have been agreed with LCC as the highways authority, together with a package of minor improvements at 11 off site road junctions. The provision of a new, 15-minutes frequency bus

service between the proposed development and Memorial Square in the centre of Coalville has also been agreed with LCC and the local bus operator, Arriva. Therefore the Council has withdrawn reason 3. [WDJ5]

136. *Air quality*: For clarification purposes, [WDJ16] outlines the sequence of air quality documents produced by the appellants in support of the planning application. [CD-PA8] is the text of the ES (with some technical detail) and [CD-PA9] is the technical assessment of air quality. [CD-PA7] is the ES technical summary. [CD-PA14 and CD-PA15] contain the ES air quality addendum, dated October 2011.
137. In the ES [CD-PA7, CD-PA8, CD-PA9], the air quality assessment addresses the effects of dust and breathable particulates during the construction phase and changes in nitrogen dioxide (NO₂) during the operational phase. 3 scenarios are considered: existing conditions (2008); 2022 without the proposed development (or "do minimum"); and 2022 with the proposed development ("do something"). The assessment includes the establishment of baseline ambient air quality, and an evaluation of scheme impacts, largely based on the effect of changes in traffic volumes.
138. Owing to the relatively low pollutant concentrations surrounding the site, it seems unlikely that any new residents of Stephenson Green will experience pollutant levels above the UK national objectives in the opening year. Given that background air quality and traffic emissions are both predicted to improve over time, the assessment also predicts that none of the existing (residential) locations will be exposed to air quality levels in excess of the NO₂ annual average air quality objective in 2022. However, the further ahead predictions are made, the greater the level of uncertainty about them. Hence the need for sensitivity analysis, which assumes no improvement in background air quality between 2008 and 2022. [CD-PA7, CD-PA8, CD-PA9]
139. The greatest predicted increase in exposure is at 262 Hermitage Road. Overall, the magnitude of the development's effect on existing homes is predicted to be "small adverse", and its significance, "negligible adverse". And mitigation can be achieved through a planning condition requiring a construction environmental management plan. [CD-PA7, CD-PA8, CD-PA9]
140. [WDJ6] addresses the Council's putative reason for refusal based on air quality. In summary, and with the ES assessment in mind, the appeal scheme will not significantly worsen conditions within the AQMA, and it is not contrary to PPS23¹⁰ or to development plan policies.
141. Much of the methodology and findings of the air quality assessment are agreed in the air quality SCG. The Council's own assessment in 2011 was that the annual average air quality objective for NO₂ is being met in the area of the appeal site. However, it subsequently published an assessment purporting to show that the 1 hour mean air quality standard at the Broom Leys Road junction on the A511 was being exceeded. But owing to the precise location of the Council's air quality monitor, which is not properly representative of receptor exposure, this finding is questionable. [WDJ6]

¹⁰ PPS23 has been replaced by the Framework

142. In general, the Council has misapplied the advice in PPS23. Its approach to the air quality issue could sterilise development, and it has not sufficiently explored the scope for mitigation where there might be a problem. In fact, the appellants' air quality assessments demonstrate that the air quality objectives for both the annual average, and the 1 hour concentrations of NO₂ will be met at all receptor locations in the opening year of the development. It will not bring about any air quality conditions having a harmful or indeed significant impact on human health. [WDJ6]
143. Moreover, owing to its sustainable location close to Coalville town centre, the appeal scheme actually has the potential to limit car journeys and thus overall air polluting emissions. The travel plan will also assist in this, as will the proposed improvements to the Stephenson Way/Broom Leys Road junction, which will ease congestion from queuing traffic. [WDJ6]
144. [WDJ6A] is a response to some of the Council's evidence on air quality. It contains detailed points on assumptions made in the air quality modelling. With revised model verification, it can be shown that the scheme will not give rise to any exceedances of the annual air quality objective, and that it is of negligible significance. The appellants' modelling of hourly mean concentrations of NO₂ is also robust, and representative of a worst case scenario.
145. By contrast, the Council's reliance on its monitoring station hourly data is unreliable. In general, the Council presents an unrealistically pessimistic assessment scenario. Given the small risk of any adverse effects on air quality from the appeal scheme, refusal of the application on those grounds is disproportionate and unjustified. [WDJ6A, ACS]
146. The Council's doctrinaire approach is not supported by PPS23 or any other policy. It does not explain the consequences of that approach on a CS which will plan for a substantial enlargement of Coalville, but which has an AQMA on one of its main distributor roads. PPS23 is clear that there is not necessarily to be a bar on development even if it demonstrably would lead to a deterioration of air quality; but the Council's evidence does not demonstrate that this would occur, only - and much more vaguely - that it could, or might. PPS23, by contrast, is much more robust, as it deals with probabilities, not mere possibilities. [ACS]
147. The Council's case is also based on the mistaken assumption that the appellants have not taken into account DEFRA's research on the rate at which NO₂ emissions are actually reducing. But this has been duly considered in the sensitivity analysis. Even so, DEFRA has not issued new advice on this matter, and it is not safe to assume that there will in future be no further general improvement (i.e. reduction) in NO₂ emissions from road traffic. [ACS]
148. A final point on air quality: the appellants have suggested a condition which will tie them in with the way in which the Council is itself seeking to improve air quality through its AQAP [WDJ6B]. The condition, together with measures in schedule 7 of the planning obligation, is the best way of addressing the issue while avoiding the sterilisation for development of all of Coalville. [ACS]
149. *Section 106 contributions:* The appellants are in principle willing to give S106 monies to certain infrastructure providers, provided the amounts sought and their stated purposes are clear and fully justified and in accordance with the statutory tests for planning obligations. [WDJ1A, ACS]

150. LCC relies on its 2006 document [CD-SPD1] to justify its S106 requirements, but this is now out of date, and does not therefore take into account the more recently introduced statutory tests. [WDJ1A, ACS]
151. In general, for some of its requests LCC fails to provide a development-specific assessment which: gives robust, quantified evidence of the additional demands on infrastructure made by the scheme; details the existing facilities which would be affected; and details a methodology for calculating contributions. In short, not all of LCC's S106 requests have been adequately justified. [WDJ1A, ACS]
152. Much the same applies to the PCT's representations, despite them being scaled back in time for the Inquiry. In particular, there is no clear explanation of why the local doctors' surgeries cannot fund improvements and expansion themselves, and no clear information about their capacity. And again, no clear explanation of what additional operating costs would be imposed by the proposed development. [WDJ1A, ACS]
153. Leicestershire Police's representations on S106 monies are particularly muddled, unconvincing and lacking in proper justification. Contrary to Mr. Lambert's assertion, their position has not, in fact, been generally supported by Inspectors at appeals. Quite the contrary. And it is by no means clear that its own most recent policies and practices even provide for S106 requests to be made: Mr Lambert's evidence is self-contradictory and unsatisfactory on this point. [WDJ1A, ACS]
154. But even if they are indeed supported by its own internal policies, the Police's monetary requests are not only vague, generalised and contradictory, but they are also wildly excessive. None of the contributions sought have been assessed on a site specific basis, having regard to quantified evidence of the additional demands on police infrastructure the development would be likely to impose. Much necessary detail is missing, and ultimately Mr. Lambert relies on a standard, formula based approach. In short, Leicestershire Police's demands do not meet the statutory tests, and should be firmly rejected in their entirety. [WDJ1A, ACS]
155. The Secretary of State is therefore invited to scrutinise all the S106 contributions being sought by these public bodies, to agree with the appellants that some lack adequate justification, and therefore, if allowing the appeal, not to require them to be paid. [ACS]
156. *The Framework (NPPF)*: The Framework is highly relevant to this appeal. It further supports the overwhelming reasons for allowing it. The appeal proposals are exactly the type of development that, that in accordance with its para.187, the Secretary of State should be seeking to approve. [CD-NPP12A, CD-WDJ17B]
157. On the weight to be given to relevant policies, post-Framework the EMRP remains in force, and should be given full weight. The appeal proposals accord with all the relevant EMRP policies save one (policy 26 on BMV land) but any conflict with that policy is only very slight. [CD-NPP12A, CD-WDJ17B]
158. The NWLLP was adopted in 2002 and the weight to be given to its policies must depend upon their degree of conformity with the Framework. In that light, policies S2, H4/1 and E20 are all out of date, inflexible, and written for a very different set of housing land requirements. Thus they should be given little

- weight. And the Framework contains no reference to Green Wedges, which is another indication that policy E20 is out of date. [CD-NPP12A, CD-WDJ17B]
159. The very important new presumption in favour of sustainable development clearly supports the appellants' case. The Framework's para. 197 states that LPAs should apply the presumption. The appeal proposals undoubtedly constitute sustainable development when assessed against the totality of the advice in the Framework. They accord with the development plan to a very large extent, and taken as a whole. [CD-NPP12A, CD-WDJ17B]
160. Relevant housing policies are out of date. No matter how the calculation is done, the LPA cannot demonstrate a 5 year supply of deliverable housing sites, let alone that supply together with the Framework's (up to) 20% buffer. The correct figure, taking the buffer into account, is a mere 1.3 years supply. The chronic under-supply is not going to be corrected any time soon, and certainly not by the slowly emerging CS. A site allocations DPD will not be in place until about 2015. But by delivering some 415 dwellings in the next 5 years, the appeal proposals would give the district's housing supply a significant boost. Moreover, given that para.69 of PPS3 is not repeated in the Framework, site suitability must now be assessed with regard to its provisions taken as a whole. Nothing in it suggests that the site is not suitable for housing. [CD-NPP12A, CD-WDJ-17B]
161. The Framework provides no national policy basis for refusing planning permission here on grounds of air quality. In particular, there is no basis outside AQMAs for requiring compliance with EU limit values or national objectives for pollutants. The appeal site is not actually within an AQMA, and in any event the matter could be addressed, if need be, by a planning condition. In similar vein, the Framework does not set out any circumstances in which the development of agricultural land, including BMV, should be refused. But if the district's pressing need for housing is to be met, that will inevitably entail some loss of BMV on greenfield sites. [CD-NPP12A, CD-WDJ17B]
162. With regard to prematurity, *The Planning System: General Principles* [CD-NPP2] remains extant, but the Framework's para. 216 is more up to date. With that in mind, the emerging CS merits little or no weight, and a site allocations DPD does not even exist. The CS still has a long way to go before it can be adopted, but at this stage it is impossible to predict what form it will take, or when adoption might occur. In any event, to allow this appeal would not prejudice or harm the CS. Specifically, it would not cause the Council to abandon its preferred development strategy with its preference for allocating land at Bardon Grange. That will be needed in addition to, and not as a substitute for Stephenson Green. [CD-NPP12A, CD-WDJ17B]

8 The case for the Local Planning Authority

163. *Background to the application and appeal, and the main planning issues:* Although the Council did not determine the outline application within the appointed time, it subsequently determined that it would have refused it for 8 separate reasons. Following further discussions etc, these were later reduced to 5 outstanding issues [NWLDC1].
164. 371 neighbours received notification letters, site notices were displayed on 28 January 2011 and a press notice published on 19 January. The application

- generated 1719 representations of objection, and almost no statements of support. Thus the public reaction to it has been very clear and unequivocal. While not decisive by itself, this must be regarded as an important material consideration in the decision on this case, and particularly now that the Government has affirmed the importance of "localism" through the Localism Act. [NWLDC1].
165. Indeed, to allow this appeal would thwart both the stated intentions of the Government, and the express wishes of the local community. It would be a glaring example of a top-down development being imposed on a local community, at a time when Parliament has very recently legislated through the Localism Act to stop that from happening. [NWLDC1]
166. That said, the application must by law be determined in accordance with the development plan, unless material considerations indicate otherwise. [NWLDC1]
167. At the time of this Inquiry, the development plan comprises the East Midlands Regional Plan, approved in 2009, and the saved elements of the North West Leicestershire Local Plan, first adopted in 2002 after a local plan inquiry held in the late 1990s. The proposals are contrary to various policies in both the EMRP and in the local plan, as indicated in the SCG on planning [CD-ID1], which also gives a list of other material considerations [NWLDC1].
168. One material consideration is the Council's emerging Core Strategy, which when approved will be the first and main development plan document in its local development framework. This will set out planning policies for the district over the period 2006-2031 [NWLDC1].
169. A great deal of work has been done on CS preparation, starting in 2005. This has included an issues and options consultation document and statement of community involvement (2005); further consultation documents in 2007/8 and later; and various reports to the Council's Cabinet on issues and progress. A substantial evidence base has been established, including several published background papers, including on housing land and Green Wedge issues in 2008, a landscape character assessment in 2010 and several housing land availability assessments [NWLDC1].
170. At the time of this Inquiry, it is expected that the submission version of the CS will be considered at a special meeting of full Council in late April 2012 [NWLDC7]. This will then be published for public consultation, and is expected to be submitted to the Secretary of State for public examination in summer 2012. This may occur before the Secretary of State's decision on this application is issued.
171. As regards the current appeal proposals - which the applicants have named Stephenson Green - the submission CS will identify the land as an Area of Separation, being part of a single such area encompassing the whole of the existing Green Wedge. It will not be allocated as an urban extension, nor for any form of development, but is intended to remain predominantly open and undeveloped. It will have very much the same effect in policy terms as the existing Green Wedge. [NWLDC7].
172. On the new duty to co-operate (introduced by Section 110 of the Localism Act), the Council is already discharging this duty through its participation in the

Leicester and Leicestershire Housing, Planning and Infrastructure Group. All local authorities in Leicester and Leicestershire are represented on it. Importantly, the Leicester and Leicestershire Housing Requirements Study dated September 2011 was agreed by the group, and provides a robust evidence base for determining housing requirements into the future. [NWLDC7]

173. To conclude these preliminary points, some basic facts about the appeal should be noted. It concerns a very substantial, unplanned development on land not allocated for any form of development at all, and where a strong policy presumption against development applies. By their own admission, the appellants have given no consideration to a more modest proposal, and rather than pursue their scheme through the development plan route, they are demanding that the entire 74 ha. site, for 1420 houses, be released now. And this despite their main rationale for the scheme being to address (an acknowledged) shortfall in the 5 year land supply. Yet the major part of the site would be delivering housing well beyond that period. [LPACS]
174. The Council's town planning objections to the appeal proposals fall under the following headings: Green Wedge policy, and effect on the Green Wedge; prematurity, and prejudice to the emerging Core Strategy; housing land requirements and supply; loss of best and most versatile agricultural land; and effect on air quality, particularly within the Coalville AQMA. These are outlined in the following sections.
175. *Green Wedge policy, and effect on the Green Wedge:* The Coalville/Whitwick/Swannington Green Wedge is the only designated Green Wedge in the district. It comprises 3 parts, separated by roads and sporadic old established ribbon development – western (273 ha.), central (59 ha.) and eastern (112 ha.). The application site of some 74 ha. comprises the greater part of the eastern area. [NWLDC1]
176. It should be noted that the Green Wedge covers only a very small part of the district as a whole. In fact it only relates to one, or arguably two sides of Coalville, with no such designation covering its remaining perimeter areas. [LPACS]
177. Saved policy H4/1 of the local plan sets out a sequential approach to the release of land for housing. This gives priority to previously developed land and allocated housing sites, particularly at Coalville and Ashby de la Zouch. By virtue of its Green Wedge designation, the appeal site is not in any of the 6 categories of land and sites (a-f) favoured in descending order by the sequential approach set out in this policy. [NWLDC1]
178. Although the appeal site is technically within the “limits to development” of Coalville, as identified by strategic local plan policy S2, the plan notes at para.3.40 that “The fact that land is within defined limits to development does not mean that planning permission will be granted... Such applications will be considered on their merits in terms of all the policies (of this local plan)”. In this context, the most relevant policy is E20. [NWLDC1]

179. Saved policy E20¹¹ is highly restrictive towards new development in the defined Green Wedge. Indeed, it is difficult to imagine a policy which could be any more strict in terms of what is not permitted within the boundary of the designated area. The appeal proposals do not fall within any of the categories of development which may in principle be permissible within it. They are, therefore, very clearly in conflict with it, as the appellants themselves acknowledge. [NWLDC1, LPACS]
180. The local plan notes the following among the aims of Green Wedge policy: (a) to protect structurally important areas of open land which influence the form and direction of urban development, prevent coalescence and maintain the physical identity of adjacent settlements; (b) to ensure that open areas of land extend outwards from urban centres to preserve links with the open countryside; and (c) to provide appropriate recreational facilities within easy reach of urban residents". This part of the Green Wedge fulfils all 3 aims, in particular the first. [NWLDC1]
181. The Green Wedge is described thus in local plan para. 4.82: "The open land between Coalville, Whitwick and Swannington is a long established feature and one which is especially valued by the local communities. It provides an attractive area of open land and helps create a positive image of the town for visitors. It has considerable recreation potential within easy reach of residents of Coalville, Whitwick and other nearby settlements". [NWLDC1]
182. The appellants say that the Green Wedge policy is out of date. This is plainly wrong. It remains a saved development plan policy, and a very popular one as well. If they wanted to see it removed, the proper forum for seeking to do so would be through the development plan process, specifically the forthcoming CS examination. [LPACS]
183. The Council acknowledges that the Stephenson Green proposals have some merits, if one ignores the strong policy and other objections to them. They would contain various areas of playing fields, woodland and other kinds of publicly accessible green infrastructure, in accordance with normal adopted design policies and standards obtaining in new residential areas. And this would provide additional recreational opportunities, although there is no particular need for such at present. But it is first and foremost a scheme of 1420 houses – a very large scale residential urban extension on any measure. This would eventually house a new community of almost 3500 people, a settlement in its own right with its own centre, and well over 10% of the existing population of Coalville. [NWLDC1]
184. As many local people and WAG have said, it is completely fanciful to suggest that the scheme could be implemented without undermining all of the aforementioned aims of Green Wedge policy, and therefore in effect destroying the Green Wedge. Its main characteristic, that of openness, would be lost. To give just one telling indication, there would be built development almost 1 km. in width, stretching all the way from Morrisons foodstore on the edge of Coalville (just south of the A511) to the residential edge of Whitwick. In short, despite the appellants' narrowly technical, specious and unconvincing arguments to the contrary, it would lead virtually to the coalescence of Coalville and Whitwick, an

