Department for Communities and Local Government

AR & MA Pridgeon &
Gladman Developments Ltd
Gladman House
Alexandria Way
Congleton
Cheshire
CW12 1LB

Our Ref: APP/D2510/A/14/2218774

15 July 2015

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY AR & MA PRIDGEON & GLADMAN DEVELOPMENTS LTD
LAND NORTH-EAST AND SOUTH-WEST OF THE B1200 (LEGBOURNE ROAD), LOUTH, LINCOLNSHIRE, LN11 8LC

Richborough Estates

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr J Stuart Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT, who held a public local inquiry which opened on 25 November 2014 into your appeal against a decision of East Lindsey District Council to refuse outline planning permission for a mixed use sustainable urban extension comprising up to 970 dwellings, including affordable housing, a local centre/community hub, a primary school, public open space, structural landscaping and the provision of vehicular, cycle and pedestrian access, car and cycle parking and facilities for public transport at land north-east and south-west of the B1200 (Legbourne Road), Louth, Lincolnshire, LN11 8LC in accordance with application ref: N/105/01376/13, dated 19 July 2013.

2. On 6 June 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's analysis and 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.

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Procedural Matters

4. Your application for an award of costs is the subject of a separate decision letter which is also being issued today.

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the further environmental information submitted under regulation 22 of the regulations (IR4). The Secretary of State considers that the ES and the further environmental information provided complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.

Matters arising after the close of the hearing

6. Following the close of the inquiry, the Secretary of State wrote to East Lindsay District Council and Lincolnshire County Council on 14 May 2015 asking for additional information on the planning obligations which the Councils considered necessary to make the appeal proposal acceptable in planning terms. On 28 May 2015, the Secretary of State circulated to the appellant and both the Councils the representations he had received from East Lindsay District Council (dated 22 May 2015), Lincolnshire County Council (dated 19 May 2015) and Globe Consultants (for the appellants) (dated 26 May 2015).

7. The Secretary of State has taken account of these responses in his consideration of the appeal before him. Copies of the representations are not attached to this letter but will be provided on written request to either of the addresses shown at the foot of the first page of this letter.

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Policy considerations

8. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the saved policies of the East Lindsey Local Plan Alteration 1999 (LP). The Secretary of State considers that the policies identified by the Inspector at IR20 and IR22 are most relevant in his consideration of this appeal.

9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the associated planning practice guidance (the Guidance) and the Community Infrastructure Levy (CIL) regulations 2010 as amended.

Main considerations

10. The Secretary of State has taken account of the Inspector's remarks at IR222–231. He agrees that the main material considerations in this case are those set out by the Inspector at IR232.

<u>Housing matters</u>

11. Having given very careful consideration to his analysis at IR233–238, the Secretary of State agrees with the Inspector that, looking at the Strategic Housing Land Availability

Assessment sites, it looks inevitable that the existing Louth settlement boundary will have to be redrawn as part of the emerging CS. Like the Inspector, the Secretary of State has considered the appeal scheme against the default position that no 5-year housing land supply exists (IR238). In common with the Inspector (IR238), he considers that, in these circumstances, paragraph 49 of the Framework is triggered.

12. The Secretary of State has taken account of the Inspector's remarks on affordable housing at IR243-244. He has also considered the representation dated 26 May 2015 from Globe Consultants which refers to appeal decision reference APP/D2510/A/14/2214716 and asserts that the provision of 30% affordable housing in this particular case should be considered a major benefit. Whilst recognising the Inspector's advice that the absence of an audited Economic Viability Assessment leaves some room for doubt about the level of affordable housing that would eventually be delivered (IR244), the Secretary of State agrees with Globe Consultants that the affordable housing offered in this case is a major benefit.

13. The Secretary of State concurs with the Inspector's findings at IR239 on the amalgamation of the sites to the east and west of Legbourne Road. He also agrees with the Appellants that there is nothing specific in the Framework, the Guidance, or relevant legal rulings that suggest that a greater shortfall in housing land should outweigh a greater level of harm (IR241) and, like the Inspector, he considers that the quantum of the undersupply is immaterial in the context of the Framework (IR242).

14. Overall on this matter, the Secretary of State shares the Inspector's view (IR238) that significant weight should be afforded to the 970 houses, including 30% affordable units, and he has gone on to consider this further below.

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<u>The effect on the character and appearance of the surrounding landscape and setting of the town</u>

15. The Secretary of State has had regard to the Inspector's remarks that, in the context of the town of Louth, this is a large site which extends well to the southeast of the current town boundary and which comprises predominately agricultural land, much of which is Grade 2 and 3a, being the best and most versatile land (IR245). He has also taken account of the Inspector's comment that, whereas the site attracts no national or local landscape designation, it abuts an Area of Great Landscape Value (AGLV) and is close to the Wolds Area of Outstanding Natural Beauty (AONB) (IR254).

16. Having given very careful consideration to the Inspector's detailed analysis of landscape character at IR251-259, the Secretary of State agrees with his view at IR260 that the entire site does not attract the same sensitivity to change and that entire tranches of land, either to the east or the west of Legbourne Road, would not be equally sensitive to change. The Secretary of State also sees no reason to disagree with the Inspector's remarks about the three discrete areas he viewed (IR261-263).

17. Turning to the visual effects, the Secretary of State concurs with the Inspector's view that, with the site being located some distance from the AONB, the scheme's impact would be minimal on its character and appearance (IR266). For the reasons given by the Inspector, the Secretary of State shares his view that the loss of the western slopes of the appeal site would engender considerable harm (IR267), albeit the adverse effect on landscape character might be judged moderate to significant, but visually less than substantial (IR268). The Secretary of State also agrees with the Inspector's further analysis at IR269-270 and he too considers that where the development would be truly

harmful to the value of views is in the scale of the built extension from the existing town boundary when viewed from the south and west (IR270).

18. Overall, the Secretary of State concurs with the Inspector's summary at IR273-274. He agrees that development of the appeal site would not have any substantial adverse effect on the character and/or the setting of either the AONB or the AGLV but there would be some moderate to significant harm with the development on the higher land to the west of Legbourne Road as it leads up to the AONB (IR273). He further agrees with the Inspector that, in other areas, the extensive development proposed would be intrusive in the landscape views currently on offer and adversely affect the character of the area by extending the town into the open countryside in an incongruous manner and much further from the town centre than anywhere else (IR274). Like the Inspector, the Secretary of State considers that this would be a significant downside of the appeal and would arguably breach LP Policy C11 (IR274).

The suitability of the site to deliver an extension to Louth of this scale

19. The Secretary of State agrees with the Inspector's assessment at IR275-281. For the reasons given in those paragraphs, he too concludes that the harm that would be caused by the appeal scheme's extension to the role and character of the town, and especially the town centre, constitutes a significant objection to the current proposal (IR281).

Does the appeal project represent sustainable development?

20. The Secretary of State observes that, in the absence of a 5-year supply of deliverable housing sites, paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 14 of the Framework states that, where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted.

21. The Secretary of State has gone on to consider the Inspector's analysis at IR283–314 which considers the appeal proposal against the three dimensions to sustainable development set out at paragraph 7 of the Framework. For the reasons given in those paragraphs, the Secretary of State agrees with the Inspector's conclusions that there are some significant benefits such as the housing, both market and affordable, and the provision of the school site but, equally, there are some very significant downsides to the scheme, including landscape harm, loss of high grade agricultural land, the likely effects on the character and function of the town, the development density and uncertainty about several transport and travel features (IR315). In common with the Inspector (IR315), the Secretary of State considers that these downsides are such that the appeal scheme is not sustainable.

Other material considerations

22. The Secretary of State has considered the Inspector's remarks on other material considerations (IR316-328) and he sees no reason to disagree with that analysis or the weights attributed by the Inspector in relation to ecology, footpaths and odour.

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Conditions and Obligations

23. The Secretary of State has considered the Inspector's comments at IR216-217 on planning conditions and the schedule of conditions he recommends at Annex A of his report. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, the Secretary of State does not consider that the conditions would overcome his reasons for dismissing the appeal.

24. The Secretary of State has regard to the Inspector's remarks about the s.106 Deed of Undertaking (IR218-220) and to the representations referred to at paragraph 6 above. In respect of regulation 123(3) as amended, the Secretary of State has taken account of the parties submissions that, in respect of each relevant infrastructure project, no more than 3 separate planning obligations have been entered into on or after 6 April 2010 and he sees no reason to dispute this. He has considered the query raised by the Council in its letter of 22 May 2015 in respect of the Travel Plan Co-ordinator but, in view of his decision below to dismiss the appeal, he does not consider it necessary to reach a conclusion on whether the obligation relating to the Co-ordinator is compliant with the CIL regulations. He has had regard to the Inspector's view (IR220) that the obligations meet the statutory tests and are all necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Setting aside the obligation relating to the Travel Plan Co-ordinator, the Secretary of State agrees with the Inspector on this matter.

The planning balance and conclusions

25. The Secretary of State has given very careful considerations to the Inspector's overall planning balance and conclusions at IR329-332. Like the Inspector (IR329), the Secretary of State observes that, in strict terms, the appeal scheme would not comply with the development plan, but that is now very old, time expired and its policies should only carry weight if they conform to the policies in the Framework. The Secretary of State has concluded (at paragraph 11 above) that paragraph 49 of the Framework is engaged on the basis that no 5 year housing land supply exists. He considers that the scheme's 970 dwellings constitute a clear benefit from the appeal proposal and that the provision of 30% affordable dwellings is a major benefit. Like the Inspector (IR329), the Secretary of State attributes significant weight to the housing and affordable housing in this case.

26. Other benefits that the Secretary of State, like the Inspector (IR30), weighs in favour of the scheme include the dedication of a school site, with room for expansion; the prospect of 3 retail units, a Doctor's surgery and a community building; the contribution to public transport and the upgraded pedestrian and cycle links into Louth and the provision of improved drainage and public open space. In common with the Inspector (IR330), the Secretary of State does not consider these benefits to be determinative, but they have the potential to be modestly beneficial. The Secretary of State has also taken account of the proposed structural landscape, although he shares the Inspector's view that, in an area where ready access to the wider countryside would be immediately on the doorstep, this benefit attracts less weight (IR330). He also concurs with the Inspector (IR330) that the cessation of the intensive livestock operation at South Field Farm would be of minor benefit. Finally, the Secretary of State has counted in the appeal scheme's favour the generic economic and social benefits which would arise as a result of this proposal.

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27. As set out at paragraph 21 above, the Secretary of State has concluded that the appeal scheme is not sustainable. He also agrees with the Inspector's remark at IR331 that, even allowing that settlement boundaries would have to be revised to accommodate most of the Strategic Housing Land Availability Assessment sites, there is a particular concern that the scale and setting of this development would threaten the integrity, role and character of this nuclear market town. He further agrees with the Inspector that, albeit very small, there are minor ecological and amenity dis-benefits to be weighed in the balance (IR331).

28. Overall, like the Inspector (IR332), the Secretary of State gives very great weight to the shortcomings of the sustainability accreditation of the site, the adverse effects on the function and character of the town and the surrounding countryside. In considering paragraph 14 of the Framework, the Secretary of State concludes that these drawbacks are sufficient, cumulatively, to significantly and demonstrably outweigh the benefits of the appeal scheme taken as a whole, including those arising from the proposed housing and affordable housing.

Formal Decision

29. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses the appeal and refuses planning permission for a mixed use sustainable urban extension comprising up to 970 dwellings, including affordable housing, a local centre/community hub, a primary school, public open space, structural landscaping and the provision of vehicular, cycle and pedestrian access, car and cycle parking and facilities for public transport in accordance with application ref: N/105/01376/13 at land north-east and south-west of the B1200 (Legbourne Road), Louth, Lincolnshire, LN11 8LC.

Right to challenge the decision

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

31. A copy of this letter has been sent to East Lindsey District Council. Notification has been sent to all other parties who asked to be informed of the appeal decision.

Yours faithfully

Christine Symes

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

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The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by J Stuart Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT

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

Date: 23 February 2015

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TOWN & COUNTRY PLANNING ACT 1990 SECTION 78

Appeal by

AR & MA PRIDGEON & GLADMAN DEVELOPMENT LTD

Against the Decision of

EAST LINDSEY DISTRICT COUNCIL

Inquiry opened 25 November 2014

A comprehensive development of land north-east and south-west of the B1200 (Legbourne Road), Louth, Lincolnshire, LN11 8LC, to provide a mixed use sustainable urban extension comprising up to 970 dwellings, including affordable housing, a local centre/community hub, a primary school, public open space, structural landscaping and the provision of vehicular, cycle and pedestrian access, car and cycle parking and facilities for public transport.

File Ref: APP/D2510/A/14/2218774

File Ref: APP/D2510/A/14/2218774
Land north-east and south-west of the B1200 (Legbourne Road), Louth, Lincolnshire, LN11 8LC.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
- The appeal is made by AR & MA Pridgeon & Gladman Developments Ltd against the decision of East Lindsey District Council.
- The application Ref. No: N/105/01376/13, dated 19 July 2013, was refused by the Council by notice dated 25 March 2014.
- Outline application for a mixed use sustainable urban extension comprising up to 970 dwellings, including affordable housing, a local centre/community hub, a primary school, public open space, structural landscaping and the provision of vehicular, cycle and pedestrian access, car and cycle parking and facilities for public transport.

Summary of Recommendation: That the appeal be dismissed.