¹¹ Quoted above at para.52

- outcome which policy E20 was expressly intended to prevent. The scheme is, indeed, almost the very definition of coalescence. [NWLDC1, LPACS]
185. A great many open views from footpaths of attractive farmland, much valued by many local residents, would be lost. Others would become suburban in character, quite different from their present rural or semi-rural aspect. Apart from large areas of built development, the proposals would introduce some commercial activities in the village centre and much traffic into what is currently a tranquil area, and a green lung for Coalville. All this would change the character of the land for the worse, and forever. [NWLDC1]
186. The appellants have cited, and appear to rely on both the Council's Green Wedge study [CD-EBLDF2] and the Princes Foundation report [CD-EBLDF3] as being somehow supportive of the appeal proposals. But this is to read far too much into both documents. Their reliance on the latter, in particular, is curious: it is plainly self-contradictory to place such emphasis on it as part of the CS evidence base, yet at the same time downplay the CS itself. More important, it gives no clear indication as to areas thought appropriate for development; the plan on its p.25 would appear to support development across large parts of the Green Wedge, not just the eastern part, or the appeal site. In fact, this sketchy plan is so vague and difficult to interpret as to be of little use in this Inquiry. [LPACS]
187. Nor do recent Green Wedge appeal decisions in Leicestershire assist the appellants. Contrary to their assertion, other Inspectors (at Enderby and Glenfield in Blaby district) have not in fact suggested that the Green Wedge policy is out of date. Nor have they dealt with sites (both much smaller than this) where there was an obvious prospect of settlement coalescence, as in this appeal. [LPACS]
188. This is not the first time that the identity and purpose of the eastern Green Wedge has been threatened. The local plan Inspector in 1998 had to consider various objections to the designation, including one from Jelsons Ltd, who are one of the present appellants. This concerned only a small part of the eastern Green Wedge as it now exists, but that Inspector found that it would nevertheless unacceptably reduce its effectiveness in preventing coalescence and urban sprawl. [NWLDC1]
189. To conclude under the Green Wedge issue, the simple fact that this proposal would completely undermine the Green Wedge, and lead to an almost complete coalescence of Coalville and Whitwick is reason enough to refuse it. But there are several other reasons as well, which in combination provide an overwhelming case against the development. The first of these, and a very important one, is prematurity. [LPACS]
190. *Prematurity and potential prejudice to the emerging Core Strategy:* Paras. 17-19 of The Planning System: General Principles [CD-NPP2] give advice on prematurity. Para 17 states that "In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or

phasing of new development which are being addressed in the policy in the DPD.” [NWLDC1]

191. Para. 18 advises that “Otherwise, refusal of planning permission on grounds of prematurity will not usually be justified. Planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging DPDs. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached”. [NWLDC1]
192. Para. 18 goes on: “For example: Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified...” Para. 19 says “Where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process”. [NWLDC1]
193. The Council relies on all this advice, as it fits neatly the circumstances of this appeal and provides the basis on which prematurity is an amply justifiable reason for refusal (albeit, not the only reason¹²). The proposed development of 1420 houses is self-evidently very substantial by any measure or criterion, and would certainly make a large contribution to the housing land supply. When completed, it would increase the population of Coalville by about 10%. And the appellants have indicated (in the DAS etc.) that they may well seek planning permission for residential development on other neighbouring land as well, also in the Green Wedge, thereby creating development on an even greater scale. If these houses are allowed to be built here, it follows that commensurately fewer will be needed in other locations which, for sound planning reasons, are preferred by and indicated in the Core Strategy. [NWLDC1, LPACS]
194. In addition, as detailed below the Council is now pursuing a lower housing requirement - based on the national 2008 housing projections - than is in the EMRP. Although the appellants (unlike the Council) argue that Coalville will need more than one urban extension, a reduced requirement makes that very doubtful. But that is a matter which can only be fully tested through the process of the CS examination. It should not be a matter for this Inquiry. [NWLDC1, LPACS]
195. There is now an “early prospect” (a key phrase in General Principles, para. 18 cited above) of submission of the CS for examination. In fact, the CS has progressed far since its origins in 2005. It will be submitted for examination in the next few weeks or months, quite possibly before the Secretary of State’s decision in this appeal. And the development of the appeal site would seriously prejudice the identification of its one and only preferred strategic development site at Bardon Grange, Coalville (also known in some documents as South East Coalville or SECSUE).
196. Only one such site is needed, not two. Of course, it will be a matter for the examining Inspector to find the CS “sound” or “unsound”, but for its part the

¹² Para. 72 of PPS3 (now replaced by the Framework) advised that applications should not be refused solely on the grounds of prematurity

Council will only be promoting Bardon Grange for large-scale growth, not Stephenson Green. [NWLDC1]

197. Bardon Grange is capable of accommodating about 4500 dwellings. Furthermore, the Council's SHLAA identifies some 32 potential sites in and around Coalville which could be developed, all outside the Green Wedge. It is realistic to expect the adopted CS to deliver 5000 dwellings (residual 4059, excluding those built since 2006) in and around Coalville during 2006-2031 without needing to encroach at all upon the Green Wedge. [NWLDC1,1B]
198. To conclude on the prematurity issue, the appellants say that the Council has not demonstrated that the process of CS preparation would be harmed if this appeal is allowed. That is an odd claim to make. On the contrary, it is very clear that such a significant and large scale proposal would prejudice the outcome of the CS; how could it do otherwise? And the Secretary of State will have noted that this is a very large scale proposal, currently being pursued outside the LDF process, and against the wishes not only of the Council, but against virtually all of those local people who have engaged with the CS process as an expression of localism in planning. In the terms of para. 17 of the General Principles document, cited above, the Stephenson Green proposal plainly is so substantial that granting permission for it would - not just could - prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are quite properly being addressed in the DPD. [NWLDC, LPACS]
199. Prematurity is an issue which has arisen in a number of other recent cases decided after call-in or on appeal. Some have features in common with this one. Although some of these have been subject to further and ongoing litigation, and must therefore be treated with caution, the Council would cite the Secretary of State's decisions on cases in Ipswich [CD-AD1], Winchester [CD-AD2], Cheshire East [CD-AD3] and Cornwall [CD-AD4].
200. *Housing land requirements and supply*: PPS3 requires local planning authorities to be able to show that they have a 5 year supply of housing land. In December 2011 the Council calculated that it had only a 2.2 years housing land supply, which, it acknowledged, represents a significant shortfall from a 5 year supply [NWLDC1, appendix 9].
201. This shortfall situation brings into play para. 71 of PPS3, which states: "*Where local planning authorities cannot demonstrate an up-to-date five year supply of deliverable sites... they should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in paragraph 69*". Para. 69 sets out 5 considerations which LPAs should take into account in deciding planning applications. These include 2, the 3rd and the 5th named, as follows: "*the suitability of a site for housing, including its environmental sustainability*"; and "*ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives...*" [NWLDC1]
202. With reference to para. 69, the simple fact that the application site is in a Green Wedge, and therefore subject to a development plan policy which precludes housing and most other forms of development, and which moreover is intended to be carried forward into the CS, means that the site is not suitable for

- housing, and nor is it in line with the spatial vision for the area. Since these PPS3 policy criteria would not be met, it follows that, despite the acknowledged shortfall in the 5 year land supply, there is no imperative from PPS3 to grant planning permission for the appeal proposals. [NWLDC1]
203. The EMRP certainly lends support¹³ for locating a substantial amount of new housing somewhere in or around Coalville - but not in the Green Wedge. Nothing in it says that Green Wedges should be developed; the plan only says that they should be reviewed through the preparation of LDFs. [NWLDC1]
204. However, although the EMRP is still a part of the development plan at the time of this Inquiry, its significance and weight are clearly diminished by the strong probability that it will soon be revoked, under a provision of the Localism Act. Once revoked, it will have no further relevance or force. That applies to its housing requirements, as to all its other provisions. At the time of this Inquiry, revocation is anticipated in the early part of 2012, and quite possibly before the Secretary of State's decision on this appeal. [NWLDC1]
205. The Government's firm intention to revoke regional strategies has been known for some time. It is a material consideration in this appeal. [NWLDC1, LPACS]
206. That is why the Council has been prudently considering a more robust alternative to the EMRP housing requirement for the purposes of its emerging CS. Largely as a result of the Government's 2008-based housing projections, the CS is pursuing a lower housing requirement than the EMRP. On that basis, the Council has a 3.84 year land supply. Taking into account an additional 20% requirement as in the draft NPPF¹⁴, there is a 3.1 year housing supply [NWLDC1 appendix 9, NWLDC1B]
207. Thus the emerging CS will contain a different total housing requirement than that set out in the EMRP, which used the now out of date, 2004-based housing projections. And it will also set out a strategy for the distribution of that housing. This has been taking shape for some considerable time, and after a painstaking series of public consultations. In March 2011 the Council's Cabinet resolved that there should be only one strategic housing site at Coalville, and that should be at Bardon Grange. This strategic site is some 226 ha. in area and has a capacity of about 4500 dwellings. (A smaller part of Bardon Grange is already allocated for housing under the local plan [proposal H4g, Grange Road, Hugglescote]. An outline application for 800 dwellings on that site by Bloor Homes was submitted in November 2010 and is now subject to an appeal against non-determination.) [NWLDC1]
208. The Core Strategy Consultation dated May 2011 [CD-LDF14] proposed 8000 new dwellings in the district as a whole, over the period 2006-2026. Taking note of the new (2008-based) household projections, that was a significant reduction from the figure of 10200 (510 per annum) in the EMRP. Of the 8000, the consultation proposed some 4400 in the Coalville area, with none in the Green Wedge. In October 2011, Cabinet resolved to extend the CS plan period to 2031, and took into account the Leicester and Leicestershire Housing Requirements Study [CD-LDF16]. This contains the most relevant and up to date information

¹³ See paras. 44-50 above

¹⁴ The draft NPPF was superseded by the publication of the NPPF on 27 March 2012

- on housing requirements before this Inquiry. It set the housing requirement at 9700 (388 per annum) for the period 2006-2031. Coalville's share of this will be 5000, with a residual requirement of 4059. [NWLDC1, NWLDC1B, LPACS]
209. Thus Bardon Grange (or south east Coalville), with an aforementioned capacity of 4500, will by itself exceed the residual target for Coalville of 4059. And it should be noted that other smaller, by definition non-strategic sites at Coalville, including many listed in the SHLAA [CD-EBLDF9], will also come forward for development during the plan period. In sum, the Council considers that the residual requirement of 4059 dwellings can be accommodated in the next 19 years (to 2031) by virtue of a single sustainable urban extension in south east Coalville, PDL sites and other SHLAA sites, and without the need for the Stephenson Green proposal, or any other residential development in the Green Wedge. That is the position it will take at the forthcoming CS examination. [NWLDC1, NWLDC1B, LPACS]
210. The maps and tables in the SHLAA identify 36 potential housing sites in and around Coalville, with a combined housing capacity of 10539 [NWLDC1 appendix 11]. No. C23 is the CS's preferred strategic site at Bardon Grange. 32 of them are outside the Green Wedge. In short, it is realistic to expect the CS to deliver 5000 dwellings (residual 4059) in and around Coalville by 2031 without requiring any land in the Green Wedge. [NWLDC1]
211. On that basis, although the current appeal site is listed in the SHLAA as site no. C19, and even disregarding all the other planning objections to its development, it will not be required. [NWLDC1]
212. Details of the housing land supply situation are in [NWLDC1B], which was prepared in response to certain points made in the appellants' evidence in [WDJ1A]. It explains further the Council's calculation of a 3.84 year land supply, with particular reference to a small sites allowance, a commentary on each site identified in the supply, a table of large sites granted planning permission since March 2010, and further notes on the SHLAA. The Leicester and Leicestershire Housing Requirements Study, with the main components of the district housing requirement it sets out, is also described.
213. *Loss of best and most versatile (BMV) agricultural land:* Other than harm to the Green Wedge, the preceding sections of the Council's case have concentrated mainly on planning policy and housing land supply. But the Council also objects to the proposals because of its other harmful, site specific impacts. One such is the prospective loss of BMV. The other is harm to air quality. [NWLDC1]
214. Turning first to agricultural land, the leading Government advice on BMV is in paras. 28-29 of PPS7¹⁵ [CD-NPP4]. This states (para.28) that "The presence of best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification), should be taken into account alongside other sustainability considerations... when determining planning applications. Where significant development of agricultural land is unavoidable, local planning authorities should seek to use areas of poorer quality land... in preference to that of a higher quality..." [NWLDC1]

¹⁵ This is now replaced by para. 112 of the Framework

215. Policy 26 of the EMRP states, among other things, that “the Region’s best and most versatile agricultural land should be protected from permanent loss or damage” [CD-DP13].
216. The ES [CD-PA9] includes a report on soil resources and agricultural use and quality of land. This notes that 97% of the appeal site is in agricultural use (in line with Green Wedge policy E20), mainly arable but with some pasture; and that about 25 ha. of it is BMV land (grade 3a) by virtue of having generally better drainage than the remainder, which is grade 3b (not BMV). The BMV land is in 3 main areas (east, central, west) in the northern half of the site, as shown in Map 2. Comparing this with the scheme master plan shows that about half of the BMV would be developed with buildings, roads, hard standings etc. and therefore would be permanently lost to agriculture. There is no indication that the evolution of the scheme paid any attention to the distribution of BMV land when deciding the overall design. The loss of such a large amount of BMV land is unacceptable, and contrary both to PPS7 and to the EMRP. [NWLDC1]
217. It is accepted that some of the BMV land would not be covered by built development, but would become playing fields or woodland. The latter in particular would be tantamount to a loss, as it could not readily be returned to agriculture. This is borne out in other appeal decisions. [NWLDC1]
218. In accordance with the aforementioned advice in PPS7, it is necessary to look at the alternatives. As mentioned above, the draft CS [CD-LDF17] proposes only one strategic housing site at Coalville, at Bardon Grange. This is 226 ha. in area. Part of this is already allocated for housing (Grange Road, Hugglescote, proposal H4g in the adopted local plan). None of this land is BMV, but is classified in grade 3b. Information on the agricultural land classification of other SHLAA sites is scanty, but many of them are previously developed land, and therefore not constrained by considerations of agricultural land quality. [NWLDC1]
219. There is no clear evidence that the delivery of 5000 dwellings (residual 4059) in sustainable locations around Coalville by 2031 will necessitate the development of BMV land. However, the development of Stephenson Green certainly would. This is a significant material consideration which should weigh against a grant of planning permission. [NWLDC1]
220. *Effect on air quality, particularly within the Coalville Air Quality Management Area (AQMA)*. One of the putative reasons for refusal refers to air quality. Owing to the complex variables involved, there are various uncertainties over the monitoring (measuring) and prediction of air quality, particularly several years ahead. However, the evidence to the Inquiry strongly suggests that if the appeal scheme is built, there will be a further significant deterioration in air quality, particularly in the designated Coalville AQMA. That is a likelihood, not a mere possibility. This would be contrary both to national and development plan policies, and could not be adequately mitigated through the use of planning conditions. It therefore warrants the refusal of planning permission. [LPACS]
221. The Council has conducted a detailed expert review of the appellants’ assessment of the local air quality impacts of the proposed development. That assessment is in volumes 1 and 2 of the ES [CD-PA8,9] and the ES addendum [CD-PA14, CD-PA15]. The Council’s review addresses the assessment methodology and the scheme’s potential air quality policy implications. [NWLDC2,3,4]

222. In sum, it shows shortcomings in the methodology which highlight serious concerns about the scheme's likely effects on air quality, sufficient on a precautionary approach to justify refusal of outline planning permission. These concerns are outlined further below. [NWLDC2,3,4]
223. PPS23 *Planning and Pollution Control*, with its Annex 1 (pollution control, air and water quality) provides¹⁶ the national policy context for air quality considerations in plan making and development control. Appendix 1G addresses air quality as a material consideration in development control decisions. This notes that the impact of proposed development is likely to be particularly important where, inter alia, it is proposed inside or - as in this case - adjacent to an AQMA. Applications should be supported by such information as is necessary to allow a full consideration of the impact on air quality. [NWLDC2]
224. The national framework for the assessment of ambient air quality is in the Government's Air Quality Strategy [CD-AQ1] which sets objectives for the concentrations of 10 key pollutants and outlines measures to meet them. The objectives are policy targets, expressed as a maximum ambient concentration not to be exceeded, either without exception or with a permitted number of what are termed "exceedances" within a specified timescale. [NWLDC2]
225. The Strategy aims to improve and protect ambient air quality in the UK, and to protect human health from harm caused by air pollution. The planning system, including development control, has a significant role to play in this regard. Local planning authorities are tasked with identifying locations where air pollution levels exceed national air quality objectives. They must draw up AQMA action plans for these areas. [NWLDC2]
226. The assessment of existing air quality in Coalville has been based on the ambient air monitoring data collected by the Council's environmental health section, and also the appellants' monitoring data. In Coalville, nitrogen dioxide (NO₂) is the only air pollutant at significant risk of exceeding the objectives for ambient air quality. Road traffic is the dominant local source of pollutants and roadside concentrations of NO₂ are elevated, most notably at and around the junction of Stephenson Way and Broom Leys Road, where repeated exceedances of both the annual mean and hourly mean objectives have been monitored [NWLDC4A, NWLDC4B]. The Council has designated 5 AQMAs in its area, one of which - the Coalville AQMA - lies along the A511 Stephenson Way adjacent to the south of the development site. Outside the AQMA, NO₂ concentrations are well within the air quality objectives. [NWLDC2]
227. It should be noted that the EMRP contains 2 policies aimed at improving air quality. Among the regional core objectives, policy 1d) seeks in general to improve the region's air quality; and policy 36 sets regional priorities to that end. Under this policy, LDFs etc. should "contribute to reducing air pollution", and "consider the potential effects of new developments and increased traffic levels on air quality". [NWLDC2]
228. So much for the policy background. Turning to the consideration of impact, it is agreed that the proposed development has the potential to affect air quality during both the construction and the operational phases. The latter refers to the