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Abbreviations used in the Report

AONB	**Area of Outstanding Natural Beauty**
BPM	**Best practical means**
CIL	**Community Infrastructure Levy**
Council	**East Lindsey District Council**
CS	**Core Strategy**
DAS	**Design and Access Statement**
DLCA	**District Landscape Character Assessment**
DP	**Development Plan**
dpa	**Dwellings per annum**
DPD	**Development Plan Document**
ELDC	**East Lindsey District Council (the Council)**
EA	**Environment Agency**
ES	**Environmental Statement**
Framework	**National Planning Policy Framework**
GLVIA	**Guidelines for landscape and visual impact assessment**
ha	**Hectare**
HLS	**Housing Land Supply**
LCA	**Landscape character assessment**
LCC	**Lincolnshire County Council**
LDD	**Local Development Document**
LEA	**Local Education Authority**
LHA	**Local Highway Authority**
LPA	**Local Planning Authority**
LP	**Local Plan**
LTC	**Louth Town Council**
LTP	**Local Transport Plan**
LVIA	**Landscape visual impact assessment**
NP	**Neighbourhood Plan**
OAN	**Objectively assessed needs**

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ONS	**Office for National Statistics**
PIM	**Pre-inquiry meeting**
PPG	**Planning Practice Guidance**
SHLAA	**Strategic housing land availability assessment**
SHMA	**Strategic housing management assessment**
SoCG	**Statement of Common Ground**
SoS	**Secretary of State for Communities and Local Government**
SuDS	**Sustainable urban drainage system**
TA	**Transport Assessment**
TP	**Travel Plan**
TRICS	**Trip rate information computer system**

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INTRODUCTION

Procedural Matters

1. The Secretary of State for Communities and Local Government (SoS) has directed, by letter dated 6 June 2014, that he shall determine this appeal as it involves development of over 150 units on a site of over 5 hectares (ha), which would impact significantly on the Government's objective to secure a better balance between housing demand and supply, and to create high quality, sustainable, mixed and inclusive communities.

2. A Pre Inquiry Meeting (PIM) was held on 22 September 2014 and minutes were circulated **(Document 21)**. A request for further information followed **(Document 22)**. The inquiry opened on the 25 November 2014 in the East Lindsey District Council Offices, Tedder Hall, Manby, Louth, LN11 8UP and sat for a total of 4-days, with an accompanied site inspection being carried out on 2 December 2014 to an agreed itinerary **(Document 9)**. This inspection covered viewpoints referred to in evidence. In addition, at the request of the parties, an unaccompanied site visit took place to experience traffic conditions on a market day in Louth.

3. The application was submitted on 19 July 2013 (Ref. No: N/105/01376/13), for outline planning permission, with all matters reserved for subsequent approval. The Council refused the application by notice dated 25 March 2014. The scheme was the subject of screening and scoping requests dated 14 December 2012 to East Lindsey District Council (ELDC) in accordance with the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the Regulations). ELDC responded on 24 January 2013 confirming that, by virtue of Regulation 4(2) of the Regulations, the development proposed is EIA development and an Environmental Statement (ES) would be required. A scoping opinion followed on 30 January 2013.

4. Thereafter, and following recovery of the appeal for determination by the SoS, the content of the ES accompanying the application was considered. Having regard to Regulation 2(1) and Schedule 4 of the Regulations, the SoS notified the Appellants on 15 August 2014, pursuant to Regulation 22 of the Regulations, that, to comply with Schedule 4 of the EIA Regulations (information for inclusion in the ES) the Appellants were required to supply further information in respect of the potential impacts during the construction phase; the loss of agricultural land; confirmation that appropriate densities, building heights and design characteristics have been employed; the potential impacts from waste generation, water supply and other utilities; the cumulative effects, particularly with regard to traffic impacts; and a revised Non-Technical Summary. The required information was supplied to the SoS on 29 September 2014 **(Document 18)** and when added to the ES originally submitted was confirmed by letter dated 6 October 2014 to be adequate **(Document 19)**.

5. On reviewing the detail of the ES **(Document CD1/9-32)**, I indicated several related matters that needed to be covered in the evidence to be presented to the inquiry **(Document 22)**.

6. A signed s.106 Undertaking **(Document 8)** was presented to the inquiry on the final day. In the event the SoS is minded to allow the appeal, draft conditions were submitted to the inquiry and discussed in open session on the final day of the

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inquiry. In general draft conditions are agreed **(Document 6)**. These, and the reasons for them, are looked at in more detail just prior to the Inspector's conclusions and the Inspector's suggestions produced as Annex A.

Council's Reasons for Refusal

7. The application was refused by the Council on 25 March 2014 for the following reasons, which are set out in full as follows:

1. The proposed development would be contrary to Paragraph 7 of the National Planning Policy Framework 2012 (the Framework), because it fails to perform an economic, social or environmental role and, therefore, fails to achieve sustainable development. The proposal is a large scale housing development on the south eastern side of Louth a significant walking/cycling distance from the full range of services on offer in Louth Town Centre. The proposal is not, therefore, located in a wholly sustainable location, given the likely reliance on the motor car, notwithstanding the fact that public transport links are proposed to be enhanced. Furthermore, this proposal would lead to a strain on the infrastructure in Louth and mechanisms have not been adequately demonstrated to provide for the likely shortfall in such infrastructure and services.

   The proposal would also fail to protect and enhance the wider natural landscape on the edge of the historic market town of Louth and would result in a large-scale extension to the town that has the ability to function semi-independently from the town, therefore undermining the role and function of the town centre. It would, therefore, fail to enhance Louth Town Centre and, also, fail to provide any positive impacts on the urban fringe of the market town.

   Notwithstanding the above reasons, there are no tangible phasing proposals put forward with a timescale for delivery, which would give any indication as to how this proposal for growth could be delivered alongside the required infrastructure to support such a proposal. There is, therefore, a lack of co-ordination in delivering any such proposal.

2. Having regard to the above considerations, the Council considers the proposed development has a number of clear adverse impacts, which outweigh the benefits, when assessed against the more permissive policies of the Framework, as advocated by Paragraph 14 of the Framework. Overall, the Council considers the application fails to demonstrate this scale of new housing is the best way to deliver an extension to the housing stock in Louth and in doing so is also working without the support of the local community. The proposal is, therefore, contrary to Paragraph 52 of the Framework.

8. Since the refusal was issued, a report was considered by the Council's Planning Committee on 17 July 2014, when a debate and rebalancing of the issues took place. Members resolved to continue with the refusal based on two matters, namely landscape impact and infrastructure, citing specifically affordable housing. These are:

1. The proposal would fail to protect and enhance the wider natural

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landscape on the edge of the historic market town of Louth;

2. Overall, the Council considers the application fails to demonstrate this scale of new housing is the best way to deliver an extension to the housing stock in Louth (with specific reference to affordable housing) and in doing so is also working without the support of the local community. The proposal is, therefore, contrary to Policy H6 of the East Lindsey Local Plan and Paragraph 52 of the Framework.

9. Since that date a further meeting was held with the Appellants on 22 July 2014, when the figure for affordable housing was increased form 20% to 30%, removing the Council's objection in this regard.

The Main Material Considerations

10. Having regard to the prevailing policy background, the main material considerations identified at the PIM and remaining at the opening of the inquiry following the submission of further information were;

- the contribution the proposals would make to open market and affordable housing;
- the effect of the proposed development would have on the character and appearance and landscape setting of Louth and the surrounding countryside designations;
- the suitability of the site to deliver an extension to Louth of this scale; and
- does the project represent sustainable development?

11. In addition to these main issues, a number of other considerations generated by third parties or that remain relevant for other reasons were aired at the inquiry. Many of these could be overcome, as far as the local planning authority is concerned, by appropriately worded conditions **(Document 6)** or the signed s.106 Unilateral Undertaking **(Document 8)** between the main parties and Lincolnshire County Council (LCC) as Local Highway (LHA) and Education Authority (LEA).

12. Following the appraisal of all these matters, the planning balance between the benefits of the scheme and the areas of identified harm is weighed. A costs application was submitted by the Appellants against the Council's actions and this is dealt with in a separate report to the SoS.

The Appeal Site and Surroundings

13. Louth is a market town, with a population of some 17,000. The appeal site can be found to the south-east of Louth some 2km away from the town centre and straddles Legbourne Road B1200. It is located inland from the coastal plain, a road distance of 27km (17 miles) from Grimsby and 34km (22 miles) from Skegness, and in a westerly direction 42km (26 miles) from Lincoln. To gain access to the national motorway network, the distance to the north and west is some 45km (29 miles) to the M180 and some 30km (20 miles) further to the M62. When travelling south, the A1(M) at Newark is some 72km (45 miles) distant.

14. Legbourne Road runs roughly north-west to south-east linking Louth town centre to the north-west with the A157 to the south-east, where there is a roundabout junction. Kenwick Road runs along the westerly boundary of the

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appeal site, and joins Legbourne Road to the north, where they become Newmarket. To the south, Kenwick Road also joins the A157 at a priority junction. Both Legbourne Road and Kenwick Road are transitional between town and country, with some frontage development abutting the appeal site.

15. The existing development on Legbourne Road is more extensive on the east side and includes a number of small businesses and a large garden centre. There are no formal footways and the road is subject to a 40mph speed limit alongside the appeal site frontage and lacks street lighting. To the west of the site, Kenwick Road again has no footways and is unlit along the appeal site frontage. To the north of the site lies the developed edge of Louth. There is a public footpath that runs across the northeast corner of the site from Stewton Lane towards Stutte Close. This links in with the disused railway line that provides a walk and cycle route northbound into the town, though it is relatively narrow and unlit.

16. In landscape terms, apart from the north-west, the land is open countryside in agricultural use, with field boundaries often defined by hedgerows. The land slopes gradually from south to north, with the highest point some 55m AOD where it joins Kenwick Road and the lowest point 25m AOD at Stewton Lane. The appeal site attracts no formal landscape designation, but the land to the west is locally designated as an Area of Great Landscape Value (AGLV), with the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) lying further to the west and to the south. The key features of the AONB are the ridgelines, which dominate the Town to the west at a height of some 120m AOD, running away southwards to a level of 55m AOD south of the Kenwick Road.

17. The appeal site lies at the foot of the AONB, albeit separated by a tranche of the AGLV to the west and open countryside to the south. In total the site embraces some 60.94ha of open countryside in two ownerships, with 34.55ha to the east and 26.39ha to the west of Legbourne Road. The holdings comprise several medium to large arable fields surrounding Agarth and South Field Farms to the north-east and south-west of Legbourne Road respectively. Some of the land attracts an agricultural classification of grade 2a (4ha), 3a (25ha) and 3b (8ha).

18. More detailed site descriptions can be found in the Design and Access Statement (DAS) **(Document CD1/34)**, Statements of Common Ground **(Documents 6, 7 and 8)** (SoCG) and the planning, landscape and highway evidence **(Documents GDL1, GDL2 and GDL3)**.

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Planning Policy

19. Relevant National Planning Policy is contained in the National Planning Policy Framework (the Framework) as fleshed out by the Planning Practice Guidance (PPG). The development plan (DP) currently comprises the East Lindsey Local Plan Alteration 1999 (LP). Several LP policies were saved, but after March 2013, in accordance with paragraph 215 of the Framework, these can only be given weight according to the degree of consistency with the Framework. The Core Strategy (CS) is in draft form, with no date set for the examination. Although the intention is to run the housing site allocation Development Plan Document (DPD) in tandem with the CS, work has not yet started on this.

20. In broad terms, the appeal site lies outside the Louth settlement boundary and the LP contains no housing requirement figure. The only policy relied on by the Council is landscape Policy C11, which seeks to protect the AONB and the AGLV. This LP Policy is elderly and was drafted in an era when local landscape designations were acceptable and before the use of local Landscape Character Area (LCAs) was encouraged. Moreover, it is not intended that the AGLV designation will be carried forward into the emerging DP. Policy C11 is divided into four sub-sections and both main parties agree that the first could cover the setting of such designations, but the last three are not relevant here as they refer specifically to development within the AONB.

21. Moving to the Framework, reference is made to the housing and sustainability sections. As for landscape, are several paragraphs are advanced as being relevant . First, paragraph 17 seeks recognition of the intrinsic character and beauty of the countryside. Framework, paragraph 109, looks for the planning system to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and soils. Paragraph 113 seeks criteria based policies commensurate with landscape status and their importance and the contribution they make. Paragraph 115 looks to safeguard the landscape and scenic beauty of AONBs and paragraph 116 invites refusal of major development in AONBs, where any detrimental effects on the environment, the landscape and recreational properties, could not be adequately moderated.

22. LP Policy H6, referred to in the Council's July revised reasons for refusal, is a saved policy on Low Cost Housing. It particularly refers to meeting local needs, but was not something the Council relied on in evidence to the inquiry. No doubt this follows the Appellants' agreement to the affordable housing contribution the Council believes is necessary to reflect the local needs in Louth. I have not commented further on this.

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Planning History

23. The appeal site is open countryside and has not been the subject of any previous planning activity. It was originally identified as part of four discrete sites, when the call for sites was issued as part of the Strategic Housing Land Availability Assessment (SHLAA) process. It is argued by the Appellants that it was the Council Officers that suggested the four sites were looked at as a single site. An outline application was submitted in July 2013.