¹⁶ PPS23 has been replaced by the Framework

- period after the dwellings are occupied. The appellants recognise this, and have undertaken a qualitative assessment during the former, and a quantitative assessment during the latter. The former are principally related to emissions of dust and particulate matter from general construction activities and traffic; the latter, to changes in emissions from vehicles on the local road network, in particular A511 Stephenson Way. [NWLDC2]
229. In the case of the former, the site is described as conveying medium levels of risk, and a package of mitigation measures has been proposed. These could, if permission were granted, be further refined (by way of a planning condition) through a construction environmental management plan. In general, the Council finds the mitigation measures proposed for the construction phase acceptable, and raises no objection to that phase on air quality grounds. [NWLDC2]
230. However, the Council does not accept several aspects of the appellants' approach to the assessment of the much longer-lasting operational impacts on air quality. This is the nub of its objection to the scheme on air quality grounds. [NWLDC2]
231. In brief summary, the main deficiencies in their detailed dispersion modelling study are as follows: i) the model verification has been largely based on a limited duration monitoring survey in existing areas of good air quality, and does not adequately reproduce high concentrations within the Coalville AQMA; ii) the modelling of hourly mean concentrations has been based, without justification, on the application of methods and datasets designed for use with annual mean concentrations; iii) the assessment scenarios do not take into account the staged nature of the proposed development; iv) the appellants have not taken into account recent and authoritative research for DEFRA [NWLDC4C,8] which shows that real-world vehicle emissions are not decreasing at the rate predicted by the national emissions datasets used in the assessment. Thus the model results in the ES are likely to be over-optimistic and do not adequately represent the risks of ongoing exceedances on the UK air quality objectives within the AQMA; v) the modelling lacks information on the impacts of congested traffic; and vi) the model results appear to be inconsistent with the traffic data on which they are based. [NWLDC2]
232. The overall effect of these methodological deficiencies is that the effect of the proposal, in terms of air quality, has been under-estimated. That applies both in the baseline, but more importantly, in the future. And the risks to human health of continued exceedances of acceptable levels of NO₂ have not been adequately considered. [NWLDC2]
233. Moreover, the appellants have failed robustly to demonstrate that the proposal's air quality impacts, particularly on the Coalville AQMA adjacent to the site, would be acceptable, and would not exacerbate existing exceedances of the UK air quality objectives – most notably, for hourly mean concentrations of NO₂. Instead, it would contribute to a further deterioration in air quality within an area of existing poor air quality. [NWLDC2, NWLDC4A, NWLDC4B]
234. Thus the proposal would be contrary to the EMRP and to the advice on air quality in PPS23. This is an important consideration in the appeal, and militates strongly against a grant of planning permission. [NWLDC2]

235. At the Inquiry, the appellants have signally failed to grasp the seriousness of the issue. It has the potential to limit the extent of growth at Coalville. It is focused on the number of additional vehicles that will pass through the A511/Broom Leys Road junction - according to the appellants' TA, an additional 3465 per day. But the very existence of the AQMA indicates a significant existing problem. That seems barely to have been acknowledged by the appellants. It was designated because the annual mean concentration of NO₂ was shown to be above the UK standard of 40 micrograms per cubic metre. Previously, the available evidence anticipated a reduction in NO₂ emissions. But the latest authoritative research evidence [CD-NWLDC4C] shows that this anticipated reduction is not taking place. In fact, the reduction in vehicle emissions has largely flat-lined since 2004. The appellants have themselves acknowledged this latest information in both the ES and addendum ES and have sought to address it, but only in terms of reducing the background concentrations of NO₂, and not the vehicle emissions themselves. [LPACS]
236. It follows that the appellants should not rely on any reduction in vehicle emissions. There will be many more vehicles and more NO₂ emissions in the AQMA. Table NMR5 in the appellants' [WDJ6A] is revealing. In 2022, without the appeal scheme, the predicted NO₂ concentrations at 44 Broom Leys Road West exceed the UK standard of 40 micrograms per cubic metre. With the scheme, that increases to 43.5 micrograms per cubic metre, making the exceedance materially worse. Put simply, the empirical evidence from 2004 onwards suggests that the appeal scheme will make a bad problem worse. That meets the test in PPS23 about the likelihood of a significant air quality impact. [LPACS]
237. On the issue of the annual average mean, this development will therefore create a problem of moderate significance if, as the latest evidence shows, vehicle emissions do not improve. But the Council also have serious concerns about the hourly NO₂ concentrations. A new monitor has been installed at the junction which has shown exceedances in the UK standard for 2 consecutive years [NWLDC4B]. This is a standard which allows for 18 exceedances in any event, and it is the 19th and further exceedances which are of particular note. There is plainly a problem, and in terms of achieving the mean hourly UK standard, the appellants have not produced robust evidence to show it has been addressed. [LPACS]
238. Their suggested planning condition would not resolve the problem and is not acceptable. The condition suggests that the concerns can be addressed by a scheme of mitigation. But that scheme is not identified. In relying on the measures which are already in the Council's AQAP, the condition is simply too vague and imprecise. [LPACS]
239. For the sake of the completeness of this air quality evidence, it should be noted that a number of detailed methodological points on air quality monitoring and prediction are agreed in the air quality SCG [CD-NWLDC4D]. But the final section of the SCG also lists in summary the remaining differences of expert opinion. Those listed under "the Council's case" largely reiterate various points already noted above.

240. *The Framework (NPPF)*: Taken as a whole, the Framework policies support the Council's objections to the scheme, outlined above. Nothing in it undermines the Council's case. [CD-NPP12B]
241. In line with the Framework's advice, the weight to be attached to the various relevant plans can be summarised as follows: EMRP – little weight; NWLLP housing supply policies – no weight; NWLLP other policies (including policy E20) – great weight; emerging CS – little weight. [CD-NPP12B]
242. The Council does not wish to comment on every part of the Framework. On individual parts of it, and following the Framework's headings, the Council comments as follows:
243. Implementation (the Framework Annex 1, paras. 211, 215, footnote 41) – the NWLLP was adopted in 2002 and therefore "due weight" should be given to its policies. Although its housing land policies are out of date (and are not relied upon by the Council in this Inquiry), other policies, including E20 are not out of date and are consistent with the Framework policies. They should be given great weight. (Para. 216) – "The Planning System: General Principles" has not been explicitly replaced by the Framework. Thus its guidance on prematurity remains extant. But the CS has not yet been submitted to the Secretary of State, and therefore it merits little weight. There are significant unresolved objections regarding the proposed identification of a sustainable urban extension in south east Coalville, and the re-designation of the appeal site as an Area of Separation, where development would be inappropriate. Emerging CS policies are consistent with the Framework. [CD-NPP12B]
244. The presumption in favour of sustainable development – this does not alter the Council's case that the appeal scheme would be very harmful to the Green Wedge, and contrary to NWLLP policy E20. Thus it cannot properly be regarded as sustainable development. [CD-NPP12B]
245. Core planning principles (the Framework para. 17) - the Council's case at this Inquiry is in accordance with several of these core principles, and its existing policy and future intention to preclude development from the Green Wedge (or Area of Separation) does not conflict with any of them. [CD-NPP12B]
246. Delivering a wide choice of high quality homes (the Framework paras. 47,59,62) – the Council does not have "a record of persistent under delivery of housing" and so the 20% buffer is not necessary at the moment. During the last local plan period (1991-2006), the requirement was 5800 dwellings and provision was 6550, a 13% over provision. By the Framework's criteria, the Council now has a 3.84 year supply. Given the record of housing completions 1991-2011, it is acceptable to include windfall sites in the land supply. The emerging CS, soon to be submitted, will identify a sustainable urban extension in south east Coalville as the best way of achieving a supply of new homes. Another supply will come from various SHLAA sites. [CD-NPP12B]
247. Promoting healthy communities (the Framework para. 69) – the shared vision referred to here is the continued protection of the appeal site as part of a Green Wedge and its designation in the future as an Area of Separation. [CD-NPP12B]
248. Conserving and enhancing the natural environment (the Framework paras. 112,114,124 and glossary) – nothing here alters the Council's case that the

appeal scheme would result in the loss of a large quantum of BMV land, and that preference should be given to development on land of poorer agricultural quality, or that it will worsen air quality in the AQMA. The appeal site can readily be seen as a “multi-functional green space” (glossary) which already delivers a wide range of environmental and quality of life benefits to local residents. [CD-NPP12B]

249. Local plans (the Framework paras. 150,157) – after some 6 years of consultation and taking into account the “vision and aspirations of local communities”, the Council will in its CS identify a sustainable urban extension in south east Coalville, and designate the appeal site as an Area of Separation. This plan is both aspirational and realistic. [CD-NPP12B]
250. Using a proportionate evidence base (the Framework para. 158) – The Leicester and Leicestershire Housing Requirements Study is part of the evidence base for the emerging CS. It is up to date (published September 2011, and based on 2008 household projections) and resulted from close collaboration with neighbouring Leicestershire planning authorities. [CD-NPP12B]

9 The case for Leicestershire County Council (LCC)

251. The County Council is a Rule 6 party at the Inquiry, and a key provider of various items of social and other infrastructure. In that role, it has no objection in principle to the appeal proposals, but in the event that planning permission is granted, wishes to secure justified and otherwise appropriate financial contributions, by way of a Section 106 planning agreement (to which it is a signatory), towards the costs and provision of the necessary infrastructure. [LCC11]
252. LCC has an interest in contributions towards public transport measures, offsite highway works, education, waste management, library services and monitoring costs. Aware of the responsibilities imposed by the CIL regulations, it submits suitably detailed and robust evidence to the Inquiry on all of these matters, providing an explanation of the statutory and policy basis for seeking contributions, the quantum of monies sought, and details of the services and facilities which would be provided by LCC to serve the development. [LCC11]
253. [LCC1] sets out the general grounds which justify the contributions sought, by reference both to Government policy and to LCC’s own adopted policies for planning obligations. Particular reference is made to para. B5 of Circular 05/2005 *Planning Obligations*¹⁷, and to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (and as amended) which states that a planning obligation may only constitute a reason for granting planning permission if the obligation is: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development (the CIL tests). [LCC11]
254. [LCC1A and LCC11] explain the justification for seeking a monitoring costs contribution. [LCC2 and LCC3] deal with education-related requirements in the form of a 1.83 ha. primary school site within the development and a 270 place primary school building. [LCC4 and LCC4A] address civic amenity requirements

¹⁷ Circular 05/2005 has been replaced by the Framework

in the form of a financial contribution towards expanded facilities at the Coalville Civic Amenity Site in the sum of £48,962, calculated partly on the basis of the amount of waste which the development would generate. [LCC5 and LCC5A] deal with a library facilities contribution in the sum of £77,180. [LCC11]. Both individually and taken as a whole, these documents amply justify and explain the contributions being sought.

255. All of the contributions which LCC has requested are therefore justified and reasonable in themselves, and meet the requirements of Circular 05/2005, in that they are (i) relevant to planning; (ii) necessary to make the proposed development acceptable in planning terms; (iii) directly related to the proposed development; (iv) fairly and reasonably related in scale and kind to the proposed development; and (v) reasonable in all other respects.
256. Items (iii), (iv) and (v) are replicated in the CIL tests. Although the appellants have questioned this in some instances, they have also said that they are willing to make any contributions which the Secretary of State agrees are CIL-compliant. LCC's detailed evidence has been supplemented by its responses to their queries, and amply demonstrates such compliance. [LCC11]
257. *The Framework (NPPF)*: Although the Framework has now replaced many national policy statements, including Circular 05/2005, it still contains various references to the need for infrastructure, including in the core principles. And its paras. 203-205 contain advice on planning obligations. Para. 204 states the 3 statutory tests for planning obligations. While this advice is less detailed than that in the Circular, nothing in it undermines the thrust of LCC's evidence to the Inquiry, or suggests that its stance should change. Therefore LCC's requests for certain developer contributions in the event of a grant of planning permission stand unaltered. [CD-NPP12C]

10 The case for the Whitwick Action Group (WAG)

258. The **Whitwick Action Group** is a Rule 6 party at the Inquiry. The Group was founded specifically to oppose the so-called Stephenson Green development, and particularly to protect the designated Green Wedge between Coalville and Whitwick. [WAG1,2]
259. To this end, over the last few years WAG has organised numerous meetings, fund-raising events etc. in order to campaign and have professional representation at this Inquiry. It has many active members, mostly living in and around Whitwick and Coalville, and has regular meetings to monitor the progress of the development and the Inquiry [CD-WAG 1,2,3].
260. WAG are puzzled by the significance attributed by the appellants to the Princes Trust document [CD-EBLDF3]. It certainly cannot be regarded as a serious precursor or rationale for what is now proposed. It was always, first and foremost, a notional exercise in town centre regeneration, not a spatial plan for the future growth of Coalville. It has nothing to say about the appeal site itself, or the role of the Green Wedge. Its vague diagrams are of little help to the Inspector and the Secretary of State at this Inquiry. They certainly cannot be interpreted as supporting the appeal proposals; that is just wishful thinking on the appellants' part. [WAG1,2]

261. Far more important, because it is part of the development plan for the area, is the adopted North West Leicestershire Local Plan 2002 [CD-DP14, 15]. Under saved policy E20, the entire application site is designated as a Green Wedge. This followed a local plan inquiry in the late 1990s in which various objectors had sought to oppose such a designation, including Jelson Ltd, who are one of the current appellants. However, the Inspector was unequivocal in his support for the draft designation and the Green Wedge was retained in the adopted plan. Contrary to the appellants' claim, that Inspector's conclusions [CD-WAG2], including on the Jelson land, remain entirely relevant and indeed prescient today, and the site itself has remained intact and virtually unchanged since then. [WAG1,2]
262. Saved policy E20 has the full force of a development plan policy. It states very clearly that "*Development will not be permitted which would adversely affect or diminish the present open and undeveloped character of the Coalville-Whitwick-Swannington Green Wedge, identified on the Proposals Map. Appropriate uses in the Green Wedge are agriculture, forestry, minerals extraction and outdoor sport and recreation uses. Any built development permitted within the Green Wedge will be limited to minor structures and facilities which are strictly ancillary to the use of the land for these purposes*".
263. It could hardly be more obvious that the proposed development is flatly contrary to every part of this clear and up to date policy. It would cover a very large part of the Green Wedge with built development, up to almost 1 km. in width, and would lead to the coalescence of Coalville and Whitwick. While the proposals include token amounts of green infrastructure, in the form of some woodland, playing fields etc, the appellants' claim that this would prevent or even mitigate such coalescence is plainly nonsensical. It does not take a professional planner to see that. The simple fact is that the scheme would destroy the Green Wedge, and undermine the separate identities and character of Coalville and Whitwick. [WAG1,2]
264. The Green Wedge fulfils several functions. First and foremost, it prevents the merging of settlements, particularly Coalville and Whitwick. The separation of settlements is key to maintaining not only their physical integrity, but also their individual character. Whitwick, an ancient settlement mentioned in the Domesday Book, has origins which long precede those of Coalville, and it has a very different and distinct identity. Second, the Green Wedge guides the form of development. Third, it provides local people with a green lung. And fourth, being crossed by lengthy and well-used footpaths it is a recreational resource in its own right. [WAG1,2]
265. The local plan will fairly soon be superseded by the Council's Core Strategy and other development plan documents. Public consultations on the emerging CS, and also on the County Council's planning documents show that the overwhelming majority of local people want the Green Wedge designation in effect to be retained, even if given another name¹⁸, and to maintain its existing purposes and objectives. There has never been any public support for its removal or relaxation, nor for any development within it other than the limited types permissible under policy E20. [WAG1,2]

¹⁸ This is a reference to the proposed "Areas of Separation" in the CS

266. Planning policies are one thing, people's perceptions and feelings are another. Individual local residents value and cherish the Green Wedge in different ways; for many, it provides pleasant views of the countryside, fresh air and open space, while some might particularly enjoy its wildlife, or its peace and tranquillity. Others find it ideally placed to separate Coalville and Whitwick, and thereby preserve their separate identities and character. Both settlements gain from that, rather than being merged together through unplanned urban sprawl. While the Green Wedge is immediately adjacent to Coalville, and therefore accessible by many people living nearby, it is very different from the urban area, and provides a welcome relief and contrast to it. [WAG1,2]
267. In addition, on the appellants' own evidence the appeal scheme would involve the loss of, or at least damage to some 25 ha. of BMV land. The quantum is not disputed. That would also be contrary to development plan policies and to the advice on BMV in PPS7. [WAG1,2]
268. There is no compelling case to develop the land on grounds of housing land requirements and supply. Even though the Council does not at present have a 5 year housing land supply, that does not mean that permission must be granted, as a proposal must still satisfy the criteria in paras. 71 and 69 of PPS3. The regional strategy with its housing requirements for the district and for Coalville will soon be revoked, and more up to date evidence for the emerging CS suggests that a reduced requirement would be appropriate to 2031. The Council's SHLAA shows that there are many other sites in less sensitive locations which could be used for housing. [WAG1,2]
269. While there will need to be significant new housing development at Coalville, much of this can be sited at Bardon Grange (aka South East Coalville), which is not in a Green Wedge and where as far as WAG is aware there is no great public opposition. That is the Council's preferred and chosen location, to be taken forward through the CS. [WAG1,2]
270. Thus to allow the appeal development would be premature, and would prejudice the outcome of the CS. Even though it occurred 2 years ago, that was one finding of the Secretary of State in the 2010 Packington Nook Inquiry [CD-WAG2], which is the only appeal decision cited at this Inquiry which refers to a site (on the edge of Ashby de la Zouch) in North West Leicestershire. [WAG1,2]
271. The virtually unanimous views of local residents are also clear, and in the spirit of localism should be respected and upheld by the Secretary of State. They should certainly not be set aside. The appeal should be dismissed, and the planning application refused. [WAG1,2]

11 The case for Andrew Bridgen MP and other interested parties/persons

272. For the following reasons, **Andrew Bridgen MP** strongly objects to the proposals, and supports WAG's and the Council's case.
273. Since the scheme first emerged, and judging by the strength of opposition it has evoked, the prospective loss of this part of the Green Wedge has been the most controversial planning issue in North West Leicestershire. This is amply demonstrated by many letters and messages of objection received by his office. Virtually none of his constituents supports it. The Green Wedge is a well-used and indeed much-loved and appreciated tract of land on the edge of Coalville,

- and should remain intact, open and undeveloped in perpetuity. [CD-TP5, CD-TP5A]
274. Apart from providing local people with an area of countryside on their doorstep, and an area to walk, take exercise and appreciate nature, it very obviously provides separation between Coalville and Whitwick, and prevents their coalescence. Everyone interested in the appeal can see that, except apparently the appellants. [CD-TP5, CD-TP5A]
275. Moreover, it would be premature to allow the scheme at a time when the Core Strategy will soon be published for submission, and is known not to include or support it. Given the strength of local opposition, to allow it would make a mockery of the lengthy and painstaking CS consultation process, and also fly in the face of the Government's new localism agenda. The appeal should be dismissed, and planning permission refused [CD-TP5, CD-TP5A].
276. **District Councillor Ray Woodward, also Chair of Whitwick Parish Council; District Councillor Tony Gillard; Jo Straw, Richard Lee, Claire Swain, Lin Hoult, Neil Hoult, Graham Dugdale, and Gary Hamilton** all support the Council and WAG in opposing the scheme. But they all object so strongly to the proposals that they wish to be heard in their own right.
277. The site is crossed by Green Lane and footpaths which are well used, and is universally regarded as a valuable and highly accessible local amenity. Each person appreciates the area in his or her own way; many have been walking and enjoying it for many years. The locality is already well served by recreational facilities in both Coalville and Whitwick, so those included in the scheme are of no particular benefit to existing communities, and offer no incentive to allow it.
278. It is nonsensical for the appellants to say that this vast scheme for 1420 houses can be built without destroying the separation between Coalville and Whitwick, an in effect destroying both the functions and the amenities of the Green Wedge. Such a claim hardly deserves to be taken seriously.
279. Moreover, the scheme will greatly increase traffic congestion in the local area, with much more queuing, delays and air pollution, and will place great pressure on local facilities and services. It offers no significant benefits to Coalville or the wider area. The appeal should be dismissed, and planning permission refused [CD-TP6, 6A, 7, 7A, 8, 9, 10, 10B, 11, 12, 13, 14, 15, 15A, 16, 16A].
280. **Bloor Homes East Midlands Ltd, Mr J. Evans and Harworth Estates** represented by Pegasus Planning Group, also object to the appeal scheme. Through a current planning application and the CS, they are jointly promoting an alternative site for a sustainable urban extension in south-east Coalville, (also known as SECSUE, Bardon Grange, or land north and south of Grange Road, Hugglescote.)
281. A planning application for some 800 dwellings on part of this land has been submitted and would become the first phase. This is currently the subject of an appeal against non-determination, due to be heard at an Inquiry in May 2012¹⁹.

¹⁹ I understand that this has been postponed

282. Although there are certain highways and traffic issues arising from this application which have yet to be resolved with the highways authority, the Council supports a very substantial urban extension in this area, and is promoting it through the CS. The outstanding issues include the funding and provision of a Bardon Relief Road, which is a longstanding local plan commitment, and the traffic capacity of Hugglescote crossroads, which is close to the site.
283. Details of the Bloor Homes (etc.) proposals are in [CD-TP1,1A, 1B,1C,1D,1E,4,4A]. Recent Council committee decisions affirm its support in principle for the first phase of development. There are no substantial objections from statutory consultees other than the highways authority, but with further investigations/negotiations these can be resolved. There are very few local representations, compared with the Stephenson Green proposals.
284. To allow Stephenson Green on appeal would be prejudicial both to the delivery of the allocated housing site at Bardon Grange, and to delivery of the larger strategic development site at south-east Coalville. In particular, to permit the scheme could take-up the limited spare highways capacity at Hugglescote crossroads, and prejudice the delivery of appropriate, but as yet undefined highways infrastructure to facilitate the growth anticipated in the CS. This would be contrary to para. 69 of PPS3, which requires development proposals not to undermine wider policy objectives.
285. **Leicestershire Police** (also referred to in some documents as Leicestershire Constabulary) emphasise that community safety and the prevention of crime are material planning considerations. They wish to ensure that appropriate developer contributions are made, in line with national policies including the CIL Regulations and their own policies governing developer contributions, towards the costs of policing the proposed scheme. Details of their case are in [POL1,2,3,5,6] which together provide a detailed justification for the monies sought, a total of £860,520²⁰. As the scheme includes 1420 dwellings, this sum equates to £606 per dwelling.
286. The Police case is summarised in [POL4]. [POL5] confirms that the Leicestershire Police's pursuit of S106 monies for Stephenson Green continues in line with its revised policy dated October 2007. [POL3] responds to various detailed queries/objections raised in letters from the appellants about the monies sought.
287. In general, the size and scale of the scheme would have very considerable implications for the future use of police resources and manpower. [POL1] sets out Leicestershire Police's policy for developer contributions, and describes the police infrastructure and functions on which contributions may be spent. The policy has been in operation for several years and as revised complies with national policy in Circular 5/05 and the CIL Regulations. The Police Authority have participated in several CS examinations in Leicestershire, and the policy has been supported in individual planning appeals [POL1, appeals appendix].
288. [POL1 Appendix 8] contains an itemised breakdown of the anticipated expenditure on police services/items dedicated towards the appeal development.

²⁰ See Schedule 4 in the S106 Agreement [CD-ID9]

289. At the Inquiry, the appellants have sought to discredit the Police Authority request, suggesting that it has been superseded or annulled by its own very recent internal policy and personnel changes. This is not the case, and probably arises from a misunderstanding of the documentation. In fact, the Policy Authority stands by its request for £860,520 as explained in the documents previously cited.
290. The **Leicester, Leicestershire and Rutland Primary Care Trust** is responsible for commissioning healthcare in those areas, largely via contracts held with independent contractors, including GPs, dentists, pharmacies etc. Since most new residents register with a GP practice, large new housing developments such as Stephenson Green have a major impact on the capacity of GP practices to deliver healthcare. [PCT1,3]
291. The PCT's request for S106 developer contributions relies on a Department of Health calculator to estimate the number of additional medical consultations that the scheme will give rise to, assuming a total scheme population of some 3408. In this case, it is possible to build additional capacity into some existing surgeries to handle this increased workload and additional space requirement. The total contribution requested by the PCT for this purpose is £153,253²¹. [PCT1]
292. [PCT1] sets out in detail the consulting and treatment room requirements arising from the development, indicates the medical practices most likely to be affected, outlines their current capacity issues and plans to address them, and explains that none of the Coalville practices are included in the PCT's current investment plan. [PCT2] responds to various detailed queries raised in letters from the appellants about the monies sought, and confirms that the request is CIL-compliant.
293. In fact, the PCT's original request for contributions from the development has been reduced by over £1m. because until recently the PCT used a method of securing contributions based on a sum per dwelling. It was later accepted that this method was not CIL-compliant. [PCT2]

12 Written Representations

294. A number of letters were received both before and during the Inquiry from local residents. All of them object to the proposals, for much the same reasons summarised under the appearances by local residents in the preceding section. No significant new matters are raised.

13 Planning Conditions and Obligations

295. [CD-I8C] contains a list of 34 agreed planning conditions in the event of a successful appeal, plus another 2 conditions suggested by the Council which are not agreed by the applicants, and one condition suggested by the applicants which is not agreed by the Council. It should be noted that this document contains some references to national policy documents which have now been cancelled by the Framework.
296. The agreed conditions, together with the reasons for imposing them, are grouped as follows: time limits (conditions 1-3); scope of outline permission (4-

²¹ See Schedule 4 in the S106 Agreement [CD-ID9]

5); design code (6); drainage, water resources and environmental protection (7-17); ecology and biodiversity (18-25); environmental performance (26); noise (27); commercial and community uses (28-29); and highways and transportation (30-34). In some cases, the reasons include reference to the need to comply with the development plan. I support the stated reasons for the conditions in principle. The conditions as agreed by the parties contain references to pre-Framework national policy documents, together with discretion for the local planning authority to agree variations. I have therefore modified the conditions slightly to remove these inappropriate references, and Annex 3 contains the conditions in a form that I consider meets the tests and advice in Circular 11/95 *The Use of Conditions in Planning Permissions*.

297. The Council's 2 additional (not agreed) conditions would require (LPA1) the later submission for its agreement of precise details of mitigation measures set out in the ES, and their subsequent implementation; and (LPA2) a threshold of 700 completed dwellings by which time the convenience food store in the village centre should be completed and ready for occupation. The appellants object to both on the general grounds that they would be too onerous, inflexible and impractical. I agree with that, and in the event that the appeal is allowed I do not recommend the imposition of the 2 conditions (LPA1 and LPA2).
298. The appellants' additional (not agreed) condition would require the submission and subsequent implementation of measures to mitigate the scheme's effect on air quality at the Broom Leys Road/Stephenson Way junction, consistent with the Council's AQAP. The Council objects to this on the grounds that the deleterious effect of the scheme on air quality could not be mitigated by such a condition, which lacks adequate precision. I agree. It might in principle be possible to draft an appropriate condition for this purpose, but such a condition is not before the Inquiry and I do not suggest any particular form of wording.
299. [CD-ID9] is a signed and completed S106 planning agreement, dated 29 February 2012. [CD-ID9A] is a summary of its contents. The agreement covers the following matters: schedule 1, affordable housing; schedule 2, public open space; schedule 3, travel planning obligations; schedule 4, financial contributions towards education, health services and policing; schedule 5, financial contribution towards library services; schedule 6, financial contribution towards civic waste management; schedule 7, financial contribution towards air quality monitoring; schedule 8, public realm improvements; schedule 9, indexation and repayment of contributions; and monitoring costs.
300. Although the obligation takes the form of a planning agreement, it is worded so as to make some matters (limited to certain financial contributions) dependent upon the Secretary of State's finding that they meet the 3 tests in Regulation 122 of the CIL Regulations [CD-NPP10, 11]. The appellants are in principle willing to make any contributions sought (by the other parties to the agreement) which are CIL compliant, and they accept (as confirmed in Mr. Alsbury's summary proof) that the majority of the obligations detailed in the agreement satisfy the statutory tests. However, they are not willing to make contributions which are not so compliant. Their specific concerns are with the contributions sought for libraries; civic amenity; healthcare; and local policing. On those matters, the appellants are not satisfied that other parties have adequately demonstrated that the obligations are necessary, having regard to the way in which the existing

infrastructure is used and performs, and the specific impacts that the appeal proposals would give rise to.

301. On those specific matters, I consider that the evidence submitted by Leicestershire CC with respect to libraries and civic amenity (waste disposal) facilities, and that submitted by the Leicester, Leicestershire and Rutland Primary Care Trust with respect to healthcare facilities adequately explains the need for, and justifies the particular contributions sought, and demonstrates their compliance with the CIL tests.
302. However, I am not persuaded by Leicestershire Police that its request for some £860,000 for policing the development is adequately justified. I agree with the appellants that its basis for making the request, in terms of its internal decision making procedures, remains somewhat obscure, while the costed items cited in various documents are not sufficiently clearly related to the proposed development.
303. I therefore find that the submitted planning obligation [CD-ID9] should be taken into account in this appeal, as (with the exception of the entirety of the contribution sought by Leicestershire Police) it generally meets the tests set out in Para. 204 of the NPPF. These are that its provisions are i) necessary to make the development acceptable in planning terms; ii) directly related to the development; and iii) fairly and reasonably related in scale and kind to the development.

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14 Conclusions [the numbers in square brackets refer to preceding paragraphs]

304. *The Framework (NPPF) and the development plan:* The publication on 27 March 2012 of the final version of the Framework is an appropriate starting point for these conclusions. This occurred soon after the Inquiry's last sitting day. The main parties' written representations upon it were subsequently invited and received, and I have reported them briefly and taken them into account. [10, 156-162, 240-250]
305. As it confirms in its paras. 2 and 11, the Framework does not change the previous position in planning law that "applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise".
306. The Framework is itself a material consideration in planning decisions. Its para. 14 introduces a presumption in favour of sustainable development. This is described as a golden thread running through both plan-making and decision-taking.
307. This paragraph goes on to say that for decision-taking, this means approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or relevant policies are out of date, granting permission unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole" or "specific policies in this Framework indicate development should be restricted". Examples of the latter are given in a footnote.
308. Following publication of the Framework, the development plan remains what it was at the time of the Inquiry in February 2012. At the time of writing, it still comprises the EMRP, and the saved elements of the NWLLP. But the EMRP is soon to be revoked, and when that occurs it will clearly have no statutory force, and only limited (i.e. historic) relevance. The NWLLP will remain in place until it is superseded by adoption of the CS. Although long in gestation, the CS has not yet been submitted to the Secretary of State for public examination, but the Council expects to submit it during the summer of 2012, and I have no indication to the contrary. [42, 62, 167]
309. The appellants rely on the EMRP, not only for its housing requirement, but also for its identification of Coalville as a location for significant housing growth, on a greater scale than for any other settlement in the district. That is not in dispute; the EMRP strategy clearly directs growth to Coalville as the pre-eminent location for it in the district and refers to the need for some form of urban extension there. [44-50]
310. But while agreeing that point, the Council says the EMRP housing requirements are out of date, being based on 2004 household projections, and that the prospect of revocation is a material consideration in the appeal – and one which diminishes the weight due to the EMRP. I agree in part with that. Various recent court judgements have been cited by the Council and the appellants on this matter of regional strategy revocation; the Secretary of State will be familiar with

them, and they require no individual comment from me. As far as this Inquiry is concerned, the strong likelihood that the EMRP will be formally revoked in the near future cannot and should not be ignored, and is therefore a material consideration in the appeal. [167-172]

311. As for the NWLLP, although agreed to be out of date with respect to its housing strategy and allocations, it contains saved policies, including one, policy E20 on Green Wedges, which above all is relied upon by the Council and third party objectors. I agree with them that this policy is not out of date, that it remains relevant, and that it merits significant weight in the appeal. The EMRP says that it should be reviewed as part of LDF preparation, but that review has yet to occur. And in my view its relevance is also supported and re-affirmed by the probability that a very similar policy, different only in name (Areas of Separation) is to be included in the submission version of the CS. The emerging CS is a material consideration in the appeal, but given that it is not yet quite at the submission stage, it merits only limited weight prior to the actual date of submission. [42, 51-54, 55-57, 68-72, 73-75, 167, 168-171, 179-182]
312. Thus I find that the existing components of the development plan are both somewhat compromised, and the emerging CS is still some way off achieving development plan status. This provides a difficult context for decision-making. As matters stand, neither the EMRP, the NWLLP nor the CS can be regarded as fully authoritative, but nevertheless each merits some weight in this appeal. In my view, the continuing development plan status of the EMRP and the saved policies in the NWLLP should be given most weight, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, and the emerging CS only limited weight.
313. *Main Issues:* I return to the Framework towards the end of these conclusions. But I consider that the aforementioned statements in its para. 14 provide an appropriate basis for stating the main issues in this Inquiry. With them in mind, and with reference also to the way in which cases of the main parties were structured at the Inquiry, I find that they are fourfold. They are:
314. **Firstly**, whether the proposed development would, in the light of the relevant development plan policies: i) harm the purposes, identity and character of the designated Green Wedge; ii) significantly worsen air quality in the designated Coalville AQMA adjacent to the site; and/or iii) cause a significant and unacceptable loss of best and most versatile agricultural land.
315. **Secondly**, whether the appeal proposals are premature, and thereby prejudicial to the outcome of the Council's emerging Core Strategy.
316. **Thirdly**, whether any adverse impacts of the development under any or all of these headings are outweighed by the need for housing in the district, in particular to meet a demonstrable shortfall in its 5 year housing land supply.
317. **Fourthly**, whether the appeal scheme represents sustainable development, to which the Framework's "presumption in favour" should apply.
318. It may be noted that the first 2 issues are focused on the Council's and 3rd parties' objections to the appeal scheme, while the second 2 are focused on the 2 main arguments in the appellants' case.