24. In March 2014, the application was recommended for planning approval by Council Officers, but was refused for two reasons embracing a significant number of issues, including sustainability, accessibility, impact on infrastructure and services, impact on the landscape setting of the town and the wider natural landscape, the role and function of the town, the scale of the development and the delivery mechanism. In July 2014 the Council reviewed its decision and the reasons for refusal were distilled, focussing on landscape impact, transport, timescale/phasing and affordable housing. Following this, the Council decided not to defend the last three at the inquiry.

25. In an attempt to expedite matters, the Appellants submitted a further application for development of the appeal site, which sought to address some of the critical points identified previously. This application was refused in November 2014, some 10-days before this inquiry opened, with the Council

adopting the same reasons for refusal as those contained in the previous March 2014 notice.

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The Proposed Development

26. The outline proposals are detailed in the DAS **(Document CD1/34)**. Essentially they comprise 970 dwellings, of which some 30% (291) would be affordable and other associated development, including a local centre/community hub, incorporating a community hall, retail, office units and a Doctor's surgery. A site for a primary and infants school is proposed to the north and east of the Garden Centre on Legbourne Road and the application is accompanied by a transport package, including a Travel Plan and Travel Plan Co-ordinator. All matters are reserved for subsequent approval, but an indicative Framework Layout **(Document CD1/34)** for the site accompanied the application. The scheme would involve the demolition of two dwellings, commercial buildings and part of South Field Farm.

27. The Framework Layout shows the site split by Legbourne Road B1200 and accessed either side from two entry points, with improved pedestrian and cycle facilities along Legbourne Road and Kenwick Road towards the town centre. The principal access to both sides would by way of a roundabout close to the southern extent of the eastern part of the site and this would facilitate a new gateway on this approach to Louth. There are no vehicular access points shown to Southlands Avenue, Stewton Lane or Kenwick Road. In addition to the built development, there are large areas of structural landscape proposed together with further open space and play areas. Following a Flood Risk Assessment, drainage improvements to the area are proposed and SuDS would be employed.

Agreed Facts

28. Three Statements of Common Ground (SoCG) have been prepared. These are a Planning SoCG **(Document 6)**, a separate SoCG on highway matters **(Document 7)** and finally one on education matters **(Document 8)**. The key points agreed in these SoCG are embodied in the cases presented.

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THE CASE FOR EAST LINDSEY DISTRICT COUNCIL

The material points are:

Introduction

29. In addition to the main issues identified by the Inspector at the opening of the inquiry a number of other subsidiary issues were identified. Although these do not form part of the Council's case, and it has produced no evidence to address them, that is not to say that they are not important. All those matters will, of course, be considered in the decision.

Status of the development plan policies

30. Although the appeal site lies in the open countryside, beyond the settlement boundary of Louth, the Council advances no general policies relating to its protection. Consequently, there is only one policy relied upon by the Council and this is Policy C11 of the East Lindsey Local Plan Alteration 1999 (LP) **(Document CD6)**. Policy C11 concerns the protection of the Lincolnshire Wolds AONB and the neighbouring AGLV. As such, it is not a policy for the supply of housing and in line with paragraph 215 of the Framework should not be considered out of date, despite its age. Moreover, as a policy that seeks to protect the AONB, it is in accordance with the Framework, which also seeks a high level of protection for such areas and, thus, should be given full weight.

31. Parts B, C and D of Policy C11 are plainly not relevant, as, like paragraph 116 of the Framework, they apply only to development within the AONB, which this scheme is not. Part A, however, prohibits development that would harm landscape features that contribute to the character and distinctiveness of the AONB/AGLV. Similarly, paragraph 115 of the Framework says that great weight should be given to conserving the landscape and scenic beauty in National Parks, the Broads and AONBs, without qualification as to whether that development is within the designated landscape itself or merely contributes to its setting.

32. That makes good sense, of course, because development very close to an AONB could well have an impact on it that may be as significant as if the development were in the area itself. Accordingly, if Policy C11 is engaged, then full weight should be given to it.

33. On the supplemental planning front, the Louth Town Plan has no planning status, even as supplementary guidance and there is no Neighbourhood Plan.

The 5-year housing land supply

34. For the entire life of this proposal the Council has not claimed it could demonstrate a 5-year supply of readily available housing land supply. The supply calculations have fluctuated recently, as a consequence of errors and the exclusion of sites with outline permission, where the developer has not provided completions data. The Council accepts that housing supply calculations should be done on the basis of objectively assessed needs (OAN). In the absence of this, the present supply figure, between 0.8 and 1.4-years, represents a pragmatic overview of what is likely to come forward within the next 5-years. Having said this, there is complete stagnation of housing

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development in the area, with even those sites with planning permission not being built out. In the last 12-months, only some 28 dwellings were completed in Louth **(Document ELDC12)**.

35. Finally, with regard to LCC's consultation response on the Council's Topic Paper entitled "The proposed housing target and options for growth", this should be given no weight. LCC is not the LPA for this area.

36. There is one further matter relating to housing land supply. This is the Appellants' contention that the greater the shortfall in the supply, the greater the weight the appeal scheme should be given to meeting this shortfall. The bottom line alleged is that the lower the supply the more the harm that can be tolerated. However, it is clear from any reading of the Framework that if harm is "*significant and demonstrable*" that will outweigh the level of housing shortfall, and that is the test set by paragraph 14. It does not say, for example, that if there is a 1-year housing land supply then very significant harm, over and above just significant harm, has to be demonstrated.

37. There is a good reason for keeping the matter straightforward. If there is not a 5-year supply, then the consequences are the same, come what may, and the scheme should be allowed unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This approach makes perfect sense as demonstrated by performing the exercise the other way. It would be impermissible to suggest that little weight should be attached to the shortfall, where a LPA could demonstrate something close to a 5-year supply.

38. Furthermore, any other approach is very difficult to apply in practice. There is no guidance suggesting at what level of shortfall the weight to be given to the benefit of the housing becomes 'very' significant, and correspondingly, a higher level of harm becomes acceptable. The Appellants' approach also suggests that with a very low level of housing land the environmental protection assured by the Framework would become almost non-existent. Paragraph 7 of the Framework is clear that there are three dimensions to sustainability and, by virtue of paragraph 8, gains should be sought in all three. It does not say that a large benefit in the social or economic dimension renders the environmental dimension obsolete, along with the scheme's need to comply with it.

39. In this context, the approach of the Inspector and the SoS in the Forest Road **(Document CD36)** and North Road **(Document CD37)** decisions deliver an approach accepted as contrary to the Appellants' thesis. In both cases, it was determined that it was unnecessary to determine the extent of the shortfall, where the absence of a 5-year supply is common ground, as the test at paragraph 14 remains unchanged. Further, this is not a case like that at Hunston, where the site lay in the Green Belt and the Court of Appeal considered the scale of shortfall could be material in the assessment of "*very special circumstances*" as exceptional support for development.

40. One further matter worthy of mention is the weight to be afforded the SHLAA. The SHLAA is a broad-brush, high level and preliminary assessment. It is not there to pre-determine any applications that might come forward, but deals coarsely with any high level constraints. The SHLAA for Louth indicates that the appeal site is available, but recognises that there should not be

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development on the land above South Field Farm, on the western side of the appeal site.

41. Less housing is proposed on the appeal site than the potential capacity indicated by the SHLAA, and it was acknowledged that the same could happen on other sites. It was also accepted that more development could come forward on other SHLAA sites and that sites presently discounted because of technical constraints might deliver housing if those constraints could be overcome. Accordingly, some caution has be to adopted when relying on the SHLAA document as providing any sensible overview of the housing land availability in Louth.

Affordable housing

42. Although there was a dispute about the provision of affordable housing, it is hoped this issue has now been resolved. The main parties have agreed that 30%, the higher end of the range 20-30% intended for inclusion in the emerging CS, is the appropriate level of affordable housing that should be provided for the appeal site. The Appellants confirmed to the inquiry that all indications were that the 30% would be achievable. Moreover, it is now common ground that the level of affordable housing meets with the PPG tests relating to conditions, and is reasonable given the need to provide most affordable homes, where the highest proportion of development is concentrated. As it stands, there is a substantial need for affordable homes in the district, and the contribution of nearly 300 on the appeal site would be a significant benefit of the appeal scheme.

Impact of the appeal scheme on the character and appearance of the area

43. This has always been a concern of Members and is the remaining reason for refusal. Their concern is understandable, and the Appellants agree that there would be some harm to or adverse impact on this interest, albeit they do not accept it would be significant. However, there are a number of differences between the parties, including their assessment of landscape character, landscape value, the magnitude of change and the impact on the Wolds AONB. Neither witness undertook a separate landscape and visual assessment to that undertaken as part of the ES, and both, to some extent, disagree with the conclusion of that study.

44. In the first place, there is a difference of opinion about where the character lines should be drawn. On the one hand, the Appellants now prefer the boundary for the "Edge of Lincolnshire Wolds" to be moved west to coincide with Kenwick Road. On the other hand, the Council moves it a little east to run along Legbourne Road. Both have applied judgement and both have used physical features on the ground to identify where they think there is a change in character. It is probably no coincidence that the original LVIA line was conceived alongside the Masterplan **(Document CD1/34)** for the appeal site, which shows Area 2 bleeding into the Area to be retained as a landscape buffer.

45. The Appellants say that in such circumstances, the sensitivity of an adjacent character area should be taken into account when considering its neighbour. In respect of the appeal site, the Council is very firmly of the view that the Wolds character filters down onto the western side of the appeal site and that there is a noticeable character and sensitivity change at Legbourne Road in line with the Local East Lindsey District Landscape Character Assessment

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prepared by ECUS Ltd in July 2009 (DLCA) **(Document CD43)**. To the east, the land is rather flatter and is less sensitive to change than the land to the west, which rises to the Wolds. In longer distance views from the east, the western parcel of land is experienced together with the Wolds, as part of its setting.

46. Put simply, the site is one of two halves - not just because of the road that bisects the east and west sides, but because the land to the west is plainly more sensitive. It seems that, at least, everyone is agreed that this land is higher than that to the east; it is more visually prominent; and a landscape buffer is proposed for the highest and most westerly part of the site, presumably in recognition that a greater degree of harm would arise as a result of its development. The Appellants also accept that the existing straw bales and buildings at South Field Farm appear "*dominant*" in views from the south east. If that is the case with such a low level of development, it must follow that a much higher density of built development that climbs further up the hill must also have a dominant impact.

47. While the Appellants accept the differences between the land on either side of Legbourne Road, and that the sensitivity changes from east to west, they consider the appeal site, as a whole, is not representative of the landscape character areas to which the DLCA study attributes them. In oral evidence, the Appellants articulated, for the first time, that the character as a whole was more comparable to the I1 character area - the Middle Marsh - but even then was not representative, because it was not a "*distinctive and tranquil rural landscape with very few minor detractors.*"

48. This demonstrates the Appellants' error, and it matters, because it affects their assessment of the value of the site. The character area lists all sorts of features from market town to quiet tranquil areas. An area of land cannot become unrepresentative of the area as whole, because it does not meet all of the criteria - that would be an impossible task. It is not a tick box exercise.

49. A broader more holistic view of the landscape is required, such as the Council has taken. This recognises that the character of the Wolds does not just begin and end with the boundary of the Wolds, and while the appeal site is not designated as AGLV, its proximity and relationship to the AONB cannot be ignored. The Council highlights that the AONB Management Plan 2013-2018 **(Document ELDC11)** refers not only to views out from the Wolds, but into the Wolds too.

50. A further error is that almost the Appellants' entire assessment of the site is based on the starting point that the site is heavily influenced by the built development of Louth, and particularly the presence of ribbon development along Legbourne Road. The '*urban context*' is relied on extensively to justify a lower susceptibility to development and to attribute a low value to the site. It is unsurprising that a judgment based so heavily on the overstated impact of development around the appeal site yields the conclusion that the site is of a low/medium sensitivity.

51. However, the appeal site is only bounded on part of the northern side by any sort of substantial built development; the built edge of Louth does not exert a strong influence over most of the site, and even less so on the western side. Likewise the development on Legbourne Road does not exert a significant influence over the site either, particularly in approaches from the east, where

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the whole of Louth seems to sit in the valley and, as such, does not intrude into the wider landscape. Furthermore, the fact that the roadside development is lower than the site to the west means that when moving along Kenwick Road or down Kenwick Hill out of the AONB, it is the wide open view of the Marsh area to the east that draws the eye towards the coast, right over that development, and even over the town of Louth itself. The present open nature of the site allows for that view.

52. The Appellants accept that the site is of an agricultural character and could be described as open countryside. However, they consider it to have a low/ medium landscape value because (in part) of a lack of landscape features, and the presence of agricultural buildings. This rather ignores the fact that a feature of the site is its openness and that the presence of agricultural buildings in that context is to be expected.

53. Members of the public also see the site as having a relationship with the Wolds that they consider to be special. The Mayor of Louth spoke at the inquiry and used the metaphor of the AONB as a rug and the appeal site as the fringes. He considers that the appeal site, although not part of the AONB, is integral to it. He was not the only local person to endorse the Council's case – a District Councillor also described the site as the "*gateway to the Wolds*." Plainly the Council has not caused the inquiry so that members of the public can voice their concerns as the Appellants suggest, but their concerns cannot be ignored. These are the people who live in, work and use the landscape for recreational purposes.