319. The cases of the parties as reported above address all of these issues, and include references to the Framework as well as to previous national planning policies and advice. But much is also agreed, as indicated by the SCGs. Bearing in mind that this is an outline application, and viewing the appeal scheme in isolation I accept that it has several merits in terms of: its overall design and layout; the scope for achieving good design in detailed/reserved matters, and energy efficiency. In addition, there is no dispute as to the provision and location of the village centre and its non-residential components (village green, primary school, shop etc.); the housing mix; the amount and proportion of affordable housing; the provision of open space including space for play and recreation; access and car parking; and phasing. [21-24, 35-39, 40-41]
320. I should add here that I do not reach conclusions or comment on all the matters referred to during the course of the Inquiry. In particular, I note that this appeal Inquiry is not a CS or other DPD examination, nor is it a forum for assessing the particular planning merits of other potential housing sites in or around Coalville, or elsewhere.
321. Therefore, although some evidence has been put forward on some of those sites, I am not in a position comparable to that of an Inspector examining a CS or site allocations DPD, who may be required to weigh up the respective merits of competing strategic housing sites. I take no particular view on the merits of Bardon Grange (for example) as a potential alternative to the current appeal site. That is a matter for the Council, in the first instance, and then the Inspector and other participants at a future DPD examination. Instead, these conclusions are limited to the planning merits of the appeal site alone, and the development proposed. [280-284]
322. *Issue 1i) – the scheme's effect on the purposes, identity and character of the designated Green Wedge:* For the Council and most of the 3rd parties, this is probably the most salient issue in the Inquiry. Andrew Bridgen MP said that, judging from his postbag, the prospective loss of the Green Wedge has been the single most contentious and generally unpopular planning proposal in the district in the last few years, since the Stephenson Green scheme first emerged. This was confirmed by WAG and by several individual local residents, all objecting to it. [175-189, 258-271, 272-275, 276-279]
323. No third parties appeared at the Inquiry in support, and I have seen no evidence of any public support for it in any documents. [6, 294]
324. It is therefore apparent and understandable that local people (as well as the Council) think that to grant planning permission in this case would tend to contradict or undermine the principles of "localism", or "the localism agenda", in so far as they are intended to support the freely expressed will of the majority of local residents in contributing to the planning of their area. [164-165]
325. It is very clear that many local people greatly value this green area of open countryside on the edge of Coalville, and want to preserve its status as Green Wedge, which has protected it hitherto from development. They want to see that status maintained in effect, even if under another name, such as an Area of Separation (as mooted in the emerging CS). That is so even though the area in question is not designated in any statutory plan for its landscape or other intrinsic environmental quality. [164-165, 258-271, 272-279]

326. I do not accept the appellants' argument that there is something inherently unsuitable, either in terms of its location and in terms of its characteristics, in a Green Wedge (or similar) planning designation for this particular tract of urban fringe countryside. This part of the Green Wedge is where it is simply because it separates urban areas (Coalville and Whitwick), and up to now has remained open, undeveloped and largely in agricultural use. Nothing in the appellants' evidence persuades me that there is anything illogical, inappropriate or out-dated in maintaining this land as a Green Wedge; rather, their evidence is directed at showing that it would be better put to residential use, as a "sustainable" urban extension. [109-125]
327. In my view, the appeal site is a fairly unremarkable tract of countryside, largely comprising open fields, but with minor undulations and variations in topography and numerous hedgerows and individual trees. Nevertheless, it is by no means unattractive, and remains intact and unspoilt. It is still productively farmed, mainly for arable crops, and, as I saw during my own site visits, is almost nowhere degraded or abused by dumping, abandoned vehicles, fires, vandalism or other negative but typical manifestations and signs of the urban fringe.
328. It provides a variety of pleasant and unobstructed views, including many of the low wooded hills around Whitwick nearby to the north and east. Despite being subject to some traffic noise from the adjoining A511, much of it also lends an appreciable degree of rural tranquillity, which can be experienced on any of its public footpaths and in Green Lane.
329. And, crucially, it provides very clear separation between Coalville and Whitwick. In short, I consider that in general the appeal site functions well as a Green Wedge. To my mind, there is no obvious reason why it should not continue to do so well into the future.
330. So much for the land itself. In policy terms, post-Framework it remains subject to saved development plan policy E20, which is highly restrictive towards new development and is intended to keep the land predominantly clear and open, and in continued agricultural use. There is no doubt - and the appellants acknowledge this - that the appeal proposals conflict with this policy. [52-53, 71, 120, 175-176, 179-182]
331. I am also in little doubt that, despite the large scale of the scheme, the appellants have gone to some lengths to design its layout with the intention of minimising and mitigating its impact on the Green Wedge. That is apparent from the original design exercises, beginning with the Princes Foundation report, and continuing through other reports and the lengthy, iterative and consultative design process described by Mr. Williams. [109-114]
332. That said, both the Council and WAG maintain that the Princes Foundation report was never intended to address the merits of saving or protecting the Green Wedge as such, and that it gives little clear indication as to which parts of it, if any, might be suitable for development in the future. I agree with that. In my view, the appellants rely too much upon it as a pointer towards "Stephenson Green" (their name for the appeal proposals). In any event, neither the Princes Foundation report nor any other technical reports have the force of development plan policy, and they do not override such policy. [186, 260]

333. I agree with the appellants that, technically, the scheme would not lead to the complete and unmitigated coalescence (or merging) of Coalville and Whitwick. That is largely owing to the inclusion of a linear series of green areas between the built-up parts of the appeal scheme and the two existing settlements, such that no new development would be juxtaposed with any existing areas of housing. The appellants place much emphasis on these areas of green infrastructure as attractive, usable but separating features which would render the scheme acceptable in the wider landscape.
334. However, to my mind and eye the overall effect of the scheme would still be tantamount to the (undesirable) coalescence of Coalville and Whitwick. The proposed development would be on such a scale that it would erode the Green Wedge to a very large extent. Little of it, in this eastern part, would remain intact and undeveloped.
335. Thus I agree with the thrust of the Council's and WAG's evidence and opinions on this matter. In place of a broad swathe of open land on the edge of Coalville, there would be a very large urban development with green edges. [175-189, 261-266]
336. I find, therefore, that the appeal scheme would have a very profound impact on the purposes, identity and character of this part of the designated Green Wedge. It would undermine its purposes, almost nullify its identity, and completely change its character. In short, and in large part it would be permanently lost. How much does this matter? Plainly it matters a lot to the Council, and to local residents and the general public. In my opinion, the Green Wedge here has served and continues to serve a useful and much valued planning purpose, and it should only be lost for very compelling land use planning reasons. I deal with this below, principally in relation to housing land requirements and supply.
337. Finally under this heading the Framework contains many references to green infrastructure (a term defined in its glossary) and the need to protect it where this is consistent with the imperatives of development. I consider that, given its value as part of the Green Wedge, the appeal site should be seen as part, and a very important part, of the existing green infrastructure of Coalville and its environs. The presumption in favour of sustainable development (NPPF, para. 14 etc.) contains caveats applicable to decision-taking, including (in its footnote 9) a reference to the need to protect and conserve "Local Green Space". This is described further in the Framework paras. 76-77, which contain bullet-point criteria. According to these, the appeal site might in principle qualify for a Local Green Space designation, although, as noted elsewhere, the Council proposes to designate it as an Area of Separation in its CS.
338. *Issue 1ii) – the scheme's effect on air quality in the designated Coalville AQMA:* I come now to the second part of the first issue. The Framework replaces PPS23, Planning and Pollution Control, but unlike that document contains no detailed guidance on air pollution. However, among its 12 core planning principles is one (at bullet point 7) that planning should "contribute to... reducing pollution". That confirms that, as before, air pollution is capable of being a material consideration in a planning application. [24, 136-148, 220-239]
339. The Framework's section 11, conserving and enhancing the natural environment, includes at para. 124 the advice that "Planning policies should

sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan". There are no further direct references in the NPPF to air quality.

340. The issue arises largely because the appeal site abuts the Coalville AQMA. The Council's concern is solely with nitrogen dioxide (NO₂) levels arising from traffic. Put simply, it boils down to the contention that air quality monitoring has already shown many "exceedances" in permissible NO₂ levels around the junction of the A511 Stephenson Way with Broom Leys Road; and that the proposed development would eventually generate well over 3000 additional traffic movements per day through that junction, which, given that air pollution from traffic is not in fact falling at previously expected rates, but has been levelling off since about 2004, would only worsen air quality in and around the AQMA. The most probable - even inevitable - effect would be an increase in the number of exceedances of the relevant standard, and potential harm to human health. [24, 220-239]
341. The detailed statistical evidence is in tables in the ES (and as revised), and in the Inquiry proofs. Some of it is contested, although there is also a SCG containing a number of agreed points. The appellants have suggested that the Council's air quality evidence is conjectural - that it merely attempts to show that the development might lead to exceedances in the NO₂ standards, not that it would be likely to do so. I do not accept that; the Council is clear that it probably (albeit, not certainly) would. The appellants also question the reliability of some of the Council's air quality measurements, based on the precise location of the monitoring equipment, but I see nothing particularly unusual or objectionable about that. [24, 136-148, 220-239]
342. A key issue is the likely future trajectory of vehicle emissions. Research sponsored by DEFRA suggests that in many locations these have flat-lined since about 2004, thereby altering the earlier trend towards improvement, but the picture is complex, and inherently difficult to project very far into the future. DEFRA seems not to have made any definitive pronouncements on the subject, but continues to research it. The appellants say that their measurements/predictions take into account a worst-case (no improvement) scenario, but the Council disagrees, saying they have only considered background pollution levels, and not vehicle emissions themselves. Although the evidence on this is not clear cut, a precautionary approach - bearing in mind that the appeal site abuts an existing AQMA, and that human health is fundamentally at issue here - would suggest that the Council's more cautious (and less optimistic) stance may well be justified and appropriate. [136-148, 220-239]
343. On the other hand, it is common sense that any large new area of housing will generate a significant amount of vehicular traffic, and hence vehicle emissions (and possibly other forms of air pollution). And any potential site near Coalville would give rise to some traffic passing regularly through the Stephenson Way/Broom Leys Road junction. Nevertheless, it is even more obvious that the appeal site is closest to it, and the AQMA, still the only one at Coalville. My conclusion is that, from the point of view of maintaining air quality, it is not a sensible location in which to build a very large and potentially polluting housing

development. In my view, this counts against the appeal scheme in the overall planning balance. [136-148, 220-239]

344. *Issue 1iii) – loss of best and most versatile agricultural land:* This is the third part of the first issue. The Framework confirms that best and most versatile agricultural land remains capable of being a material consideration in planning appeals. Its para.112 states: “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality”.

345. It is agreed that the appeal scheme would entail the loss of about 25 ha. of BMV land from agricultural production, which amounts to about one third of the appeal site and must, in my view, be regarded as a significant quantity of such land. [126-132, 213-219, 267]

346. At present, all this land is productively farmed, mostly for arable crops. However, the picture is complicated by the fact that not all of this 25 ha. would be built upon - and thereby, to all intents and purposes lost permanently – as some of it is located where green infrastructure, in the form of playing fields and woodland, is shown on the illustrative master plan. It is debatable to what extent such uses would frustrate the reversion of those undeveloped areas to agricultural use, should that ever be thought desirable (for reasons of increasing domestic food production) in the future; the common sense assumption is that grassed playing fields could be more readily re-converted than areas planted with trees, and probably with less loss of soil structure and fertility. [126-132, 213-219]

347. Thus I find that the scheme would not necessarily entail the permanent loss of 25 ha. of BMV. Secondly, there is no dispute that all of the BMV falls within sub-grade 3a, the lowest grade which qualifies for the description. And one can reasonably argue, as Mr. Reeve does for the appellants, that its distribution, being surrounded by lower sub-grade 3b land, means that its agricultural versatility is in effect governed by that lower grade land, thereby reducing the cropping options for it. [126-132, 213-219]

348. These considerations, it seems to me, mitigate the prospective “loss” of BMV as a factor in the overall planning balance in this appeal.

349. That said, national (Framework) and other planning policies nevertheless counsel the use of poorer quality land where possible. No one at this Inquiry argues that there is no need to use greenfield land around Coalville to meet its future housing and other needs. The amount is of course disputed. But, that being the case, the question arises as to whether land of lower agricultural quality is available. The evidence on this is not clear cut, because, unlike at the appeal site, comparatively little detailed or recent survey work has been done, even on SHLAA sites. But, such as it is, and from the Council’s evidence I consider that other sites (including land at Bardon Grange and other greenfield sites) offer the prospect, collectively, of somewhat lower losses of BMV land than does the appeal site. [126-132, 213-219]

350. Thus the prospective loss of BMV land within it is another negative factor in the overall planning balance, although I do not think that, on its own, it would warrant the refusal of the scheme.
351. *Issue 2) – prematurity:* The issue of prematurity hinges on the imminence, or otherwise, of the Council's CS (submission document). In my view, it is a more relevant and pressing issue now than it was some time ago, such as when the application was first submitted; nevertheless, it was included among the putative reasons for refusal. [85-94, 190-199]
352. It has been predominantly an issue between the appellants and the Council, although WAG supports the Council's stance upon it. Both main parties rely for their stance on the leading advice in paras. 17-19 of *The Planning System: General Principles* (ODPM, 2005) which has not been replaced by the Framework, and therefore remains extant.
353. I will quote this at some length. It states (para.17) that "In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD."
354. Para 18 goes on to say "Otherwise, refusal of planning permission on grounds of prematurity will not usually be justified. Planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging DPDs. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached". 2 examples of stages reached are then given, neither of which quite fits the circumstances of this Inquiry. Para. 19 adds the advice that "Where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process".
355. Both parties' closing submissions refer to prematurity, citing other recent planning decisions and court judgments. Having looked at these, I am not convinced that the various circumstances of each are directly comparable with the case in hand. And in general, I tend to agree with the Council's uncomplicated view. It seems to me, firstly, that there is clearly now an "early prospect" (a phrase in the aforementioned para. 18) of CS submission - most probably in the summer of this year, and quite possibly before the Secretary of State's decision in this appeal; and secondly, that the appeal development is very substantial and significant in scale, and that approving it now would predetermine the content of the CS as it would have a profound impact on the housing location strategy, and on various other strategic matters as well. [85-94, 190-199]
356. Although at the time of writing the CS submission version has not yet been published, I was told repeatedly by the Council that it will contain only one strategic housing site (based on the Council's calculation of the district housing land requirement, which differs from that of the appellants). The Council also confirmed that this will certainly not be the present appeal site, which will be

- designated an Area of Separation. This in policy terms is the same in all but name, and would have much the same effect as the present Green Wedge in limiting development and controlling the form of settlements.
357. In short, I consider that the appeal scheme should be regarded as premature and that, owing to its size and scale, if permitted it would prejudice the outcome of the CS. That consideration weighs against it in the overall planning balance.
358. *Issue 3 – housing land requirements and supply:* Although the appellants maintain that the appeal scheme would not be premature, and would not cause any demonstrable harm under any of the preceding headings (which are both propositions that I do not support), they rely particularly upon the housing land supply situation in the district to underpin the case for allowing Stephenson Green. [65-66, 74-75, 95-105]
359. Their view is that the need for housing in the district, and particularly at Coalville, is so substantial, and also so pressing and immediate, that it overrides all other material considerations in the appeal. There is also a particular and undisputed need for affordable housing, of which the appeal scheme would provide a total of some 280 units (about 20% of 1420).
360. For its part, the Council accepted at the Inquiry that it could not demonstrate a 5 year land supply, but said that, owing to the then-prevailing advice in paras. 71 and 69 of PPS3, it did not follow that planning permission must be granted.
361. PPS3 has now been replaced by the Framework. In my view, there can be little doubt that its publication has further strengthened the appellants' case on housing land supply - and therefore their case overall - and weakened that of the Council.
362. That is because the Framework conveys an even stronger imperative in favour of housing delivery than did the now-cancelled PPS3. To that end, "to boost significantly the supply of housing" (Framework, para. 47), LPAs should identify a supply of "specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period)... Where there has been a record of persistent under delivery of housing, LPAs should increase the buffer to 20% (moved forward from later in the plan period)...". Whereas PPS3 also set a 5 year land supply requirement for all LPAs, this new requirement for a "buffer" - whether of 5% or 20% - clearly increases the need to identify deliverable sites.
363. Details of the housing land requirement and supply are in the parties' cases. Arithmetically, they have agreed several sets of 5 year supply calculations. All of them show a housing supply shortfall. [95-105, 200-212]
364. From the Council's point of view, the best case scenario - which is also their case at the Inquiry - shows a 3.84 years supply. This is based on the requirement in the GL Hearn 2011 study, jointly commissioned by Leicestershire LPAs, which they say is the most up to date available. However, it includes certain contested supply components, including an annual windfall allowance of 62 dwellings. This is criticised by the appellants on the grounds that it does not use the development plan (EMRP) requirement, and should not include windfalls and certain SHLAA sites on the grounds of their questionable deliverability. In addition, it does not front-load shortfalls into the first 5 years (thereby increasing

- the requirement), but assumes they will be spread over the longer term. [200-212]
365. The appellants' preferred 5 year housing land supply scenarios, which are based on the EMRP requirement, show no more than about 2 years supply, but vary slightly depending on the detailed assumptions made. These in turn are criticised by the Council on the grounds that the EMRP uses out of date (2004-based) household projections, and, in any event, is soon to be revoked and have no force. Instead, the calculation should be based on the GL Hearn study. [95-105]
366. I have already stated my conclusion that the prospect of revocation of the EMRP is a material consideration in the appeal. On the other hand, the alternative requirement in the GL Hearn study is not part of the development plan, and has not yet been tested through the CS examination. Therefore neither housing land requirement seems to me to be fully authoritative at the present time. In these circumstances, the fact that none of the 5 year supply scenarios (even the Council's most optimistic one) shows an adequate supply of deliverable sites seems very significant, and must be given considerable weight. In my opinion, it is the single most important supporting factor for the appeal scheme in the overall planning balance.
367. Given the demonstrable and agreed absence at present of a 5 year land supply, regardless of which requirement is used, I see no particular need to comment on whether windfalls should (or should not) be included in the Council's supply calculation, or on the other components of supply in that calculation. No doubt those matters will be considered at the forthcoming CS examination. As far as this Inquiry is concerned, the undisputed absence of a 5 year supply supports the case for allowing the appeal, and granting planning permission. But for the other reasons set out in these conclusions, it is not in my view decisive.
368. *Issue 4 - The Framework's presumption in favour of sustainable development:* I now conclude with some further remarks on the Framework, which was published a few weeks after the Inquiry close and has been the subject of further written representations by the main parties. [156-162, 240-250]
369. Both main parties find much in it which they think supports their respective cases. In broad terms, the appellants stress its clear and emphatic references to the need to promote and encourage sustainable development, and the vital importance of housing delivery, including that of affordable housing, particularly where there is a demonstrable shortfall in the 5 year housing land supply. They also cite its precepts on good design, and consider that the outline scheme complies with them, with the prospect of even fuller compliance at the reserved matters stage.
370. For its part, the Council takes comfort from the Framework's references to the need to protect and conserve green open space, and the countryside. It also relies on the Government's localism agenda as supporting and underpinning its right to define and designate (or in this case, perpetuate) a local Green Wedge and restrict development within it.