54. As such, they are important stakeholders in matters of landscape appreciation and visual impact as confirmed by the Appellants. They also agreed that if these important stakeholders perceive the site as the setting to the Wolds AONB, as they travel though the landscape, then this increases its perceptual value. However, this was certainly not something taken into account by the Appellants, because the views of local people in respect of the landscape were not canvassed. The Guidelines for landscape and visual impact assessments (GLVIA) supports the idea that consultation with local people can be important and should be undertaken. Where practicable and this is something that the DLCA has done **(Document CD43, pages 107-109)** and, accordingly, it can safely be assumed that the views of local people have been taken into account in producing that study.

55. The Appellants' assessment of the magnitude of change to the appeal site is curious. The site comprises 60ha of largely open land, half of which is graded 2 and 3a agricultural land (the best and most versatile). On this, what is proposed is an enormous scale of development of permanent irreversible construction that would obliterate any sense that the appeal site was once open countryside. Everything in the GLVIA guidance indicates that the magnitude of change would be high. Again that is the Council's view, and so is a further disagreement within the overall assessment of the landscape impact of the scheme that has been systematically downplayed by the Appellant.

56. The visual change for people travelling in and around the site would also be significant. There are few views from the west as a result of the topography, but there are certainly views into and over the built development of Louth when you walk along Kenwick Road to the immediate west, and also to the east for some significant distance. It is accepted that Kenwick Road is not a

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footpath, but people do seem to use the route, and when they do, they presently have AONB on one side and views out to the coast on the other.

57. That would not be the case if the development is built. The experience would be negatively impacted by the planting of a tree belt that would act as a green wall for most of the route preventing views into, and also over the development. Further, the 'Round Louth Walk' entitled 'Lincolnshire Wolds, Gateway Walks.' **(Document ELDC2, Appendix 4)**, which takes the walker out to Stewton, where impressive views can be gained looking back towards the AONB, with the appeal site again appearing as its setting.

58. There has been a suggestion that it was the Council who prompted the Appellant to bring the east and the west of the site coming forward as one development. There is no record of the discussions that is available for examination. However, at the time the Council was presented with a situation whereby two different landowners, on either side of the Legbourne Road, were in discussion with the Council about bringing housing development forward. It was not an either west or east scenario, and any advice given certainly did not predetermine that a scheme encompassing the whole site could be brought forward without significant harm.

59. One further matter usefully addressed in this section is the concept of what a valued landscape is for the purposes of paragraph 109 of the Framework. The Appellants do not consider that it begins and ends with whether or not the land is designated. That is not the exercise they carry out. While the question of whether land is designated might be a useful consideration, it is not the only test. As this is a matter of accord, the Appellants' reluctance to understand that paragraph 109 can apply to anything other than designated land is plainly unreasonable and their approach is wrong.

60. Even though the Appellants agree that it could, the Framework does not define what a valued landscape is. This must mean it is a matter of judgment in each case. If the Framework had meant paragraph 109 to apply to only designated sites it would have been easy for it to say so, but it does not. It would have been as simple as replacing the word "*valued*" with 'designated'. Neither does the PPG make that qualification. A site does not have to be designated for it to suffer significant and demonstrable harm in landscape and visual terms. There is any number of decisions that could be submitted to demonstrate the point.

61. The Framework (paragraph 113) talks about LPAs setting criteria based policies so that the protection of different areas can be commensurate with their status. This does not mean, however, that if an LPA has not carried out that exercise and has no such policy, any land not designated should be vulnerable to inappropriate development. Even if paragraph 109 did not apply, depending on the circumstances of each case, the harm can be such that in landscape and visual terms, a scheme is unacceptable. That must be right, when the Framework and the environmental protections it guarantees are taken as a whole.

62. For all these reasons, it is clear that significant landscape and visual harm would be occasioned by the development. The appeal scheme would extend the settlement of Louth out of the valley and up the hill into open countryside and into the setting of the Wolds.

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Benefits associated with the appeal scheme

63. The Council acknowledges that there are a number of benefits associated with the scheme. The provision of market and affordable housing would be the main benefit. Furthermore, there would be some employment created during the construction phase, and new residents would spend their money in the local area, depending of course where they choose to work, shop, eat and so on. Some of that spend would be spent on local services. However, these are essentially generic benefits that would attach to any new development. In any event, they would not necessarily be a benefit, because those already stretched service providers would have to increase their infrastructure to meet with the demands of the development. Thus, while there are economic benefits, the Council attributes only moderate weight to them.

64. The Appellants suggest that removing the hay bales, presently on the western portion of the appeal site should be viewed as a benefit. This argument might carry some weight if that particular agricultural feature was being removed to facilitate a return to open green fields. However, that is not what is proposed here. The Council does not suggest for one minute that the owner of South Field Farm is running his operations in such a way as to amount to a statutory nuisance, but if he was, then there are means of dealing with that pursuant to the Environmental Protection Act. If there is not a nuisance or if in fact the farm is employing Best Practical Means (BPM) then that is the balance the law strikes. The position for local residents is that it is part and parcel of living in a rural landscape, where a level of tolerance is required.

65. There are good reasons of public policy why it would be inappropriate for the planning system to view such things as a benefit. It would promote the inappropriate use of land as a means of forcing a decision maker's hand.

The planning balance

66. The Council recognizes the benefits the proposed housing scheme could bring, particularly in the absence of a 5-year housing land supply. Although there are other benefits, it remains that the significant and demonstrable landscape and visual harm that the appeal scheme would cause outweighs the totality of those benefits.

67. The Framework certainly does not advocate development at any cost. There is strong policy support for new housing, but so too is there for environmental protection of, not just designated landscape, but all valued landscape (paragraph 109) and the open countryside in general (paragraph 17). It is a core planning principle that planning should recognize the intrinsic character and beauty of the countryside.

68. The Appellants say the scheme takes into account the need to protect the countryside, but incorporating green spaces is not compensation for the loss of open countryside. There would be no sense of openness left on site should the development be built and that prominent approach to the Wolds from the east will be lost forever. There would be a high magnitude of landscape change, which would be harmful.

69. Accordingly, the Inspector is respectfully asked to recommend the appeal be dismissed and the SoS is invited to do so.

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LINCOLNSHIRE COUNTY COUNCIL'S POSITION

The material points are:

Preliminary

70. Lincolnshire County Council (LCC) made a number of written submissions during the consultation stages of the application and appeal and appeared at the inquiry as the Local Highway Authority (LHA) and Education Authority (LEA) for the area and made representatives available for questions. These particular aspects are included here, with the housing arguments aired in the section on written representations.

Highway matters

71. LCC has agreed a highway SoCG with the Appellants **(Document GDL7)**. This acknowledges that the application was accompanied by a Transport Assessment (TA) and a Framework Travel Plan (TP). At the request of LCC, further analysis of the B1200/B1520/South Street traffic signal junction was undertaken during the consultation period. It is accepted that the TA employs acceptable traffic generation and distribution figures and that it identifies the key local road junctions for capacity analysis.

72. Based on this analysis, LCC is content that satisfactory access to the appeal site could be achieved from the junctions shown on the Illustrative Framework Layout and that, as the Ration of Flow to Capacity (RFC) would be less than 1.0, there would be sufficient capacity at the key local junctions to accommodate traffic generated by the proposed scheme.

73. Overall, LCC agrees that, subject to highway improvement works required by it being implemented by the developer, there would be no material adverse transport impacts on the surrounding area, such as to leave the residual conditions severe. The required works include the construction of a roundabout on Legbourne Road to serve the appeal scheme and the provision of footway/cycleway along the Legbourne Road frontage, with an extension northwards to the junction of Legbourne Road and Stewton Lane. The 4th Lincolnshire Local Transport Plan 2013/14-2022/23 (LTP) promotes cycle initiatives and these innovations would accord with that philosophy. In addition, a 1.8m footway would be provided from the northwest corner of the appeal site, along Kenwick Road, to meet the existing footway.

74. To encourage sustainable travel, contributions would be made toward the purchase of a new Nipper bus. Although discussions have yet to be held with the operator, the intention would be for it to operate between the site and Louth town centre for a period of 5-years, in the hope it would become viable after that time. Bus lay-bys, shelters and stops would also be provided on Legbourne Road. In addition, a TP would be prepared and a Co-ordinator employed for a period of 5-years, with new residents being encouraged to adopt sustainable travel through the offer of incentives **(Document 15)**.

75. These proposals would meet the transport obligations implicit in paragraphs 29-36 of the Framework. Moreover, they would accord with the objectives of the LTP with regard to public transport, walking and cycling and travel

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planning. Finally, the highway, travel and transport commitments through the s.106 fulfil the three tests of Regulation 122 of the CIL Regulations.

76. However, in written representations **(Document 26)** the LHA opines that with the traffic generated by the appeal scheme all the spare capacity on the highway system around Louth would be used up, leaving any future development with much higher infrastructure costs that could prejudice sites coming forward. Both the LHA and planning arm of LCC say the need for a town wide Transport Assessment is essential and without it "..*the emerging CS could be potentially diminished and left open to challenge at public examination*". The planning arm would like to see the Community Infrastructure Levy (CIL) Regulations 2010 employed, when assessing new development, so that the necessary funding for highway and other infrastructure improvements could be provided to keep pace with the new build.

Education matters

77. LCC published its latest projections in October 2014, taking into account headcounts at schools in autumn 2014. These have been reviewed to ensure that the land and contributions towards a new primary school remain necessary.

78. The projections still show that there would not be sufficient capacity to accommodate the demand from the additional housing on the appeal site. LCC is of the opinion that existing schools could not be extended and a new school would be necessary. On this basis, LCC continues to ask for land on the appeal site to be provided free of charge, with a proportional contribution towards development of a one-form entry primary school to cater for the anticipated children from the appeal site. This is agreed and embodied within the s.106. In addition, land for an extension to this school would be protected for a period of 3-years from the transfer of the primary school site.

79. The expected number of primary school pupils from the appeal site would be in the order of 170 and the one-form entry school would provide 210 places, leaving a surplus to cater for other expected increases. LCC believes that the requirement and agreement is compliant with current CIL legislation and guidance as it would be necessary, directly related and proportional to the appeal scheme.

80. As there is adequate headroom to accommodate secondary school pupils, no contribution is sought in this regard.

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THE CASE FOR AR & MA PRIDGEON & GLADMAN DEVELOPMENT LTD

The material points are:

Overview

81. The Objectors to the scheme have left no stone unturned in opposing development of the appeal site, without recognising the benefits it would bring. They have sought to portray Louth as a town which offers no jobs, has poor transport connections and should be written off as a location for sustainable growth. They need to wake up to the content and aims of the Framework, which applies to Louth just as much as to the south-east. Louth and East Lindsey are not exempt from national policy. Also noteworthy is the limited scale of objection at the inquiry and this invites caution about the claimed wider support for their submissions.

82. On the other hand, the Council Officers have always supported the proposals and, despite Members' many concerns expressed originally feel only able to defend the refusal at the inquiry on a very narrow line of objection. The Council witness has no mandate to tender objection on other grounds and the Council's decision on a similar application in November 2014 for the same reasons that the appeal application was refused initially should be disregarded.

Policy context

83. It is common ground that the rubric of paragraph 14 of the Framework is engaged in this case. Although the Council says this is because of the absence of a 5-year supply of deliverable housing land, this is only one of a number of reasons. The East Lindsey LP had an end date of 2001 and is time expired. When adopted in 1999 its housing requirement predated the Regional Spatial Strategy system and no further land allocations or review of the settlement boundaries have taken place since then.

84. The landscape policy relied on by the Council LP Policy C11 addresses landscape issues by reference to the establishment and protection of an AGLV, a blanket policy that does not accord with the character based approach advocated by the now superseded Planning Policy Statement 7, let alone the Framework (Paragraph 113). As such, it is plainly out of date. Even then, the Council's approach to Policy C11 is wrongly to treat the appeal site as if it is subject to the rigours of the protection of an AGLV status. Paragraph 115 of the Framework is designed to preserve landscape beauty and not its setting.

85. As for other emerging plans, the Core Strategy, Site Allocations DPD and Neighbourhood Plan, these are not at a stage when they can be afforded material weight.

Housing matters

The supply of deliverable housing land

86. It is common ground that there is not a 5-year supply of deliverable housing land. The Council claims to have a 1.3-year supply, but this is assessed against the wrong requirement figure of 594 dwellings per annum (dpa). As there is no housing requirement figure in the development plan, the Courts tell

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us that the requirement figure that has to used in determining a planning application is that for the objectively assessed need (OAN). In any event, the constrained figure of 594 dpa is not the Council's latest draft requirement figure, which is 765 dpa. Thus, the real figure for the deliverable supply of housing land is materially less than 1.3-years and could be as low as 0.8-years.

87. It follows that the additional market housing would be a clear benefit of the appeal scheme. Given the shortage of supply in the District and the Government's aim in paragraph 47 of the Framework to boost significantly the supply of housing, this is a benefit that should attract significant weight.

88. It would also be a benefit to provide the additional housing in Louth, which is the largest town in the northern area of the district, serving a large hinterland. Importantly, outside the coastal zone, which is affected by flooding issues, it is the largest settlement. Louth is, therefore, expected to accommodate a large percentage of the future housing allocations in the forthcoming CS/LP and this is accepted by the Council. The appeal site is made up from a number of plots identified in the latest SHLAA and the site is promoted in its present form following a suggestion from the Council that they might benefit from being considered together.

89. The Council's May 2014 housing topic paper **(Document CD24)** does not reconcile the 10,075 houses the inland area of East Lindsey is expected to accommodate in the 15-year plan period with the 7,689 dwelling distributed between the various settlements. With the lower figure, Louth is expected to find land for 2,013 dwellings (26% of the inland total), but if the true inland total of 10,075 dwellings were allocated proportionately this would rise to some 2,620. Thus, the figure of 2,013 dwellings for Louth must be regarded as a minimum, because the 765 dpa figure is not based on the OAN figure and the current distribution figure for Louth does not meet the draft requirement for the inland zone.

90. In order to meet either figure, the appeal site will be needed. In fact, if every site around Louth, which was not discounted in the SHLAA, other than the appeal site, were to be developed, then there would still be a need to build on the appeal site. Even then, the 2,013 dwelling figure for Louth, which is the Council's latest thinking, would still not be met. Although the Council invites caution about discounted SHLAA sites, it produced no evidence on the matter.

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Affordable housing

91. The proposal would deliver 30% of the housing as affordable and the Appellants accept that this provision is justified and it can be secured by condition. Even though no audited economic viability assessment has been undertaken, no delivery problems are anticipated. As such, the affordable housing of up to 291 units is a significant benefit. Claims that more affordable housing brings increased social problems or pressures of whatever kind, should be rejected outright.

The effect on the character and appearance of the area

92. The Appellants' short contention is that any harm that would be caused by the appeal scheme would fall well short of the type or extent of harm that, of itself, would be significant or demonstrable. The Appellants' approach to

assessing the sensitivity of the landscape, the magnitude of change and the resultant significance of effects is to be preferred to the evidence submitted by the Council. Our evidence is professional and presents a thorough, well-reasoned and transparent assessment of these issues.

93. On the other hand, the Council's evidence is not advanced by a specialist landscape professional. Even if its assessment is by way of a critique of another's work, this must set out conclusions that are logically reasoned, transparent, as objective as they can be and comprehensible when subjective judgement comes into play. That must be the case if the evidence is capable of being sensibly tested in the way the Appellants' evidence can be. In fact, no rigorous assessment, which sets out any landscape or visual objection to the scheme, has been presented to the Council's Planning Committee during consideration of either the first or subsequent application. Even in the evidence presented to the inquiry the assessment suffers from significant flaws.

94. First, there is an over reliance on the presence of a line on a plan between the Middle Marsh Landscape Character Area I1 (LCA I1) from the East Lindsey DLCA **(Document CD43)** and the Wolds LCA G2. It is over reliant, because it is the sole reason why, in assessing sensitivity, the Council contends there is a change of character from one side of Legbourne Road to the other. In reality, although LCAs may have definable boundaries, these are rarely a strict demarcation between markedly different LCAs and this is the case here. This is eloquently demonstrated by the differences between the National LCA boundary along Kenwick Road and the Local DLCA boundary that lies along Legbourne Road. It is the DLCA boundary along Legbourne Road that is the reason the Council ascribes different levels of sensitivity to the landscape either side of the Road.

95. The Appellants do not fixate upon a line on a plan. Whereas it is true that the ES produces a line on a plan showing the demarcation within the western part of the appeal site between the Legbourne and Kenwick Roads, the Appellants do not base their sensitivity assessment on this as a strict line of demarcation. In fact, we would draw the line along Kenwick Road, on the western boundary of the appeal site. In any event, this is not a problem as no particular line is relied upon, when forming judgements about character or sensitivity.

96. Secondly, the Council's evidence makes the simple, but fundamental, error of mischaracterising the relationship of the appeal site to the AONB boundary. It cannot be said that the appeal site is contiguous with the AONB on two sides. There is land between the appeal site and the AONB on both sides and on the western side actually has another designation as AGLV. This error undermines the Council's entire approach and reveals the lack of substance in its views. The assessment of the baseline landscape overstates the proximity of the AONB and the appeal site.

97. Thirdly, the Council errs by referring to the DLCA as fine grained. It is not. It is a fairly broad-brush approach, which the Council concedes does not remove the need for a site specific assessment. The broad-brush approach can be demonstrated by looking at LCAI1. This is a substantial area of some 23km in length. However, the fieldwork undertaken to assess the LCA for that area involved visits to just two locations **(Document CD43, page 108)**. Next, the Council's critique of the Appellants' assessment wrongly accuses it of "*dismissing*" the

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DLCA. What the ES does is refines the District wide assessment, by undertaking a site specific assessment and forming its own views.

98. Finally, the Council's is over-reliant on the sensitivity ratings ascribed by the East Lindsey DCLA. This causes two problems for the Council's submissions. The sensitivity ratings in the local assessment are generic to all forms of development. It, therefore, treats the landscape's sensitivity to, for example, a hard-standing in the same way as it treats sensitivity to a commercial scale wind energy development. This invites caution, when using the Assessment's judgements on the landscape's sensitivity.

99. Neither is the DCLA instructive about how the choice between high and medium sensitivity is to be made. The table **(Document CD43, page 109)** resorts to the use of high or medium degrees of sensitivity in respect of certain components of sensitivity, which means that the definitions of grades of sensitivity are unclear, unhelpful and somewhat circular. Further, the DCLA does not discriminate between the sensitivity of the LCAs to any marked degree. The simple fact is that if additional housing development is to be provided in Louth, on any greenfield site on its edge, then a landscape assessed in the DCLA as having moderate to high sensitivity will have to be used.

100. The Council's evidence contains no clear assessment of the value of the landscape. The contents of Box 5.1 of the GLVIA 3rd Edition are referred to, but not addressed in any methodical way. Further, the assessment of value is contained in a separate part of the evidence, which is not dealing with value as an aspect of sensitivity, but seems more to be assessing whether the appeal site and surroundings is a valued landscape for the purposes of the Framework.

101. As for the Council's contention, when addressing the character and sensitivity of the landscape, that the appeal site frames the Wolds AONB, it does no such thing. It is part of the landscape that can be seen in some views of the edge of the Wolds, when travelling east to west or when looking to the west from a limited number of vantage points east of the appeal site. It is not a frame or even a component of a framed view of the Wolds. The point is demonstrably wrong and patently overstates the importance of the appeal site in views of the Wolds AONB.

102. When assessing the character or sensitivity of the appeal site (it is not clear which), the Council's evidence invites the decision maker to prefer the conclusions of the East Lindsey DCLA. However, it never tells what conclusions on what topics are actually referred to. There could be no clearer example of an opaque and unreasoned judgement. The Council comes to a view that the western part of the appeal site is of high sensitivity, but in an unsubstantiated and mistaken way. That is because the Council draws on the DCLA, which says that the area is of moderate to high sensitivity. From this it is concluded that the eastern part of the site is at the moderate end of the scale and, therefore, the western part must be "*pushed towards the 'high' sensitivity category*". There are two fundamental errors in this approach, which reveals the lack of substance in its assessment and the reasons underlying it.

103. First, it relies upon the DLCA classification of sensitivity, without recognising its generic nature and without considering the need to revisit the LCA-wide

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judgement on a site specific basis. Secondly, it wrongly assumes that if the east side of the appeal site is at the low end of the range of sensitivity then the western side must be at the other extreme of that scale. That simply does not follow and ignores the very essence of a spectrum.

104. Even then, the Council's assessment of sensitivity is expressed by reference to just one of the elements contributing to landscape features set out in the DCLA. The one element addresses claims that the appeal site is part of the Wolds' escarpment. In reality, the appeal site is not part of the Wolds' escarpment or any other escarpment and constitutes a total mischaracterisation of the appeal site.

105. Pointedly, those elements ignored are the detractors such as power lines, the slurry lagoon and extensive hay bales at South Field Farm and the other commercial activities along Legbourne Road. All these affect the character and reduce the sensitivity of the landscape to residential development. Neither is the absence of designations addressed, nor the extent of visibility or the number of sensitive receptors when expressing this view.

106. In a nutshell, the Council's assessment of the sensitivity of the western part of the appeal site suffers from a lack of calibration. If the appeal site is of high sensitivity, one wonders how somewhere in the unspoilt heart of the Wolds would be described.

107. The Council's assessment of the magnitude of change rests, in part, on criticism of the Appellants' assessment, asserting that two errors have been made. The first is that the ES wrongly takes into account the proposed development, when assessing the existing landscape. This is not so. The ES is clearly referencing the existing development, when assessing sensitivity. The second contention is that the ES is factually wrong in its description of the character of the landscape. The existence of a difference of opinion is not proof of a mistake as to objective fact.

108. In challenging the Appellants' landscape evidence, it was said that the assessment of character and sensitivity is over-reliant on the presence of built development and the urban fringe character of the appeal site. This is not so, with this being just one element that leads to the judgement that the appeal site is of low/medium sensitivity. It was also explained that this view did not simply rely on the presence of Louth to the north, but also by the presence of ribbon development along Legbourne Road itself. The Council misunderstands the difference between character and visual issues.

109. The Appellants' evidence was also questioned about the assessment of the value of the landscape and a contention that in undertaking this there had been a failure to canvass local views. Whereas the GLVIA 3rd Edition says that local consultation can be the subject of the scoping of assessments, the Council did not request such consultation when formulating the LVIA, which forms part of the ES. The criticism also overlooks the fact that none of the four committee reports written to deal with the appeal and duplicate scheme claim the landscape has any great value. To ascribe value purely on the basis of openness would mean any open countryside would be an important and sensitive asset and preclude any development in such areas. With respect to the appeal site, there is nothing to point to it being termed a valued landscape.

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110. The Council did suggest that the parts of LCA G2 lying within the Wolds AONB are of high sensitivity. However, there is nothing to support this assertion and the DLCA certainly does not say that.

111. Turning to the magnitude of landscape change, the Council's assessment is inadequate. It asserts that it would be high and adverse, but is preceded by descriptions of the character and sensitivity of the existing landscape. The judgement about magnitude is unreasoned and is about the change to views, which is to confuse landscape effects with visual effects. Even if the Council's assessment is correct, the Council accepts that it only applies to the western part of the appeal site, conceding that the magnitude of change on the eastern portion of the appeal site would only be slight adverse.

112. The Council's challenge to the Appellants' assessment of the magnitude of landscape effect was unsuccessful as was its challenge to their views on sensitivity. The claim that there was an over-reliance on the presence of the existing farm building to downplay the extent of change that would be brought about by the appeal scheme was groundless. It may be a factor that reduces the magnitude of change, but not an overriding one. There was also misunderstanding on the Council's part about the size and scale of landscape change. It is about the scale of change within the site being addressed and not the size of the site within which the change would occur.

113. Thus, as the assessments of sensitivity and magnitude of change are robust, it follows that the overall view of the significance of landscape effects is equally reliable. The appeal site does not fall within a valued landscape for the purposes of the Framework and offers very little public access. It has no designation of any kind and the AGLV designation is not to be rolled forward into the emerging LP. Neither is there any evidence that it might be designated as a Local Green Space. Nor are there any criteria based policies for identifying valued landscapes in the adopted LP or indications that the emerging LP will do so. In fact, there is no objective yardstick of any kind approved or deployed by the Council against which the value of landscape can be assessed.

114. The Council cannot even claim assistance from the 5th bullet point of paragraph 17 of the Framework. This requires the intrinsic character and beauty of the landscape to be recognised, but not, as in the case of Green Belts, protected. The difference must be deliberate and the Council cannot elevate the requirement to recognise to one of protection.

115. During the inquiry the AONB gained more prominence than it had ever enjoyed before. None of the refusal notices, original or amended, refer to the AONB, still less to harm being caused to it. The Council's evidence discusses the AONB and the protection it attracts. However, it does not set out any detailed basis for concluding that the AONB would be harmed in any way, still less that the harm would be to landscape features that contribute to the character of the AONB as the Council agreed is required and is the only relevant aspect of Part A of LP Policy C11.

116. The Council claims there would be harm to the AONB, with reference to views towards the AONB from the east and views from the AONB from the footpath through Kenwick Park. As for the former point, this is greatly exaggerated, given the mistaken claim about the appeal site "*framing*" the Wolds and the

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latter is a point about visual effects, not impact on landscape character. The extremely short length of view from the footpath within the AONB is not a landscape characteristic that contributes to the character of the Wolds AONB. The AONB Management Plan makes general references to the importance of views within and from the AONB, but there is no document that assesses the views from Kenwick Road across the appeal site as being an important characteristic of any landscape unit.

117. It was also only during the inquiry that the notion that the appeal site forms part of the setting to the AONB and that LP Policy C11 refers to or controls effects on the setting of the AONB was advanced in any detail. However, the concept is patently wrong. There is a setting to the AONB and that is what the AGLV is about. What the Council is really suggesting is that weight should be given to some notion of a setting to the setting of the AONB. This amounts to relying on a weak point late in the day and without foundation.

118. Moving now to visual matters, the Council's written evidence contained no systematic assessment of the range of viewpoints in the ES. At best, it set out some anecdotal evidence of talking to some people on some occasions, who apparently said that the views were valuable to them. Written opinions were presented on two views, those from Kenwick Road to the west and from Stewton to the east. Nothing was mentioned about any viewpoints within the AONB.

119. Of the two views mentioned, that from Stewton is over 2km from South Field Farm meaning there would be considerable attenuation of visual effects by virtue of distance. From Stewton the appeal site forms a small component of a panoramic view and the housing on the western part of the appeal site would not be on the skyline. It is simply not creditable to claim that there would be high adverse magnitude of effect from that location. The evidence ascribed no magnitude of effect to the change at all, simply observing that the effect would be "*at odds*" with the current visual experience. This does no more than identify that some change would occur.