371. While accepting that the Framework has now replaced various previous policy documents cited²² in their evidence to the Inquiry, neither party considers that it has altered or upset the general thrust of its arguments. I agree with that; in my view the Framework has not in effect undermined either party's case, and indeed it contains much that is supportive of both. It contains no highly significant changes in national policy which might by themselves affect the outcome, and has not changed the local planning policy context.
372. On the general presumption in favour of sustainable development, the Framework provides an explanation of the term, beyond that contained in previous national policy. It points out 3 dimensions to sustainable development – economic, social and environmental. However, there remains the familiar planning conundrum as to whether a development can properly and unequivocally be regarded as “sustainable” where there are demonstrable and widely felt environmental objections to it, as in this case.
373. Thus, in some respects the proposed development in this appeal can and should be regarded as sustainable – particularly in its close and convenient location relative to Coalville town centre, its transport arrangements and connections (not contested or even much discussed at the inquiry), and in other aspects of its overall design, including all those features which achieve a high CABE “Building for Life” rating. And it would make a very significant contribution towards meeting the housing needs of the district, both in the short term and in the longer term.
374. On the other hand, it would largely obliterate a longstanding, attractive and highly valued tract of farmed countryside - designated in the development plan as a Green Wedge and still, to my mind, serving a valuable planning function - overwhelmingly against the expressed wishes of the local population. Therefore, regardless of its popularity or otherwise, there is in my opinion no simple answer as to whether the scheme as a whole represents sustainable development, or not.
375. Given its mission to reduce and simplify the large volume of previous national planning policy and advice, the Framework is intentionally brief on some other material considerations in this appeal, particularly on air quality and on best and most versatile agricultural land. I consider that both remain material considerations, and it is a matter of judgement how much any demonstrable harm to them should weigh in the overall planning balance. As to prematurity, I have already noted that the previous advice in *The Planning System: General Principles* has not changed or been replaced.
376. In sum, I do not think that the Framework, “taken as a whole”, enables a clear cut judgement to be made as to the sustainability (or un-sustainability) of the appeal scheme. Nor does it point unequivocally towards either a grant or a refusal of planning permission. That said, the aforementioned strong emphasis within it on housing delivery might be thought to favour the appellants, even against the claims of localism, but only if the Secretary of State finds this to be a finely balanced case.

²² as reported above, esp. sections 7 and 8

377. *Overall conclusions:* There is a demonstrable and significant shortfall in the 5 year land supply in North West Leicestershire, however this is calculated, and therefore a pressing need to identify deliverable housing sites in the district. Other than being in a designated Green Wedge, the appeal site is in a generally sustainable location for large scale housing development, and the Stephenson Green (appeal) scheme has various acknowledged design merits and would bring several benefits to Coalville, including some 280 affordable dwellings.
378. However, it would conflict with and harm the purposes, integrity and character of the Green Wedge between Coalville and Whitwick, a longstanding and popular designation which the Council intends to carry forward into its emerging Core Strategy, while allocating housing land elsewhere around Coalville. Local people, supported by their MP, would overwhelmingly regard the grant of outline permission as being contrary to the Government's localism agenda. The scheme would also be of such a scale as to prejudice the outcome of the district's emerging Core Strategy, and should therefore be considered premature.
379. The scheme would also entail a significant loss of best and most versatile agricultural land and would probably cause a worsening of air quality in the Coalville Air Quality Management Area through increased nitrogen dioxide emissions.
380. On balance, these disadvantages outweigh the scheme's merits, and the proposals cannot be regarded as sustainable development which, according to the Framework, should be allowed. Owing to them, the proposals do not comply with the development plan as a whole, and the appeal should be dismissed.

15 Recommendation

381. I recommend that the appeal be dismissed and that outline planning permission be refused.
382. In the event that the appeal is allowed I recommend that outline planning permission is granted subject to the conditions set out in an annex to this report.

Paul Dobsen

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Christopher Young, of
counsel

instructed by Mrs E Warhurst, Head of Legal and
Democratic Services, North West Leicestershire
DC

He called:

Mr Andrew Murphy BA MSc MRTPI
Town planning consultant, Stansgate Planning
LLP
Dr Bethan Tuckett-Jones
Head of Air Quality, Parsons Brinckerhoff Ltd.
PhD CEnv MIAQM

FOR THE APPELLANTS:

Mr Jeremy Cahill, QC

instructed by Mr C Alsbury and others, GVA
Planning Development and Regeneration

He called:

Mr Malcolm Reeve BSc FISoilSci CSci MBIAC
MCIWEM
Land Research Associates
Mr Nigel Mann BSc MSc MIOA AIEMA
WYG Environment
Mr Jamie Cassie MIHT
WYG Transport Planning
Mr Andrew Williams BA DipUD
Define (urban design consultancy)
Mr C Alsbury BA BTP MRTPI
GVA Planning Development and Regeneration

FOR LEICESTERSHIRE COUNTY COUNCIL (a Rule 6 party):

Mr J Prendergrast

Principal Solicitor, LCC

He called (re S106
contributions):

Mr Andrew Tyrer
Developer Contributions Officer, LCC
Mr Steve Kettle BA DipLib
Senior Development Manager, Library Services
GDipMan MCLIP
LCC
Mr Ian Braker MSc
Waste Project Officer, LCC

FOR WHITWICK ACTION GROUP (WAG) (a Rule 6 party):

Ms Janet Hodson BA DipTP
MRTPI
JVH Town Planning Consultants Ltd
Ms Sue Colledge
Chair, WAG
Ms Jo Straw
Vice-Chair, WAG

OTHER INTERESTED PARTIES
AND PERSONS:

Andrew Bridgen MP	Member of Parliament for North West Leicestershire
Mr M Lambert MRTPI	Leicestershire Police (re S106 contributions)
Ms Amanda Anderson	Leicester City, Leicestershire County and Rutland Primary Care Trust (re S106 contributions)
Mr Gary Lees	Pegasus Planning Group, representing Bloor Homes (etc.)

Local residents:

Mr Ray Woodward	Member of NWLDC, Chair of Whitwick Parish Council, and local resident
Mr Tony Gillard	Member of NWLDC and local resident
Mr Richard Lee	Local resident
Ms Claire Swain	Local resident
Mr Neil Houlton	Local resident
Mrs Lin Houlton	Local resident
Mr Graham Dugdale	Local resident
Mr Gary Hamilton	Local resident

Richborough Estates

Annex 1: Inquiry Programme

PROGRAMME AS AT INQUIRY CLOSE

DATE	TIME	SCHEDULE	KEY PROOF(S)
Week 1			
07.02.12	10.00 – 13.15	Introductions & Opening Statements Inspector Appellants North West Leicestershire District Council Whitwick Action Group	
		Evidence in Chief of Mr Andrew Murphy (NWLDC)	Planning Policy NWLDC 1 / 1A / 1B
	13.15 – 14.15	Lunch	
	14.00 – 17.00	Continuation of Evidence in Chief of Mr Andrew Murphy (NWLDC)	
		Cross Examination of Mr Andrew Murphy by Appellants	
08.02.12	10.00 – 13.00	Continuation of Cross Examination of Mr Andrew Murphy by Appellants	
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Continuation of Cross Examination of Mr Andrew Murphy by Appellants	
		Re-Examination of Mr Andrew Murphy	

09.02.12	10.00 – 13.00	Andrew Bridgen MP (scheduled for 10.00am)	TP5
		Ms Sue Colledge – Whitwick Action Group	TP7 / 7A
		Evidence in Chief of Dr Bethan Tuckett-Jones (NWLDC)	Air Quality NWLDC 2 / 3 / 4
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Cross Examination of Dr Bethan Tuckett-Jones by Appellants (60)	
		Re-Examination of Dr Bethan Tuckett-Jones	
Week 2			
14.02.12	10.00 – 13.00	Evidence in Chief of Mr Andrew Tyrer (LCC) (10)	Developer Contributions LCC 1
		Cross Examination of Mr Andrew Tyrer by Appellants (60)	
		Re-Examination of Mr Andrew Tyrer	
		Evidence in Chief of Mr Ian Braker (LCC) (20)	Contributions – Civic Amenity LCC 4
		Evidence in Chief of Mr Steve Kettle (LCC) (20)	Contributions – Libraries LCC 5
		Evidence in Chief of Ms Susan Owen (LCC) (30)	Contributions – Education LCC 2 / 3
		Mr Michael Lambert, Leicestershire Police	POL 1 / 2 & 3
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Continuation of Mr Michael Lambert, Leicestershire Police	

		Cllr Ray Woodward, Chair of Whitwick Parish Council	TP6 / 6A
		Mr. Richard Lee, Whitwick	TP9
		Ms. Claire Swain, Whitwick	TP11
		Lin Hoult, Coalville	TP12
		Neil Hoult, Coalville	TP13
		Mr. Graham Dugdale	TP14
		Mr. Garry Hamilton, Coalville	TP10 / 10B
15.02.12	10.00 – 13.00	Ms Amanda Anderson - Leicestershire and Rutland Primary Care Trust	PCT 1
		Evidence in Chief of Ms Janet Hodson (Whitwick Action Group)	Planning WAG 1 / 2
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Continuation of Evidence in Chief of Ms. Janet Hodson	
		Cross Examination of Ms Janet Hodson by Appellant	
		Re-Examination of Ms Janet Hodson	
		Ms Jo Straw – Whitwick Action Group	TP15 / 15A
		Cllr Tony Gillard	TP8
16.02.12		Non Sitting Day	

Week 3			
21.02.12	10.00 – 13.00	Mr Gary Lees, Pegasus Planning for Bloor Homes	TP 1 / 1A / 1B / 1C / 1D / 4 & 4A
		Evidence in Chief of Mr Malcolm Reeve (Appellants)	Agricultural Land WDJ 8
		Cross Examination of Mr Malcolm Reeve by NWLDC	
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Continuation of Cross examination of Mr Malcolm Reeve (if required)	
		Re-Examination of Mr Malcolm Reeve	
		Evidence in Chief of Mr Nigel Mann (Appellants)	Air Quality WDJ 6
		Cross Examination of Mr Nigel Mann by NWLDC	
22.02.12	10.00 – 13.00	Continuation of Cross Examination of Mr Nigel Mann	
		Re-Examination of Mr Nigel Mann	
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Evidence in Chief of Mr Jamie Cassie (Appellants)	Transport WDJ 5
		Evidence in Chief of Mr Andrew Williams (Appellants)	Urban Design WDJ 3 / 4 / 4A
		Cross Examination of Mr Andrew Williams by NWLDC	
23.02.12	10.00 – 12.00	Continuation of Cross Examination of Mr Andrew Williams	
		Re-Examination of Mr Andrew Williams	

		Evidence in Chief of Mr Craig Alsbury (Appellants) (60)	Planning Policy WDJ 1 / 1A
	12.00 – 13.00	Lunch	
	14.00 – 17.00	Cross Examination of Mr Craig Alsbury by NWLDC (300)	
Week 4			
28.02.12	10.00 – 13.00	Continuation of Cross Examination of Mr Craig Alsbury by NWLDC	
	13.00 – 14.00	Lunch	
	14.00 – 17.00	Continuation of Cross Examination of Mr Craig Alsbury by NWLDC	
		Re-Examination of Mr Craig Alsbury	
		Conditions	
29.02.12		Section 106	
		Closing Submissions Whitwick Action Group	
		Closing Submissions LCC	
		Closing Submissions NWLDC	
		Closing Submissions Appellant	

Annex 2 Stephenson's Green Inquiry

Appeal by William Davis Ltd and Jelson Ltd

Land North of A511 Stephenson Way, Coalville, Leicestershire
Appeal Ref: APP/G2435/A/11/2158154

CORE DOCUMENTS LIST

A. Planning Application Documents

REF	DOCUMENT
CD-PA1	Application Forms and Certificates
CD-PA2	Site Location Plan
CD-PA3	Planning Statement
CD-PA4	PPS4 Statement
CD-PA5	Statement of Consultation
CD-PA6	Design and Access Statement
CD-PA7	Environmental Statement NTS
CD-PA8	Environmental Statement Volume 1
CD-PA9	Environmental Statement Volume 2
CD-PA10	Letter from GVA to Programme Officer
CD-PA11	Advertisement Placed in Respect of Additional Information Submitted
CD-PA12	Amended Site Location Plan
CD-PA13	Design and Access Statement Addendum
CD-PA14	Environmental Statement Volume 1 Addendum
	<ul style="list-style-type: none"> a) Chapter 9. Traffic and Transport b) Chapter 11. Air Quality c) Chapter 17. Drainage and Flood Risk
CD-PA15	Environmental Statement Volume 2 Addendum
	<ul style="list-style-type: none"> a) Transport Assessment b) Air Quality Assessment c) Flood Risk Assessment d) Drainage Strategy Report

B. National Planning Policy

REF	DOCUMENT
CD-NPP1	Planning Policy Statement 1: Delivering Sustainable Development (PPS1) 2005 http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement1.pdf
CD-NPP2	The Planning System: General Principles - annexed to PPS1 Delivering Sustainable Development http://www.communities.gov.uk/documents/planningandbuilding/pdf/147396.pdf
CD-NPP3	Planning Policy Statement 3: Housing (PPS3) 2010 http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918430.pdf
CD-NPP4	Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) 2004 http://www.communities.gov.uk/documents/planningandbuilding/pdf/147402.pdf
CD-NPP5	Planning Policy Guidance 13: Transport (PPG13) 2001 http://www.communities.gov.uk/documents/planningandbuilding/pdf/1758358.pdf
CD-NPP6	Planning Policy Statement 23: Planning and Pollution Control (PPS23) http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningpolicystatement23.pdf
CD-NPP7	Planning for Growth 2011 http://www.communities.gov.uk/statements/corporate/planningforgrowth
CD-NPP8	Strategic Housing Land Availability Assessments: Practice Guidance 2007 http://www.communities.gov.uk/documents/planningandbuilding/pdf/399267.pdf
CD-NPP9	Circular 05/2005: Planning Obligations http://www.communities.gov.uk/documents/planningandbuilding/pdf/1

	47537.pdf
CD-NPP10	Community Infrastructure Levy Regulations 2010 http://www.legislation.gov.uk/uksi/2010/948/pdfs/uksi_20100948_en.pdf
CD-NPP11	Community Infrastructure Levy (Amendment) Regulations 2011 http://www.legislation.gov.uk/uksi/2011/987/pdfs/uksi_20110987_en.pdf
CD-NPP12	Draft National Planning Policy Framework 2011 http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951811.pdf
CD-NPP12A	Post Inquiry Submissions No.1: The Implications of the NPPF from the Appellants
CD-NPP12B	NWLDC Response to the Implications of the NPPF
CD-NPP12C	LCC Response to the Implications of the NPPF
CD-NPP13	Localism Act 2011 http://www.legislation.gov.uk/ukpga/2011/20/part/6/enacted
CD-NPP14	National Household Projections (DCLG)
CD-NPP15	New Homes Bonus Consultation Paper (DCLG)
CD-NPP16	Letter to Chief Planning Officer from Rt Hon Eric Pickles MP (27/5/10)
CD-NPP17	Letter to Chief Planning Officer from Government's Chief Planner (6/7/10)
CD-NPP18	Letter to Chief Planning Officer from Government's Chief Planner (10/11/10)
CD-NPP19	Written Statement: Revoking Regional Strategies (Rt Hon Eric Pickles MP) (6/7/10)
CD-NPP20	Written Statement: Regional Government (Rt Hon Eric Pickles MP) (22/7/10)
CD-NPP21	Written Statement: Localism Bill and Planning (Rt Hon Eric Pickles MP) (10/11/10)
CD-NPP22	Laying the Foundations: A Housing Strategy for England (2011)
CD-NPP23	Decentralisation and the Localism Bill: An Essential Guide (HM Government)

CD-NPP24	Environmental Report on the Revocation of the East Midlands Regional Plan, CLG October 2011
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C. Development Plan

REF	DOCUMENT
CD-DP1	Review of the East Midlands Regional Plan to 2026 'Options for Change' (2005)
CD-DP2	Leicestershire County Council Report to Cabinet 4 July 2005
CD-DP3	North West Leicestershire District Council Report to Executive Board 3 January 2006
CD-DP4	Leicestershire County Council Report to Cabinet 12 January 2006
CD-DP5	Leicestershire County Council Report to Cabinet 13 February 2006
CD-DP6	Leicestershire County Council Report to Cabinet 5 September 2006
CD-DP7	Draft East Midlands Regional Plan (2006)
CD-DP8	North West Leicestershire District Council Report to Executive Board 28 November 2006
CD-DP9	North West Leicestershire District Council Report to Executive Board 10 July 2007
CD-DP10	East Midlands Regional Plan Report of the Panel (2007)
CD-DP11	North West Leicestershire District Council Report to Executive Board 16 September 2008
CD-DP12	East Midlands Regional Plan Secretary of State's Proposed Changes (2008)
CD-DP13	East Midlands Regional Plan (2009) http://webarchive.nationalarchives.gov.uk/20100528142817/http://www.gos.gov.uk/497296/docs/229865/EMRP
CD-DP14	North West Leicestershire Local Plan http://www.nwleics.gov.uk/files/documents/north_west_leicestershire_local_plan/North%20West%20Leicestershire%20Local%20Plan.pdf
CD-DP15	North West Leicestershire Local Plan (Schedule of Saved Policies) http://www.nwleics.gov.uk/files/documents/schedule_of_saved_policies/Schedule%20of%20Saved%20Policies.pdf

D. Supplementary Planning Documents / Guidance

REF	DOCUMENT
CD-SPD1	Leicestershire County Council: Statement of Requirements for Developer Contributions 2006 http://www.leics.gov.uk/dev_cont_update_121207-2.pdf
CD-SPD2	Leicestershire County Council: 6Cs Design Guide (2011) http://www.leics.gov.uk/index/6csdq.htm
CD-SPD3	North West Leicestershire District Council: Affordable Housing SPD 2011 http://www.nwleics.gov.uk/files/documents/adopted_affordable_housing_spd2/Adopted%20Affordable%20Housing%20SPD.pdf