120. There would be views of the appeal scheme when travelling west on Manby Road and onto Kenwick Hill, but these would be intermittent, given the presence of hedges, trees and buildings and the topography. The development of the appeal site would not materially harm the appreciation of the Wolds or the edge of the Wolds, when viewed from these locations. When dealing with views from Kenwick Road, the Council's evidence does no more than identify a negative effect. No magnitude or significance was ascribed to the change and the reference to footpath users is about the path at Kenwick Park.

121. The Round Louth Walk does not identify important views on the stretch between Stewton and the appeal site. It is to be noted that where views are important and impressive comment is made. No inference can be drawn from the direction of the walk in the absence of any evidence as to why walkers are recommended to travel clockwise. In any event, the Council's claims about the effect of the scheme upon persons' experience of using the walk is wholly undermined by the fact it does not disagree with the Appellants' assessment from the key viewpoints. This sets out that the significance of the effect upon the footpath within the site would be minor adverse at the year of completion and negligible/minor positive at year 15 after completion. If the views were so important, then those ratings would not have remained unchanged.

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122. The Council's point about the unsuitability of the structural tree planting is unfounded. The landscape assessments before the inquiry all point to woodlands and tree belts being characteristic of the surrounding area **(Documents CD40, CD41 and CD43)**. There would be nothing out of keeping with the character of the area if trees were planted on the western edge of the appeal site. Indeed, the edge of settlements using screening elements characteristic of the area is advised **(Documents CD43, page 82)**. This is precisely what the appeal scheme would do.

123. The statement in the SHLAA that dwellings should not be located higher than the buildings at South Field Farm should be afforded minimal weight. The SHLAA's advice was formed as a result of a site investigation that was not in-depth. Furthermore, the Council's assessment overlooks the significant differences in height, mass and scale of the bales when compared to the development.

124. The Council has refused planning permission for the whole scheme on landscape and visual grounds, but there is no landscape and visual objection to development of the eastern part of the site. Any caution the Council had about the acceptability of developing the eastern portion of the appeal site gave way, when answering the Inspector's questions. It was accepted that a landscape objection to the development of land on the eastern side of Legbourne Road could not be substantiated.

125. Furthermore, no questions were put to the Appellants' witness, which sought to identify any landscape or visual harm arising from development of the eastern area, still less harm that would weigh against the appeal scheme to any material degree. It follows that the Council's case must depend on showing that the claimed landscape and visual harm arising from the development of the land west of Legbourne Road would, by itself, significantly and demonstrably outweigh the benefits of developing all of the appeal site. This does not stand up to any scrutiny.

The benefits of the scheme

126. In addition to the benefits of providing market and affordable housing, the appeal scheme would also bring significant socio-economic benefits. These can be summarised as the construction spend and building jobs; the increased household spend; the support for new jobs in public services and the project's community hub; the New Homes Bonus and additional Council Tax revenues; greater support for retail and other facilities in the town; and an expanded labour force.

127. The existence and scale of these benefits are not challenged by the Council, though several are downplayed as being generic to any new housing scheme. However, only a scheme that brings about a new school or community uses and retail space would bring these particular benefits. In any event, the scale of the socio-economic benefits would obviously be the product of 970 dwellings, with smaller schemes delivering smaller benefits.

128. The proposal would also bring benefits so far as flooding and drainage are concerned and this is accepted by the Environment Agency. A Flood Risk Assessment (FRA) was prepared, revised and discussed with the Agency. The result is that the proposal would not merely create a situation of nil detriment, it would deliver improvement when compared to the no-scheme world. The

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highway works required for Legbourne Road would include improved drainage as well as pedestrian and cycle improvements. Much of the appeal site lies within the 2km walk isochrone and the 5km cycle isochrones includes all of the town and well beyond. These benefits have not been taken into account by the Council or local Objectors.

129. Next, the Council is wrong to say that the removal of the slurry lagoon at South Field Farm would not be a benefit of the scheme. The premise that a situation where unlawful conduct is used to secure planning permission is unjustified. There is no evidence that the slurry lagoon is an actionable statutory nuisance in private law or otherwise unlawful. South Field Farm is a trade premises and so, if an Abatement Notice was served in respect of any smell emanating from the Farm, an appeal against the Notice would succeed even if smell was a nuisance, provided that BPM were being taken to prevent or counteract the effects of the nuisance. It would also be a defence to prosecution for breach of the Abatement Notice if BPM were being used. In either case, the odour from the Farm could not be said to be unlawful, but would continue to exist and could cause amenity problems.

130. The provision of a single form entry primary school would be a benefit for two reasons. First, the approval of a large development site would allow for a site big enough to accommodate the school to be set aside for that purpose. The LEA cogently explained why the provision of the same number of dwellings on a number of smaller sites may not be able to solve the problems with primary school capacity, which currently exist and which would worsen with new development. Secondly, the single form entry school would have 210 places. The appeal scheme would create the need for 170 places, leaving a modest spare capacity to be taken up by others.

131. Further still, the planning obligation reserves a site for a set period, which would allow for the extension of the school to provide a two form entry. The need for the enlarged school would not be caused by the appeal scheme, so the safeguarding of that land would be a pure benefit of the proposal. Bearing in mind the problems facing the LEA in Louth, this benefit deserves a good amount of weight. Once again, the Council does not recognise this.

132. Finally, the provision of open space and a community park, would be available for use by all, not just the new residents. The appeal proposals would give access to land containing a high quality environment and which land, at present, gives only very limited public access on the eastern side and no public access on the western side of Legbourne Road. The Council has not given this benefit any weight. The density of development is proposed at 23 dwellings per ha and is 'fixed' at this, rather than a higher figure, because the developer wishes to produce a high quality development.

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Other material considerations

Highways and transportation

133. The application was accompanied by a Transport Assessment (TA), which considered the effect of the appeal scheme on the proposed site access and three existing junctions. This TA was conducted by establishing the 2013 base traffic figures for turning movements at key junctions; applying the TEMPRO growth factors to 2023; employing traffic generation figures for comparable sites by taking the mean drawn from the TRICS database; distributing these

trips to the network using journey to work data from the National Census Database and added to the 2023 figures; and the key junctions were tested using ARCADY, PICADY and OSCADY as appropriate.

134. This analysis showed that all the three key junctions would operate within capacity in 2023, with only the traffic signal controlled junction at the B1200/B1250/South Street junction approaching capacity in the peak hours. The LHA asked for this to be re-run using LINSIG rather than OSCADY, and this showed slightly greater spare capacity. This is considered robust as all the traffic travelling north from the appeal site is routed through this junction, whereas in practice some would turn off before reaching it.

135. Questions raised by the Inspector at the PIM have been addressed. The parameters used in assessing the junctions are correct, when checked against the situation on the ground. The junctions' capacity is not sensitive to the number of cyclists that would use them, with the out of town roundabouts having full carriageway width available. The traffic signal controlled junction was sensitivity tested, with the impact on capacity being marginal. At this junction, there is no evidence that the current position of the stop lines is not correct, but even if they were, this would have no material impact on capacity. Similarly there is no evidence that the cycle time used in the LINSIG assessment is too long, and this allows for a pedestrian phase every two cycles. Still less is there evidence that any such effect on capacity would amount to a residual effect that the scheme would be "*severe*" for the purposes of the Framework (paragraph 32).

136. There would also be public transport enhancements, with the upgrading of the Nipper Service, with finance of an additional bus and plans to extend the service through the appeal site. This would then connect to other services from the Louth Bus Station **(Document CD1/15 and 27)**. The necessary bus stops and lay-bys would be provided and the Nipper service improved from the present hourly to a half-hourly. A Travel Plan and Travel Co-ordinator would form part of the package. The former does not contain any targets for mode switch, because where there are very low starting points this can be a meaningless exercise.

137. Finally, it is not the Appellants' job to undertake the Louth-wide Transport Assessment that LCC, as LHA, suggests is necessary. This is part of the evidence base for the forthcoming Core Strategy/Local Plan. The Appellants' task is limited to assessing the effects of the appeal scheme, together with extant, committed and reasonably foreseeable developments in Louth. This has been completed in the ES Addendum **(Document 18)**, about which LCC has made no complaint and neither did it appear at the inquiry to press the point.

Education and other public services

138. The provision of a site for a new primary school which could be further enlarged is dealt with earlier. The planning Obligation contains the relevant contributions to secure that provision. Remarkably, for a development of this size, there is no need for any contribution to secondary school provision, as sufficient spare capacity exists.

139. The only other public service that needs to be considered is health care services. The planning Obligation supporting the appeal scheme would reserve land for a doctors' surgery for a period of 5-years from the first completion.

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There is no reliable evidence that there is need to provide for dental services and the Council certainly seeks no such provision or contribution to be made. An Agreement with the NHS is close to signature **(Document GDL15)**.

Flooding

140. This has been dealt with above in relation to the benefits of the scheme.

Odour

141. This has also been dealt with above, when dealing with the benefits. There is no evidence to show that any remaining activity at South Field Farm would cause odour problems. There is no such claim from the Council or anyone who has addressed the inquiry.

Loss of agricultural land.

142. The Appellants do not shy away from recognising that this is a disbenefit of the scheme. The scheme would lead to the loss to agriculture of 4ha of grade 2 land and 25ha of grade 3a land. Limited weight should be afforded to that loss because if Louth is to provide more housing, as it must, then the loss of best and most versatile agricultural land is likely wherever one chooses to develop. The Council plainly does not consider this is a serious disbenefit of the scheme.

143. Third parties have referred to the loss of agricultural land. One even said that the loss of agricultural land should be resisted because it was needed to grow food for our growing population. Our growing population also needs somewhere to live.

Land *Contamination*

144. Save for the slurry lagoon, there is no evidence of any potential contamination problem and the Council agrees that land contamination issues can be dealt with by condition.

Employment Issues

145. It is a repeated theme of the third parties that there are insufficient jobs in Louth to support housing growth. That is not a point taken by the Council and it has explained that there is employment land in Louth, Horncastle and elsewhere. Further, Louth is a thriving town. It has shops, offices, services, schools, leisure centre, hospital and other public and private services, which support employment. The idea that people living at the appeal site would have to travel to Lincoln, Humber Bank or further afield to find work is risible.

Social cohesion.

146. Again, this is a point which is not taken by the Council. It explains how the problem of too rapid development of the appeal site could be avoided by phasing the site, using an appropriately worded condition. To a degree, the natural operation of the market would serve to avoid the risk of 970 units being "*dumped*" onto the market at once and the build out is expected to take 10-years or more. There is no reason to think that providing development to help increase housing supply to a 5-year supply would cause a lack of social cohesion. Such a claim hardly sits well with the Government's aim to boost the supply of housing significantly. Increased housing supply is a good thing, not a threat to social cohesion.

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The Overall Planning Balance

147. On the proper assumption that the Council has not changed its mind and accepts that this is a case where paragraph 14 of the NPPF is engaged, it is firmly submitted that the many, varied and substantial benefits of the proposal should carry very significant weight in the decision making process. In applying the paragraph 14 test, the extent of the shortfall in housing supply must be taken into account. The Council consistently misses the Appellants' point on this issue. It is correct to say that the decision making test in paragraph 14 applies regardless of whether the deliverable supply is 4.99 years or one dwelling. That is not the point.

148. The point is to decide how that balancing exercise is to be carried out once one decides that it does apply. It must be necessary to take into account that the supply is materially below 1.3 years. That is because to treat the weight to be given to adding to a housing supply which is below 5-years as a constant, whatever the degree of shortfall, means that one is not carrying out a fair balancing exercise. The constant weight to be afforded to adding to a sub-five year supply would be weighed against harms which would have a case-specific weight attached to them. To adopt that approach would be to weigh specific harm against generic benefit and, thus, be in error. Both sides of the balance ought to be ascribed weight specific to the facts of the case. That is because the lower the supply, the more housing is needed to achieve a 5-year supply. It may well be necessary, for example, to tolerate a greater degree of harm in order to increase a 1.3-year supply than it might be necessary to tolerate to add to a 4.99-year supply.

149. The Appellants' analysis of this issue is correct and not properly engaged with, let alone countered, by the Council. The Glossop decision letter **(Document CD37)** (DL27) to which the Council refers does not support its case. This decision expressly notes that the question whether the degree of shortfall could be material to the application of the Framework paragraph 14 decision making exercise in a non-Green Belt case has yet to be tested. The Appellants are testing that proposition in this case. Further, the Council's identification of the changed housing land supply as one of the reasons given in the July report for why the planning balance needs to be revisited reveals the Appellants' point to be correct. The Council would not have drawn this point to Members' attention if any shortfall below 5-years was to be afforded uniform weight, whatever its extent.

150. To claim that any landscape and visual harm which may be caused by developing the western part of the appeal site, which is the totality of the claimed harm put forward by the Council, is to adopt a position which is not just wrong, but outside the reasonable range of opinions open to the Council. It is a position that is incapable of substantiation and, therefore, unreasonable. It is a position that the Council does not explain or justify in any detail, sufficient to explain why the detailed consideration given in the Committee reports relating to this scheme ought to be departed from.

151. Planning permission should be granted for this scheme so that the Council can improve its desperately poor performance in providing much needed housing for its residents and secure the many benefits that the proposal would bring.

152. The Appellants ask for the appeal to be allowed.

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THIRD PARTY SUBMISSIONS

153. **Cllr Jill Makinson Sanders** is a Ward Member and Town Councillor. She points out that the cycling proposals are impractical. There is no cycle parking facility at the bus station to facilitate interchange and the route is potentially dangerous, even with the improvements proposed. She believes that the future development of Louth should follow the principles of the Market Town's initiative in supporting a central hub and not be developed in an unplanned way.