E. LDF Documents

REF	DOCUMENT
CD-LDF1	Issues and Options Consultation November 2005
CD-LDF2	Statement of Community Involvement November 2005
CD-LDF3	Core Strategy Additional Consultation Summer 2007
CD-LDF4	North West Leicestershire District Local Development Scheme (2007)
CD-LDF5	North West Leicestershire District Council Report to Cabinet 21 October 2008
CD-LDF6	A Strategy for Growth and Change - Core Strategy Further Consultation November 2008
CD-LDF7	Core Strategy Further Consultation – Summary of Responses Spring 2009
CD-LDF8	North West Leicestershire District Council Report to Cabinet 16 June 2009
CD-LDF9	North West Leicestershire District Council Report to Cabinet 14 July 2009
CD-LDF10	North West Leicestershire District Council Report to Cabinet 20 October 2009
CD-LDF11	North West Leicestershire District Council Report to Cabinet 2 February 2010
CD-LDF12	North West Leicestershire District Council Report to Cabinet 31

	August 2010
CD-LDF13	North West Leicestershire District Council Report to Cabinet 1 March 2011
CD-LDF14	Core Strategy Consultation May 2011
CD-LDF15	Leicestershire County Council 'green spaces engagement' exercise (January to April 2011) - Report to Cabinet 26th July 2011
CD-LDF15A	Appendix A of LDF 15: Valued Green Spaces Leicestershire Intensity Map by Community Forum Boundaries
CD-LDF15B	Appendix B of LDF 15: Green Space Consultation – Update on Coalville Community Forum Results
CD-LDF16	Leicester and Leicestershire Housing Requirements Study (September 2011)
CD-LDF17	North West Leicestershire District Council Report to Cabinet 18 October 2011.
CD-LDF18	Leicestershire County Council Green Spaces Consultation Report (December 2011)

F. Evidence Base of LDF

CD-EBLDF1	Housing Land Background Paper
CD-EBLDF2	Green Wedge Background Paper
CD-EBLDF3	The Prince's Foundation Report 2010
CD-EBLDF4	Landscape Character Assessment – August 2010
CD-EBLDF5	Affordable Housing Viability Assessment - September 2009
CD-EBLDF6	Coalville Transport Assessment July 2008
CD-EBLDF7	PTOLEMY Transport Assessment June 2009
CD-EBLDF8	Housing Land Availability Assessment 2010
CD-EBLDF9	Housing Land Availability Assessment 2011
CD-EBLDF10	SHLAA Errata Sheet for Site C23

G. Appeal Decisions

REF	DOCUMENT
CD-AD1	Ipswich Borough Council, APP/R3515/A/09/2115949 , Decision issued 30 September 2010 http://www.pcs.planningportal.gov.uk/pcsportal/fscdav/READONLY?O BJ=COO.2036.300.12.2390352&NAME=/10-09-30%20DL%20IR%20%20Challenge-Westerfield%20Road%202115949.pdf
CD-AD2	Winchester City Council, Appeal ref APP/L1765/A/10/2126522, Decision issued 28 September 2011 http://www.pcs.planningportal.gov.uk/pcsportal/fscdav/READONLY?O BJ=COO.2036.300.12.3543568&NAME=/11-09-28%203%20in%201%20Barton%20Farm%20Winchester.pdf
CD-AD3	Cheshire East Council, APP/R0660/A/10/2141564, Decision issued 29 September 2011 http://www.pcs.planningportal.gov.uk/pcsportal/fscdav/READONLY?O BJ=COO.2036.300.12.3548008&NAME=/11-09-29%203%20in%201%20Middlewich%20Rd%20Sandbach%202141564.pdf
CD-AD4	Cornwall Council, APP/D0840/A/10/2130022, Decision issued 31 October 2011 http://www.pcs.planningportal.gov.uk/pcsportal/fscdav/READONLY?O BJ=COO.2036.300.12.3653105&NAME=/Decision.pdf
CD-AD5	Blaby District Council, APP/T2405/A/10/2138666, Decision Issued 24 October 2011 http://www.communities.gov.uk/documents/planning-callins/pdf/2014745.pdf
CD-AD6	Cornwall Council, APP/D0840/A/09/2115945, Decision Issued 28 July 2011 http://www.communities.gov.uk/documents/planning-callins/pdf/1955047.pdf
CD-AD7	South Kesteven District Council, APP/E2530/A/11/2159749, Decision Issued 14 December 2011
CD-AD8	Bromsgrove District Council, APP/P1805/A/11/2160221, Decision Issued 11 January 2012
CD-AD9	Bromsgrove District Council, APP/P1805/A/11/2152467/NWF, Decision

	Issued 3 rd February 2012
CD-AD10	Appeal Decision Referenced in NWLDC 1C APPEALS BY PAUL NEWMAN NEW HOMES - LAND AT VALLEY FARM, LEIGHTON ROAD, SOULBURY, BUCKINGHAMSHIRE, LU7 0JJ: A. Application Ref: 10/00500/AOP B. Application Ref: 11/00426/APP C. Application Ref: CB/10/00859/FULL (withdrawn) D. Application Ref: CB/11/00750/FULL
CD-AD11	Appeal Decision Referenced in NWLDC 1C APPEAL BY O & H (Q6) Ltd AT LAND SOUTH OF NEWTON LEYS, DRAYTON ROAD, MK17 0EE APPLICATION REFERENCE: 10/01535/AOP
CD-AD12	Torbay Council, APP/X1165/A/11/2145178, Decision Issued 19 th December 2011
CD-AD13	Barnsley Metropolitan Borough Council, APP: 2009/1277, Decision Issued 18 th January 2012
CD-AD14	Richborough Estates (Sandbach Ltd) versus Secretary of State / Cheshire East Borough Council, Details of Claim
CD-AD14A	Consent Order in relation to AD 14
CD-AD15	Jelson Ltd versus Secretary of State / Blaby District Council, Consent Order (12 th February 2012)
CD-AD16	Appeal Decision APP/Q4625/A/11/2157515 Solihull Metropolitan Borough Council, Land Known as Moat House Farm, Elmdon Road, Marston Green
CD-AD17	Costs Decision APP/P1805/A/11/2152467 Bromsgrove District Council, Land at St Godwald's Road, Bromsgrove
CD-AD18	Appeal Decision APP/W3710/A/112153247 Nuneaton and Bedworth Borough Council, Land Adjacent to Grove Lane, Keresley, Warwickshire, CV7 8LA
CD-AD19	Appeal Decision APP/W3710/A/11/2160148 Nuneaton and Bedworth Borough Council, Land off Church Lane and Weddington Road, Nuneaton
CD-AD20	R v Rochdale Metropolitan Borough Council ex prate Milne (2001) 81 P. & C.R. 27
CD-AD21	Appeal Decision 10/01535/AOP Aylesbury Vale District Council, Land South of Newton Leys, Drayton Road, MK17 0EE
CD-AD22	Appeal Decision APP/P1805/A/11/2150938, Bromsgrove District Council, Land off Norton Lane, Wythall, Worcestershire, B47 6HA

CD-AD23	Court of Appeal, Case No: C1/2011/0297 Cala Homes (South) Ltd versus Secretary of State for Communities and Local Government & ANR
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H. Inquiry Documents

CD-ID1	Statement of Common Ground (NWLDC / Appellants): Planning November 2011
CD-ID2	Statement of Common Ground (NWLDC / Appellants / LCC): Highways and Transportation November 2011
CD-ID3	Note of the Pre Inquiry Meeting 28 th November 2011
CD-ID4	Correspondence between NWLDC and Planning Inspectorate concerning Secretary of States direction on matters to be informed upon during the Inquiry.
CD-ID5	Press Notice Advertising Inquiry
CD-ID6	Site Notice
CD-ID7	Draft S106 Planning Agreement (30 th January 2012)
CD-ID7A	Revised Site Location Plan
CD-ID7B	Public Realm Plan
CD-ID7C	Draft S106 Planning Agreement (7 th February 2012)
CD-ID8	Draft Conditions (As At 10 th February 2012)
CD-ID8A	Draft Conditions (As At 20 th February 2012)
CD-ID8B	Draft Conditions (As At 23 rd February 2012)
CD-ID8C	Conditions (As At 28 th February 2012)
CD-ID8C	Conditions (As At 29 th February 2012)
CD-ID9	Signed Copy of S106 Planning Agreement
CD-ID9A	Section 106 Summary

I. Proofs of Evidence and Documents Submitted During the Inquiry The Appellants (William Davis / Jelson Ltd)

REF	DOCUMENT
CD-WDJ1	Proof of Evidence of Mr. Craig Alsbury (Planning)
CD-WDJ1A	Rebuttal Proof of Evidence of Mr. Craig Alsbury (Planning) (Includes

	Appendices)
CD-WDJ1B	Unused
CD-WDJ1C	Letter from Mr Craig Alsbury to Inspector dated 6 th February 2012 re: Marrons Submissions TP4 & TP4A
CD-WDJ1D	High Court Claim of Wainhomes (South West) Holdings Ltd and Secretary of State for CLG dated 8 th December 2011
CD-WDJ1E	Mr Craig Alsbury – Summary Proof of Evidence
CD-WDJ2	Proof of Evidence of Mr. Howard Fielding (Education)
CD-WDJ2A	Rebuttal Proof of Evidence of Mr. Howard Fielding (Education)
CD-WDJ3	Proof of Evidence of Mr. Andrew Williams (Urban Design)
CD-WDJ4	Appendices to Proof of Evidence of Mr. Andrew Williams (Urban Design)
CD-WDJ4A	Mr Andrew Williams, Urban Design Presentation
CD-WDJ4B	Leicestershire County Council – Green Spaces Consultation Overview
CD-WDJ4C	Comments on 1996 Plan – Inspector's Report
CD-WDJ5	Proof of Evidence of Mr. Jamie Cassie (Transport)
CD-WDJ5A	Rebuttal Proof of Evidence of Mr Jamie Cassie (Transport)
CD-WDJ6	Proof of Evidence of Mr. Nigel Mann (Air Quality)
CD-WDJ6A	Rebuttal Proof of Evidence of Mr. Nigel Mann (Air Quality)
CD-WDJ6B	Air Quality Action Plan (NWLDC December 2005)
CD-WDJ6C	Air Quality Progress Report for NWLDC (April 2011)
CD-WDJ6D	Withdrawn
CD-WDJ7	Proof of Evidence of Mr. Malcolm Reeve (Agricultural Land)
CD-WDJ7A	Rebuttal Proof of Evidence of Mr. Malcolm Reeve (Agricultural Land)
CD-WDJ8	Appendices to Proof of Evidence of Mr. Malcolm Reeve (Agricultural Land)
CD-WDJ9	Opening Statement
CD-WDJ10	Letter from GO-EM to NWLDC dated 21 st September 2007 re Local Plan Saved Policies
CD-WJD11	Police Authority Meeting 24 th January 2012, Report of Police Constable

	re: Architectural Liaison and Developer's Contributions
CD-WDJ11A	Minutes of Police Authority Meeting Held at Leicestershire Police Headquarters, Enderby, 24 th January 2012
CD-WDJ12	NWLDC Planning and Development Report re: Bardon Grange for Committee on 13 th February 2012
CD-WDJ12A	NWLDC Planning and Development Report re: Bardon Grange for Committee on 13 th February 2012 – Update Sheet
CD-WDJ13	Draft Position Statement on Housing Land Supply
CD-WDJ14	Leicestershire Constabulary – Force Area Statistics
CD-WDJ15	Article from 'Planning', 'Council's Freed from Teamwork Duty' 10 th February 2012
CD-WDJ16	Note on History of Air Quality Documents
CD-WDJ17	Closing Submissions
CD-WDJ17A	Closing Submissions Additional Comments
CD-WDJ17B	Closing Submissions Addendum

J. Proofs of Evidence and Documents Submitted During the Inquiry by North West Leicestershire District Council

REF	DOCUMENT
CD-NWLDC1	Proof of Evidence of Mr Andrew Murphy (Planning)
CD-NWLDC1A	Summary Proof of Evidence of Mr Andrew Murphy (Planning Policy)
CD-NWLDC1B	Additional Evidence of Mr Andrew Murphy (Planning Policy) – Housing Land Supply and Emerging Core Strategy
CD-NWLDC1C	Letter from Andrew Murphy Dated 13 th January Regarding Recent Appeal Decisions, Referring to AD10 and AD11
CD-NWLDC1D	Note on the Relevance of National Policy PPS4
CD-NWLDC1E	Consent Order from Cala Homes versus Secretary of State and Winchester City Council
CD-NWLDC2	Proof of Evidence of Dr Bethan Tuckett-Jones (Air Quality) (personally referenced BTJ/A)
CD-NWLDC3	Summary Proof of Evidence of Dr. Bethan Tuckett-Jones (Air Quality) (personally referenced BTJ/B)
CD-NWLDC4	Appendices to Proof of Evidence of Dr. Bethan Tuckett Jones (Air

	Quality) (personally referenced BTJ/C)
CD-NWLDC4A	Air Quality Detailed Assessment of Coalville AQMA (March 2011)
CD-NWLDC4B	Air Quality Detailed Assessment of 1 hour Mean Air Quality Standard at Broomleys Junction Coalville (November 2011)
CD-NWLDC4C	Trends in NOx and NO2 Emissions and Ambient Measurements in the UK (18 th July 2011)
CD-NWLDC4D	Draft Statement of Common Ground and Position Statement (NWLDC and Appellants) Relating to Air Quality (30 th January 2012)
CD-NWLDC4E	Withdrawn
CD-NWLDC5	Opening Statement
CD-NWLDC6	Planning Committee Report of 4 th October 2011 relating to Stephenson's Green Application
CD-NWLDC6A	Update Sheet for NWLDC 6
CD-NWLDC7	Update Report Regarding NWLDC Core Strategy Timetable
CD-NWLDC8	Defra – Measured Nitrogen Oxides (NOx) and/or Nitrogen Dioxides (NO2) Concentrations in my Local Authority Area do not Appear to be Declining in Line With National Forecasts. Should I take this into Account in my Review and Assessment Work? (1 st September 2010)
CD-NWLDC9	St Modwen Developments, Land off Ravenstone Road Coalville and Coalville Lane Ravenstone, Development Control Report for Planning Committee of 6 th March 2012
CD-NWLDC10	Closing Submissions

K. Proofs of Evidence and Documents Submitted During the Inquiry by Leicestershire County Council

REF	DOCUMENT
CD-LCC1	Proof of Evidence of Mr Andrew Tyrer (Developer Contributions)
CD-LCC1A	Supplementary Proof of Evidence of Mr Andrew Tyrer
CD-LCC2	Proof of Evidence of Ms Susan Owen (Education)
CD-LCC3	Appendices to Proof of Evidence of Ms Susan Owen (Education)
CD-LCC4	Proof of Evidence of Mr Ian Braker (Civic Amenity)
CD-LCC4A	Further Information Provided by Mr Ian Braker (Civic Amenity) at the Request of the Appellants

CD-LCC5	Proof of Evidence of Mr Steve Kettle (Libraries)
CD-LCC5A	Further Information Provided by Mr Steve Kettle (Libraries) at the Request of the Appellants
CD-LCC6	Unused
CD-LCC7	Unused
CD-LCC8	Revised Observations (20 th December 2011) (Previously erroneously referenced as HA1)
CD-LCC9	Leicestershire County Council – Representations following Cabinet Meeting of 20 th December 2011 (Previously referenced as TP2)
CD-LCC10	Letter to Alan Ridley (Planning Inspectorate) from LCC re: Appeal Ref: APP/G2435/A/11/2165777/NWF, Land North of Grange Road Hugglescote, Submitted in Relation to Evidence Presented at the Inquiry by Mr Gary Lees of Pegasus Planning
CD-LCC11	Closing Submissions

L. Proofs of Evidence and Documents Submitted During the Inquiry by the Whitwick Action Group

REF	DOCUMENT
CD-WAG1	Proof of Evidence of JVH Planning
CD-WAG2	Appendices to Proof of Evidence of JVH Planning
CD-WAG2A	Tables Detailing Plots Under Construction and With Planning Permission
CD-WAG2B	Plan Detailing Built and Open Areas of Appeal Scheme 2012
CD-WAG2C	Plan Detailing Built and open Areas in Jelson 1998 Proposals
CD-WAG3	Closing Submissions

M. Third Party Correspondence & Representations Received from 20th December 2011

REF	DOCUMENT
CD-TP1	Pegasus Planning (21st December 2011)
CD-TP1A	Pegasus Planning – Letter to Inspector (30 th January 2012)
CD-TP1B	Pegasus Planning – South East Coalville: The Sustainable Growth Strategy (October 2011)

CD-TP1C	Pegasus Planning - Proposed Strategic Development Site, Bardon Grange/South East Coalville: Position Statement on behalf of The Promoters & NWLDC
CD-TP1D	Draft Coalville Transport Strategy – Submitted by Pegasus Planning
CD-TP1E	Pegasus Planning – Statement as Presented
CD-TP2	Unused
CD-TP3	Highways Agency (26 th January 2012) Comments on Conditions and Technical Notes 1 & 2
CD-TP4	Marrons – Letter to Inspector (1 st February 2012)
CD-TP4A	Savell, Bird & Axon, Land off Grange Road, Hugglescote (N12107), Trip Destination and Hugglescote Cross Roads – Submitted by Marrons
CD-TP5	Statement of Andrew Bridgen MP
CD-TP5A	Statement (As Presented) of Andrew Bridgen MP
CD-TP6	Statement of Cllr Ray Woodward
CD-TP6A	Statement (As Presented) of Cllr Ray Woodward
CD-TP7	Statement of Ms Sue Colledge (Whitwick Action Group)
CD-TP7A	Statement (As Presented) of Ms Sue Colledge (Whitwick Action Group)
CD-TP8	Statement of Councillor Tony Gillard
CD-TP9	Statement of Mr Richard Lee
CD-TP10	Statement of Mr Gary Hamilton
CD-TP10A	Unused
CD-TP10B	Photo's Submitted by Mr Gary Hamilton
CD-TP11	Statement of Ms Claire Swain
CD-TP12	Statement of Mrs Lin Houtt
CD-TP13	Statement of Mr Neil Houtt
CD-TP14	Statement of Mr Graham Dugdale
CD-TP15	Statement of Ms Jo Straw
CD-TP15A	Ms Jo Straw – Email to Accompany Statement