154. **Mr Andrew Leonard** is the Town Mayor and Town Councillor, but appears at the inquiry in a private capacity as a resident. He considers the scale of the development would be a travesty for Louth, adding substantially to the current population of 17,000. This would be contrary to the Louth Town Plan, which looks for a maximum of 500 new dwellings **(Document 24)**. This increase would add pressure onto Doctors, Dentists and the Hospital, with little chance of being able to fill any newly created posts. Employment is a continuing problem in the area, with seasonal work available on the coast and the only other work being in the agricultural and tourist sectors. Louth has no other employment and, with the narrow arterial roads that are incredibly busy and lead to a congested town centre, there is little incentive to start new businesses.

155. The offers of the school site and contribution to the Nipper service are just sweeteners. In respect of the former, LCC has changed from its initial objection to the position of grateful recipient. Even so, there is no guarantee the school would emerge. As for the Nipper bus, this would only be financed for 5-years, after which it is likely to disappear. The funding for the present one is under threat **(Document 23)** and an improved service would be unlikely to attract sufficient support to keep it running. Everything needs to be treated on its own merits and not hopeful aspirations.

156. The land to the west of the appeal site acts as the setting to the Wolds AONB, even though it is outside. The AONB is like the rug, with the appeal site the fringes around it. Building on the western part of the site would introduce high visual intrusion to both the AONB and the setting of the town itself. There is no guarantee the slurry pit at South Field Farm would go, leaving new occupiers with an odour problem. There would also be a problem of land contamination. Flooding remains a feature of Legbourne Road and in the past, promised improvements have not materialised or been successful.

157. Louth has a natural form closely associated with the town centre core. The appeal site is too far out and so would be entirely at odds with the prevailing structure and role of the town. Being 4.5km (3 miles) from the centre people would not walk, but drive and, thus, the extension would not be sustainable. The evidence provided by the Appellants is flawed. It does not stack up. The current building rates do not support a development of this scale and the developers are just creating a landbank to sterilise other smaller and more sustainable sites. Moreover, there are brownfield sites still available. This application has attracted a lot of local objection as the adverse consequences of giving planning permission are just too high.

158. **Cllr Pauline Watson** is a District and Town Councillor and supports the Council's position on all the points contained in the original refusal. Louth is

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the southern gateway to the Wolds and a hidden gem, attracting tourists, upon which, as well as farming, the economy relies. House prices are low in Louth, reflecting the fact it has no rail connection, no major road access, poor buses and not near an airport. Moreover, there is no guarantee that the financial support for the Nipper service will continue in the straightened financial times **(Document CD43)**. Louth is compared to Ilkley by some, but the character of Ilkley is protected by restraints on development in the surrounding area. All we want is the same for Louth and to safeguard the town's longstanding role and character by limiting development to that which supports the town centre.

159. **Mr Stuart Watson** appears as a District Councillor and contends that Louth is a town that should rely on its own businesses, especially agriculture and tourism. The construction might generate some employment benefits at the start, but these would be not on-going. He points out that Louth has no rail connection and is a considerable distance by road from any employment centre and especially distant from the region's main one at Humber Bank. Even then, employees from the appeal site would not have the option of bus connection to these centres, meaning that virtually all journeys would be by car, with the attendant use of carbon fuels and the pollution that follows. The infrastructure for a development of this scale is just not there and so the development could not be sustainable in the terms expressed by the Framework.

160. In any event, with the poor access connectivity with the outside world, new employers would have to relate to the local functions. This would not employ many more people, as agriculture is under stress and the tourist attraction is not going to be helped by a further expansion that would destroy the very essence of the town people come to see. The proposal is indicative of an urban expansion. Louth is not urban, but a rural market town. It does not need a 5-year supply of housing at the levels suggested, and the current building rates confirm this.

161. The suggestion that a Doctor's surgery would serve the interests of the new residents is unfounded. The present medical support offers only temporary Doctor appointments and the hospital cannot attract medical staff as it is not part of a teaching hospital. Building a new surgery would not remedy the underlying problem of staffing it.

162. Finally, Mr Watson supports the Council's stance on landscape and is concerned that the Appellants' expert has only recently taken over the brief and would not have had time to verify the earlier landscape arguments. There is no doubt in Mr Watson's mind that the proposal would harm the views across the site, especially in the vista currently enjoyed from the east and reduce the enjoyment for footpath users.

163. **Ms Margaret Gray** is a local Resident of 52-years and is concerned about the effects of the proposed scheme on flooding in the area, which still persists. There is no footway on Legbourne Road from the Garden Centre to town and the walk takes her 40-minutes along a route where she feels threatened by speeding cars. As for cycling, cars park on the cycle path and this makes the route dangerous for cyclists.

164. There are very few jobs in Louth and the infrequent buses do not fit in with the work schedule. There is no rail link. As for the scale of development, this is far too big. There are many houses for sale in Louth, which is a unique market

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town that would be destroyed with the size and location of this scheme. Construction jobs would not go to Louth people as the skilled people in these trades do not exist locally and there would be the loss of high grade farmland.

165. **Ms Susan Maskell** is also a local Resident, who is shocked and disappointed by the Education Authority's representative. There is an overspill of 170 pupils now and a further 36 by 2018 and this is contrary to the expert's figures produced for the inquiry. In any event, the school would be a long time in opening and it would be difficult to recruit teachers. It is not accepted that there would be no impact on secondary education as the figures for Louth do not take into account any new pupils from development in the surrounding area, outside Louth, but still in the Louth secondary school catchment.

166. Moving on to the potential for flood risk, none of the improvements that have been undertaken so far have proved effective and there is no reason to believe the current proposals would be any better. There is also evidence of sewage overflow. Since Weavers Tryst was built in the 1990s, it has not been possible for some for some property owners to get insurance against flooding. Draining more water into Stewton Beck would only exacerbate the problem and the holding ponds would be a danger to children.

167. The access proposed for the site would be dangerous for pedestrians and cyclists crossing at the roundabout on Legbourne Road. The traffic levels in parts of the town are already high and the proposed cycle routes would be tortuous and dangerous, involving using footpaths and then mingling with general traffic on the roads. Turning to the landscape matters, the views from Kenwick Road across to the marshes are historically important and they would be lost with the landscape proposals.

168. Finally, the Government promised that the views of local people would be given weight in planning matters. This promise is not being honoured and cannot be until the local plan is examined. The problem is being fuelled by the Council's failure to take all the matters on board.

169. **Cllr Eileen Ballard** is a Member of Louth Town Council (LTC) and represents it at the inquiry. She is also Ward Member for St Michaels' Ward, which encompasses a large part of the appeal site. The Town Council's objections to the appeal scheme are many. In an area such as this, the Framework delivers a presumption in favour of sustainable development, with the emphasis on the need to "*significantly boost housing supply*". However, the Framework's definition of 'sustainability' fails to give equal weight to other factors, such as avoiding unnecessary greenfield development, maintaining and enhancing the quality of the natural environment and taking account of the balance between building new homes and the infrastructure necessary to serve them.

170. The Council is not against building new homes. However, with reference to its own published 2009 Louth Town Plan **(Document 24)**, our consultation response when the CS was advertised was that Louth could only absorb 500 new homes during the plan period and that a new poorly planned large housing development such as this would have a detrimental impact on the infrastructure of the town and inflict irreparable damage to our countryside and environment. Importantly, there are already some 850 homes that have been recently constructed, awaiting construction or pending a planning decision **(Document 28)**. Moreover, the town still has a number of brownfield sites

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awaiting development. Under these circumstances, the Town Council is dismayed at the potential loss of an important greenfield site on the approach to the town. The fact the CS is not yet adopted means that we have been unable to voice these opinions in the public forum.

171. Louth TC is aware that there is a requirement for affordable housing, but it is anticipated that the numbers will reduce following the Council's recently adopted Housing Strategy (2013-2018), born from Government's direction to address housing issues. Moreover, placing large numbers of social housing so far from the town centre services would dilute the efforts of the public services, meaning existing residents would suffer.

172. The appeal proposals would see the creation of a new 'village' tacked onto the town boundary, with its own infrastructure. We believe this would be detrimental to the character of the town, by creating a suburb rather than supporting a central market town core. This point is recognised in the Officer's assessment of the proposal, when evaluating the second application, by saying that "*approving such a large amount of housing in one section of the town would undermine the delivery of housing, particularly given that this application is only in outline and there are no builders or developers on board to ensure such delivery*". Also, the visual impact of the development would be overbearing, due to its size and style, on a site close to the AONB. While some new landscape features are proposed, the sheer scale of the project would create a negative aspect when entering our pretty, inviting market town nestled in the Lincolnshire Wolds.

173. In practical terms, the 4,000 or so expected residents would increase the population of Louth by 25% and put pressure on the already stretched Police, health and education providers. Figures indicate that each new dwelling would generate up to eight vehicle journeys each day. This would exacerbate the problem of access that exists for drivers using town junctions already suffering from congestion, and pedestrians who have great difficulty crossing the B1200. There are particular problems at the junctions of Stewton Lane/Newmarket, Newmarket/Church Street, Newmarket/Upgate traffic signals and Church Street/Eastgate junctions. We are still awaiting the Transport Assessment, which LCC insists is essential as this would highlight the problems that would occur if the appeal scheme is built.

174. LTC sees the Appellants' strategy to encourage cycle and walk trips as unworkable. For a start, the actual travel distance to the town centre is some 4-5km $_{(3miles)}$ distant and the routes are poor. Cycling to town is inherently dangerous. The route has breaks and just ends, because the roads and streets are too narrow to support a continuous route into the town. The suggested use of the Railway Walk is impractical and unsafe. It is not of an adequate standard, being unlit and surrounded by high banks. This seclusion has invited muggings and indecent exposure, one this month, and Police advice is not to use this when on one's own or during the hours of darkness.

175. The Framework requires that development should not cause any detrimental effect. On the appeal site, there is great concern about the drainage and the potential for flooding. There is ample evidence that the road and surrounding land floods. While LTC is aware that mitigation measures could be introduced, those proposed are considered inadequate for the size of development and problems upstream and downstream are anticipated; a point highlighted by

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objections from villages downstream. There has been poor maintenance of the local drainage infrastructure, especially the overflow lagoon/tanks situated in Weavers Tryst, which remained empty in times of recent flood.

176. The risks of flooding are also evidenced by the Environment Agency's "Louth Coastal Catchment Flood Management Plan", which states that "*surface water drainage and sewer flooding is thought to be a risk in Louth*" and that "*changes in land use (for example urban development) and rural land management with high concentrations of impermeable surfaces, increases the risk of surface water flooding within the town.*" The Council's CS Submission Version of December 2013 also acknowledges the "*adapting to flooding and climate change is one of the most significant challenges to be faced by the District*".

177. Next, the use of valuable farmland is contrary to LCC's policies and those of the Greater Lincolnshire Local Enterprise Partnership. The Council's Portfolio Holder for Economic Development has stated publically his concerns about the loss of farmland and the threat to food production. This is supported by the Campaign for the Protection of Rural England.

178. In summary, the CS, a blueprint for future housing developments is unlikely to be completed before the May election. A delay caused by Government 'shifting the goalposts'. This has allowed developers such as the Appellants to exploit the planning system and, according to their Prospectus "*obtain residential planning consents on edge of town greenfield sites using our expertise and financial resources to proactively promote the sites and secure planning permission*". LTC does not believe this is an appropriate thesis for local planning and asks that its objections and those of local people are taken on board and the appeal dismissed.

179. **Cllr George Horton** Ward and Town Councillor considers that the appeal scheme is much too big for Louth. 350 houses have already been approved on smaller sites and are being developed, with other land available in more sustainable locations. Something of this size would destroy what the town is. Parking is already a nightmare and locating a development this big so far from the centre would only make matters worse. There are no jobs in Louth to attract the additional 2-3,000 population. NHS services in the town are currently at breaking point and providing a new surgery is not the solution. Recruitment is the major problem, as well as underfunded emergency services. Finally, there is a flooding problem and building on fields would only make matters worse.

180. **Mr Michael and Mrs Pauline Surr** are Residents who say that Louth is not a cycle friendly town, with drivers not giving cyclists sufficient room. Cars park in the cycle lane and where it transfers from one side of the road to the other, it is difficult to get across, because of the high levels of traffic. The railway walk is not wide enough for walkers and cyclists and if used, there are very few places to leave cycles in the centre. Mrs Surr does cycle regularly, but does not feel safe on Legbourne Road now. With the additional traffic she would have to think seriously about continuing to cycle.

181. As for the development, they submit that building this many houses would be inappropriate for Louth, which does not have the infrastructure, with no rail connection and poor bus services. It would be like tagging a new village onto Louth, without the necessary infrastructure and at the expense of valuable

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agricultural land. The walking distances to the town centre are too far and most journeys would be undertaken by car. The appointment of a Travel Plan Co-ordinator is expensive and indicates that the developers anticipate a problem with the additional traffic. The new residents will be competing for the existing established schools for many years and the pressure on Doctors' surgeries and the Hospital would be enormous, with the latter already at capacity.

182. **Mr Andrew Laughton** owns and operates Southfield Farm in partnership with his father. He is concerned with the Council's evidence that submits that there are statutory means to deal with a nuisance from smells from the slurry pit, along with an implied threat that, should planning permission be refused, the situation would be made worse by introducing pigs. Their cattle fattening business employs 12 people and, inevitably, there are smells at some stages of the operation and under certain weather conditions.