CD-TP16	Statement of Mr Richard Vann
CD-TP16A	Further Statement of Mr Richard Vann
CD-TP17	Statement of Mr Simon Parker
CD-TP18	Statement of Ms Dawn Dewar

N. Proofs of Evidence and Documents Submitted During the Inquiry by Leicestershire Police

REF	DOCUMENT
CD-POL1	Statement of Mr. Michael Lambert of Leicestershire Constabulary (Contributions - Policing)
CD-POL2	Further evidence on existing infrastructure provision. Quantities. This information should be used to supplement the Police request for a developer contribution and appendix 4,5 and 8 of Mr. Michael Lambert's statement.
CD-POL3	Mr Michael Lambert, Leicestershire Police, on rebuttal issued by Mr. Craig Alsbury (CD-WDJ 1A)
CD-POL4	Mr Michael Lambert, Summary Evidence
CD-POL5	Letter and Report from P. Dawkins dated 7 th February 2012 re: Leicestershire Police Authority Policy for Developer Contributions and Implementation
CD-POL6	Letter from Michael Lambert for NWLDC dated 13.02.12 re: Developer Contributions

O. Proofs of Evidence and Documents Submitted During the Inquiry by Leicestershire County and Rutland Primary Care Trust

REF	DOCUMENT
CD-PCT1	Response to Planning Application by NHS Leicestershire County and Rutland Primary Care Trust
CD-PCT2	Letter from Amanda Anderson to GVA dated 3 rd February in response to contents of Mr Craig Alsbury's Rebuttal Proof (WDJ 1A)
CD-PCT3	Note Regarding Request for S106 Contributions Towards Health Care Provision – Opening Statement
CD-PCT4	The National Health Service Act 1977

Annex 3:

**NORTH WEST LEICESTERSHIRE
DISTRICT COUNCIL**

TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL BY WILLIAM DAVIS LTD
AND
JELSON LTD**

**LAND NORTH OF A511 STEPHENSON WAY, COALVILLE,
LEICESTERSHIRE**

**SUGGESTED CONDITIONS TO BE IMPOSED IN THE EVENT THE
APPEAL IS ALLOWED**

LOCAL PLANNING AUTHORITY REF NO:

10/01208/OUTM

PLANNING INSPECTORATE REF NO:

APP/G2435/A/11/2158154/NWF

CONDITIONS AGREED BY THE APPELLANTS AND THE LOCAL PLANNING AUTHORITY

A TIME LIMITS

- 1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the first reserved matters application to be approved, whichever is the later.

Reason – to comply with the requirements of section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 No development shall take place within any phase of the development unless and until full and details of the access (save for the details of vehicular access into the site from Stephenson Way and Hall Lane) to and within that phase, scale, layout and appearance of all buildings and landscaping (hereafter referred to as the reserved matters) have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 3 The first application for the approval of reserved matters shall be submitted to the local planning authority within two years of the date of this permission. All subsequent reserved matters shall be submitted no later than 10 years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

B SCOPE OF THE PERMISSION

- 4 In respect of those matters not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved plans:

- Site location plan as amended (drawing no. CS/036960.003) deposited with the Secretary of State and the Local Planning Authority on 6 January 2012;
- Proposed site access junction onto the A511 Stephenson Way (drawing no. 050 Rev F): and,
- Proposed site access junction onto Hall Lane (drawing no. 059 Rev B)).

Reason – for the avoidance of doubt and to determine the scope of this permission in the interests of proper planning.

- 5 The development hereby permitted shall not provide more than 1,420 dwellings.

Reason – in order to secure an acceptable form of development for this site.

C DESIGN CODE

- 6 No development shall take place unless and until a Design Code and Phasing Plan (including a masterplan) for the entirety of the site has been submitted to and approved in writing by the local planning authority. The Design Code and Phasing Plan should substantially accord with the principles and parameters described and illustrated in the Design and Access Statement (December 2010) and the Design and Access Statement Addendum (submitted to the Secretary of State and local planning authority on 6 January 2012). The development shall thereafter be carried out in accordance with the approved details.

Reason – To ensure an appropriate form of design, to comply with Policy 2 of the East Midlands Regional Plan, and Policies E\$ and H7 of the North West Leicestershire Local Plan..

D DRAINAGE, WATER RESOURCES AND ENVIRONMENTAL PROTECTION

- 7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) unless and until an infiltration removal strategy (including an implementation programme for the timing and provision of the infiltration removal) has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed strategy and timetable.

Reason - To ensure the protection of the environment (and in particular that there is no deterioration in the water quality of the receiving watercourse), in accordance with the Water Framework Directive, and to comply with Policy 32 of the East Midlands Regional Plan.

- 8 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) unless and until a scheme of foul drainage and surface water drainage for that phase has been submitted to and agreed in writing by the Local Planning Authority. None of the buildings within the relevant phase

shall be brought into use until such time as the relevant scheme has been implemented in full in accordance with the approved details. The submitted schemes shall demonstrate that any additional flows discharging into the surface water and foul sewerage drainage network will not cause deterioration in the operation of any Combined Sewer Overflows (CSOs) either upstream or downstream on the network and that there will not be an increase in spill frequency or volume from any CSOs affected by the increase in volume within the sewerage network.

Reason – In the interests of environmental quality as an increase in spill frequency or volume would (i) result in the discharge of raw sewage to the Grace Dieu Brook thereby risking failure to meet the statutory and non-statutory water quality objective for that water body; (ii) have the potential for significant environmental harm; and (iii) result in the deterioration of Water Framework Directive standards, and to comply with Policy 32 of the East Midlands Regional Plan.

- 9 Notwithstanding Condition 7 above, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a surface water drainage scheme for the site (or relevant phase), based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development (including a timetable for its implementation), has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The submitted scheme shall demonstrate:

- The utilisation of above ground holding sustainable drainage techniques;
- The limitation of surface water run-off to equivalent greenfield rates;
- The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
- Responsibility for the future maintenance of drainage features.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, to ensure the future maintenance of the sustainable drainage structures, and to comply with Policy 32 of the East Midlands Regional Plan.

- 10 No development shall commence unless and until a further Risk Based Land Contamination Assessment as recommended in GRM report (P4950/IA.2 dated August 2009) has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based

Land Contamination Assessment shall be carried out in accordance with:

- BS10175 Year 2001 Investigation of Potentially Contaminated Sites Code of Practice;
- BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and,
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

- 11 If, pursuant to condition 10, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004, and the Verification Plan shall be prepared in accordance with the requirements of Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010, and CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004. If, during the course of development, previously unidentified contamination is discovered, development shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the approved details and thereafter be so maintained.

Reason - To ensure that the land is fit for purpose.

- 12 If pursuant to condition 11, a Remedial Scheme and Verification Plan are produced, no part of the development hereby permitted shall be brought into use until such time as a Certification Investigation has been undertaken in line with the Verification Plan and report has been submitted to and approved in writing by the local planning authority. The Certification Investigation shall include:

- Results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;

- Test Certificates of imported material to show that it is suitable for its proposed use; and,
- A statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

Reason - To ensure that the land is fit for purpose.

- 13 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and agreed in writing by, the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

Reason - To protect the water environment, and to comply with Policy 32 of the East Midlands Regional Plan.

- 14 No part of the development (or, in the case of phased development, no part of the relevant phase) shall be brought into use until such time as soakaway testing (in accordance with BRE Digest 365) in respect of all proposed soakaways has been completed, and thereafter submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the ground is suitable for soakaway drainage of surface water, and to comply with Policy 32 of the East Midlands Regional Plan.

- 15 No piling using penetrative methods shall be undertaken during the undertaking of the development at any time unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the piling method does not introduce a pathway for contaminants to migrate into controlled waters, and to comply with Policy 32 of the East Midlands Regional Plan.

- 16 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a scheme has been formulated for the installation of oil and petrol separators in any hardstanding designed to accommodate parked buses, HGVs, or more than 65 cars, and until such as scheme has been submitted to and agreed in writing by the Local Planning Authority. The development (or, in the case of phased development, the development within the relevant phase) shall not

be brought into use until such time as the relevant part of the scheme has been implemented in full.

Reason - To protect the water environment, and to comply with Policy 32 of the East Midlands Regional Plan.

- 17 All areas of hardstanding designed to accommodate vehicle parking for 5 or more vehicles shall incorporate either trapped gullies or be of a permeable specification, the precise details of which shall be included within the relevant reserved matter application. No such hardstanding areas shall be brought into use until such time as the relevant trapped gullies have been installed in accordance with approved details.

Reason - To protect the water environment, and to comply with Policy 32 of the East Midlands Regional Plan.

E ECOLOGY AND BIODIVERSITY

- 18 No development shall take place within any phase of the development unless and until full details of a landscape and biodiversity management plan, including long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscaped areas (except privately owned domestic gardens) within that phase, together with a timetable for its implementation has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. For the avoidance of doubt the landscape management plan shall include the following information:

- the extent and type of new planting (planting to be of native species)
- details of maintenance regimes
- details of any new habitat created on site
- details of treatment of site boundaries and/or buffers around water bodies
- details of management of SuDs schemes present within the development site
- details of urban biodiversity design to be integrated into the development.

Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with national planning policy, and to comply with Policies 28 and 29 of the East Midlands Regional Plan and Policies E2 and E7 of the North West Leicestershire Local Plan.

- 19 The first reserved matters application for each phase of the development shall be accompanied by full details of all measures proposed in respect of the enhancement of the biodiversity of the area, including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable.

Reason – To ensure the development contributes to the meeting of BAP and LBAP priorities, and to comply with Policy 29 of the East Midlands Regional Plan.

- 20 No hedgerows shall be removed or soil stripping undertaken pursuant to this planning permission during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, work in the area shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.

- 21 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as the disused badger sett identified in the application has been reassessed and the results submitted to the Local Planning Authority. Should badger activity be noted, no work within the relevant area shall take place until first agreed in writing by the Local Planning Authority.

Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.

- 22 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as details of a watching brief for reptiles during initial site clearance has been submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken strictly in accordance with the agreed details.

Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.

- 23 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as details of a scheme of replacement bird and bat habitat (including a timetable for its provision) has been submitted to and agreed in writing by the Local Planning Authority. The development

shall be undertaken strictly in accordance with the agreed details and timetable.

Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.

- 24 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) unless, within a period of no more than 12 months prior to the commencement of work on the site (or, in the case of phased development, in respect of the relevant phase), a nocturnal bat survey has been undertaken, and the results (including mitigation measures and a timetable for such mitigation where appropriate) submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken strictly in accordance with the agreed details and timetable.

Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.

- 25 No tree identified within Environmental Statement as having the potential to support bats shall be removed until such time as the relevant tree has been surveyed for bats, and the results (including mitigation measures and a timetable for such mitigation where appropriate) submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken strictly in accordance with the agreed mitigation details and timetable.

Reason - In the interests of nature conservation, and to comply with Policy 26 of the East Midlands Regional Plan.

F ENVIRONMENTAL PERFORMANCE

- 26 At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority as a part of the first reserved matters submissions required by Conditions 1 and 2 above. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

Reason – To ensure the scheme provides for a sustainable form of development, and to comply with the provisions of the East Midlands Regional Plan.

G NOISE

- 27 No development shall commence (or in the case of a phased development, that particular phase) unless and until a scheme identifying the Noise Exposure Categories (NEC) within which the dwellings and related private gardens in that phase are located, has been submitted to and approved in writing by the local planning authority. The scheme shall include measures to mitigate noise in relation to any dwellings falling within Noise Exposure Category (NEC) C (as set out in Section 10 of the Environmental Statement). No such dwelling shall be occupied until the approved scheme has been implemented in full.

Reason – To ensure that future occupiers of the development are protected from excessive noise, in the interests of amenity, and to comply with Policy E3 of the North West Leicestershire Local Plan.

H COMMERCIAL AND COMMUNITY USES

- 28 The retail food store hereby permitted shall not exceed 400 square metres gross floorspace at any time.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, and to ensure satisfactory control over the retail impact of the development.

- 29 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floor space of uses falling within Classes A1, A2, A3, A4 or A5 of that Order shall not exceed 1,000 square metres at any time.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, and to ensure satisfactory control over the retail impact of the development.

I HIGHWAYS AND TRANSPORTATION

- 30 No part of the development hereby permitted shall be occupied unless and until the Stephenson Way signalised site access junction detailed on White Young Green drawing no. A056098-050-F has been implemented and is fully operational.

Reason - To provide satisfactory vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 31 No development shall commence unless and until precise details of improvement works to junctions on the local highway network,

together with a phasing programme for their implementation (relating to the occupation of dwellings within each phase of the development) have been submitted to and approved in writing by the Local Planning Authority.

The submitted details shall include details of works to the following junctions, and shall provide measures as indicated generally on the relevant drawings:

- Hall Lane site access as shown on WYG drawing no. A056098-059-B
- A511 / Hough Hill / A447 / Ashby Road roundabout junction as shown on WYG drawing no. A056098-056
- A511 / Thornborough Road roundabout junction as shown on WYG drawing no. A056098-051
- A511 / Hermitage Road / Whitwick Road roundabout junction as shown on WYG drawing no. A056098-052-A
- A511 / Broom Leys Road signalised junction as shown on WYG drawing no. A056098-53-A
- A511 / Bardon Road (signalised) junction as shown on WYG drawing no. A056098-054-A
- A511 / Reg's Way / Grange Road roundabout junction as shown on WYG drawing no. A056098-061
- Hall Lane / Meadow Lane priority junction as shown on WYG drawing no. A056098-057-A

No individual dwelling shall be occupied until such time as the junction improvements required in association with the phasing relevant to the said dwelling have been undertaken in full in accordance with the approved details.

Reason - To ensure that traffic generated from the site is satisfactorily catered for on the local road network, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 32 No part of the development hereby permitted shall be occupied unless and until a footway / cycleway has been provided on the north side of Stephenson Way between its junctions with Hermitage Road and Broom Leys Road in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason – In the interests of pedestrian safety, given that the highway on Stephenson Way fronting the site has no separate facility for pedestrians and the proposal would lead to an increase in pedestrian movement along the highway.

- 33 No development shall commence on the site until such time as a construction management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision,

has been submitted to and approved in writing by the Local Planning Authority. The approved construction management plan shall be adhered to throughout the construction period.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic associated with the development does not lead to on-street parking problems in the area.

- 34 No part of the development hereby permitted shall be occupied unless and until the highway improvement works to M1 Junction 22 and A42 Junction 13 (detailed in Savell Bird Axon drawing number N12107-001 Rev A and Colin Buchanan drawing number 17446-B-004 Rev A) have been implemented and are fully operational.

Reason - To ensure that the M1 Motorway and A42 Trunk Road continue to serve their purpose as an effective part of the Strategic Road Network in accordance with Circular 02/2007 'Planning and the Strategic Road Network'.

CONDITIONS NOT AGREED BY THE APPELLANTS AND LOCAL PLANNING AUTHORITY

Local Planning Authority Conditions:

- LPA1 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all means of mitigation measures as set out in the Environmental Statement, including timetables for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved details and timetables unless in accordance with any variation first agreed in writing by the Local Planning Authority.

Reason - To ensure the development and associated impacts take the form envisaged in the Environmental Statement.

- LPA2 No more than 700 dwellings within the development hereby permitted shall be occupied until such time as the retail food store hereby permitted has been completed and is available for occupation.

Reason – To ensure that the proposed development provides for the facilities identified as being necessary to support the site at an appropriate time.

Appellant Condition:

APP1 No development shall commence unless and until a scheme of measures to mitigate the impact of the development for the Coalville AQMA at the Broom Leys Road / Stephenson's Way junction, consistent with the methods, aims and objectives of the NWLDC Air Quality Action Plan, has been submitted to and approved in writing by NWLDC. Upon commencement of development the submitted scheme shall thereafter be implemented in accordance with the approved details.

Reason – To address the air quality implications of the development permitted herein. [as inserted verbally by J Cahill QC]

Richborough Estates

Annex 4: Abbreviations used in this report

ACS	Appellants' closing submissions to Inquiry
AQAP	Air Quality Action Plan
AQMA	Air Quality Management Area
BMV	Best and Most Versatile (agricultural land)
CABE	Commission for Architecture and the Built Environment
CIL	Community Infrastructure Levy
CS	Core Strategy
DEFRA	Department for Food and Rural Affairs
DPD	Development Plan Document
EMRP	East Midlands Regional Plan
ES	Environmental Statement
ha.	hectare
km.	kilometre
LCC	Leicestershire County Council
LDF	Local Development Framework
LPA	Local Planning Authority
LPACS	LPA's closing submissions to Inquiry
m.	metre
MAFF	(former) Ministry of Agriculture Fisheries and Food
MP	Member of Parliament
NO ₂	Nitrogen Dioxide
NPPF	National Planning Policy Framework ("The Framework")
NWLDC	North West Leicestershire District Council
NWLLP	North West Leicestershire Local Plan (adopted 2002)
para.	paragraph
PCT	Primary Care Trust
PDL	Previously Developed Land
PIM	Pre-Inquiry Meeting
PPS	Planning Policy Statement
SCG	Statement of Common Ground
SECSUE	South East Coalville Sustainable Urban Extension
SHLAA	Strategic Housing Land Availability Assessment
SRC	Sub-Regional Centre (as identified in the EMRP)
SUE	Sustainable Urban Extension
WAG	Whitwick Action Group

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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