183. As a result of some unsubstantiated claims, the business has been the subject of intense scrutiny by DEFRA welfare vets, other regulators and our customers. We apply BPM and have passed the scrutiny successfully. The prosecution by the Council occurred during periods when mucking out was taking place, even though it had been advised of this. Extensive precautions are taken to prevent odour most of the time and to minimise it when mucking out takes place.

184. What local people want is for the housing to be refused and the business closed down. The Council's assertion that there would be no benefit from the closing down of the Farm must be weighed against the threats and intentions of the local people that upset Mr Laughton and his family. Faced with this, the matter is not as simple as the Council claims. There would be a benefit in removing the slurry pit and, whereas prosecution would be there to deal with a nuisance, the operation of the site does not present a statutory nuisance and all subsequent actions by the regulators have now ceased.

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WRITTEN REPRESENTATIONS

185. There are over 100 written representations covering a myriad of objections and concerns. What follows is a digest of these made jointly and severally. However, before dealing with the matters on a topic based approach, there are several agencies and community bodies who have lodged representations.

186. **Lincolnshire County Council Planning Services** supports the Council's previous reasons for refusal, pointing out that the 970 dwellings proposed here would be half the total for Louth included in the CS Topic Paper "The proposed housing target and options for growth". Even then, LCC does not consider that the demographic evidence supports such high growth levels in inland East Lindsey and the figure is, therefore, aspirational.

187. In any event, there are SHLAA sites that are nearer the town centre. Without the opportunity to deliver a holistic range of transport solutions for Louth, considering all potential development sites, it is likely that allowing this scheme in isolation would be a burden on other sites and would involve higher car usage. Moreover, the site appears to be in the control of one strategic land promoter, with other major land interest in the district, and a local landowner, which could suggest that choice and supply would be undermined.

188. In LCC's response to the consultation on the topic paper, it comments on the four stages set out in the Paper.

189. As for Stage 1 – Setting the Baseline, LCC considers that the Council has moved forward in isolation, contrary to the wishes of the Central Lincolnshire Joint Strategic Planning Committee and has not used the latest Office for National Statistics (ONS) 2012 based population projections, which are the first to make full use of the 2011 census, and has not met its 'Duty to Co-operate' with Boston Borough Council and other neighbouring authorities.

190. LCC is surprised that the Topic Paper argues for the highest projected level of growth from the identified scenarios and a figure last exceeded in 1988. The Topic Paper appears to confuse household projections and, although Edge Analytics have been used, the ONS 2012 projections cannot immediately be translated into household growth, as the Government projections are not expected until the end of 2014. However, it would be possible to compare them with the population growth underlying the Edge Analytics scenarios. It can be seen that the new ONS projections show a level of population growth well below the Council's preferred option.

191. As opposed to the 765 dwellings the Council suggests should be built each year, pending the Government 2012 – based household projections, a range of around 400-450 per year is considered a more realistic starting point. The Framework and the PPG encourages Councils to plan for higher levels of growth, based on policy aspirations, but this does need to be deliverable. The adjustments recommended by the PPG to be tested include employment parameters and housing prices and delivery. Any such adjustments would need clear evidence, and this is not addressed by the current SHMA update.

192. Turning to Stage 2 – Splitting the housing target between the coast and inland East Lindsey, LCC broadly welcomes the restraint on housing development on

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the coast as a pragmatic response to the flood risk issues. However, the argument that this will leave an unmet need for almost 2,400 dwellings, based purely on the historic growth of housing on the coast is not accepted.

193. This 'unmet need' is roughly consistent with the highest scenario for the coast, which is not considered robust for the reasons set out under Stage 1 above. In the past, housing growth on the coast has been driven entirely by net migration, in turn driven by the retirement market. It is likely, also, that such buyers would choose other coastal location around Britain, given that it is the choice of a coastal location that is attractive and not an inland one. Although the transfer of the coastal un-met need to inland location is described as precautionary, it is hardly appropriate looking at the delivery and infrastructure challenges it will pose. As such, the inland target 73% higher than the draft CS cannot be supported.

194. Next the Stage 3 – An assessment of the deliverability of the housing market is considered. A key principle of the Framework (paragraph 47) is that the local plan should meet in full OANs, as far as is consistent with other policies in the Framework. Thus, if a high housing level is proposed, this will be expected to be met and the Council will have to demonstrate that it is deliverable. The housing trajectory does not attempt to meet the full policy requirement, except through a marked step change between 2025 and 2030.

195. In this regard, shortcomings in the infrastructure would seem to have a significant impact on the deliverability of housing and the Infrastructure Delivery Plan has not been developed since the previous consultation in 2013. If the delivery profile is to be achieved, then a joint traffic modelling exercise (Transport Assessment) needs to be undertaken within the larger towns, including Louth, to predict the effects the proposed levels of development would have on these town centres and the surrounding highway network. LCC would like to see a CIL approach to new development so that the necessary highway and other infrastructure improvements can be achieved at a rate that would facilitate the new build.

196. Finally, Stage 4 - An assessment of the distribution of the housing target and types of housing required is discussed. The distribution of housing growth does not cover the contingency provision of 2,386 dwellings, other than to say it would be allocated to the five inland towns. It is not clear how this would be achieved or whether sites would be identified in the Local Plan. This again brings in to doubt the extent of co-operation with neighbouring authorities.

197. By way of conclusions, LCC does not consider the Topic Paper a sound basis for objectively assessing housing needs in a revised CS as it does not start from the latest demographic evidence, does not apply the checks required by the PPG and does not take into account the 'Duty to Co-operate'. It states that there is insufficient evidence for whether the whole OAN exists or whether it would be deliverable. This alone would cause an Inspector to find the plan unsound, as would the lack of objective evidence to show the 'Duty to Co-operate' has been met. Finally, infrastructure constraints and delivery do not appear to have been considered in sufficient detail to support the proposed level of growth.

198. **NHS Property Services**, **NHS Lincolnshire East** (Clinical Commissioning Group) and **NHS England** each wrote in response to the application. NHS

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Property Services raised no objection subject to a financial contribution of some £400,000. This was subsequently amended by NHS England, who agreed that the provision of a new surgery on the appeal site would be acceptable in lieu of s.106 funding. The recent letter from the NHS **(Document GDL15)** does foretell of possible collaboration between the NHS and the Appellants. However, the Clinical Commissioning Group says that, apart from the reservation of a site for a GP surgery, no consideration appears to have been given to the additional capacity that would be needed within the local community health and hospital services.

199. Moreover, there is the extreme difficulty of recruiting to health services in the Louth area. Neither does there appear to have been any consideration of the impact on the Louth Hospital site being able to deliver services for such a significant increase in the local population. It goes on to say that it is now expected for a development such as this to provide for a modern, multi-purpose, multi-agency Health Centre to be provided, pointing out that this does not feature in the current application.

200. The **Environment Agency** (EA) initially objected to the proposal on flood risk grounds and requested further information. The key message was that the Applicants should demonstrate that the appeal scheme would not increase the risk of flooding elsewhere and, where possible, should reduce the flood risk overall. As a result of further information in respect of the Flood Risk Assessment (FRA), the EA withdrew its objection of flood risk grounds, subject to a sustainable drainage scheme being provided and works to the Kenwick Hill Land Drain being secured by condition. With regard to land contamination, the EA recommends the imposition of two conditions to cover this aspect. The **Lindsey Marsh Drainage Board** also raises the question of Stewton Brook and supports the EA's requirements in this regard.

201. **Legbourne Parish Council** objects to the proposal on a number of grounds. It contends that the scale of the development would be too large and would spread the town, causing sprawl, which would reduce the separation between settlements. It goes on to express concerns about flood risk, traffic and the loss of prime agricultural land. It believes this would all have a detrimental effect on the village.

202. **Lincolnshire Wolds Countryside Service** considers it only had limited chance to review this proposal and is concerned about the effect it would have on the setting and views of and from the AONB. It points out that the site is extensive and lies out-with the existing settlement boundary. As such, while appreciating that there is a need to ensure sustainable growth, it urges that best use is made of land within the boundary before extending the settlement further.

203. **Louth Civic Trust** objects to the proposal as completely unsustainable. It does not believe that an increase in the town's population of some 20% could be accommodated, bearing in mind the lack of facilities and transport infrastructure both in the town and connecting to the outside. It believes that smaller developments spread around the town and in other nearby settlements should be the preferred approach.

204. **Louth Town Council** strongly objects to the proposals as premature, pending production of the CS and housing site allocations. It has responded to the

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consultation exercise by contending that the town could absorb a further 500 dwellings during the Plan period and understands that there are approximately 250 already approved (NB. This response was prior to the Council's recent minded to approve resolution on the Grimsby Road site for some 240 further dwellings subject to the signing of a s.106.). The Town Council believes the creation of a suburban area with a village core/heart on the outskirts of the town would be detrimental to the character of Louth by failing to support the central market town core and its retail offer. The sheer scale and size of the development would occasion a negative aspect when entering the town.

205. The increase of some 4,000 new residents would increase the population by 25% and impose pressures on health, police and education as is evidenced by responses from NHS and LCC as LEA. Owing to the slow build out rate on other sites, such as proposed here, the promised facilities of schools and medical facilities have not materialised. The Town Council then moves to raise objections for drainage, flood risk and highway reasons, pointing to the frequent occurrence of flooding and the congestion that already exists at certain junctions. Next, it questions the proposed use of the Railway Walk as of poor standard and unlit, thereby limiting its potential use. Finally, the Council draws attention to the poor cycle facilities in the town and the need to improve public transport links.

206. The Council's **Environmental Health Officer** opines that to all intents and purposes the operation at South Field Farm is an intensive cattle rearing enterprise and an Abatement Notice has been served on the Farm, with further investigation of continued complaints regarding odour from the Farm. Although the odour report advises that an odour impact would be unlikely for receptors at more than 100m distance, the Officer has concerns and looks for a restriction on the numbers of cattle on the Farm. A further option would be the removal of the operation, by way of a legal agreement, which would remove any future odour concerns.

207. **Sport England** submits that the Sports Facilities Indicator points to this development generating demand for an investment of some £825,000 into new or improved sports facilities and implies that this should be provided by the developers. The Council's **Waste Services** (Streetscene) looks for a contribution of £55 per dwelling towards the provision and delivery of general waste and recycling bins.

208. Turning to the individual concerns, objections to the **location and nature of the development** identify the site as being outside the settlement boundary and that allowing this application would create a precedent and prejudice the preparation of the emerging LP. They consider that, if the development cannot be located in one of the district's other towns or even further afield, other sites in Louth nearer the town centre, some of which are brownfield, will or could be developed and that the appeal proposals being much further away would be unsustainable. Building a neighbourhood centre as part of the appeal scheme would undermine the vitality and viability of Louth centre and offer no benefits for existing residents. The new residents would become isolated from the rest of the town. Finally, there would be the loss of high grade farmland for food production.

209. Moving onto **housing need and supply**, contributors argue that East Lindsey has grown only 4% in the last 10-years and additional new houses, certainly

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not on this scale, are not needed, with over 600 for sale or rent in and around the town. If new housing is required in should be in the form of bungalows for elderly people. Social housing is unlikely to be for local people and would be used by other authorities to house problem families, thereby devaluing the town's ethos. The level of the development proposed would undermine the sustainability of the town and concentrating all the growth in one area, almost in the form of a new settlement, would threaten smaller developments around the town.

210. Concerning the **landscape impact** of the proposals, it is argued that the scale of the development would harm the character of the southern side of Louth, as well as transform Louth from a compact market town to a medium sized town, and encroach upon Legbourne. The development would incorporate too many houses in an inappropriate layout and density and Louth should not expand in this manner. The proposals would adversely affect the Lincolnshire Wolds AONB and the local tourist industry. Lastly, it would light the night sky at the expense of the present rurality.

211. Worries about **flood risk and drainage** are numerous. They include concerns about the flooding of Stewton Beck and Legbourne Road. There is a submission by some that the responsible authorities have underestimated the impact of the development on the drainage regime and fears that mitigation measures would not be properly maintained. There is particular concern about the effects on settlements downstream and a belief that the sewerage system would need to be upgraded, including expansion of the sewage works.

212. Looking next at **highway safety and traffic capacity**, it is argued that access out onto Legbourne Road only would return matters to pre by-pass days, with the consequential effects on existing residents. It is claimed the junctions do not have sufficient capacity and the existing highway infrastructure is narrow and poorly maintained. The proposals would place great reliance on the car, with parking already difficult in the town centre. It is not considered that the pedestrian and cycle improvements proposed would be adequate, again meaning that there would be greater use of the private car. Finally, it is submitted that construction traffic would need to be controlled to avoid penetration of existing residential areas.

213. As for **employment prospects, services and infrastructure**, it is argued that the development would not create the 1,000 additional jobs needed and that there are no jobs in the town, with travelling outside hindered by the poor road system. The proposals would impact adversely on the supply of gas, water and electricity and create far greater pressure on doctors and dentists, with doctors' appointments already taking up to 7-days or lengthy queuing. The extent of education, retail and petrol station facilities is challenged, with the construction of an isolated community hub becoming a hostage to unsocial behaviour remote from the centre, leaving the remainder of the town with less police presence. There would be insufficient sport for children.

214. The threat to local and personal **amenities** raises a number of points. There would be loss of privacy and light impacts coupled with noise and dust during the lengthy construction period. The quality of life for people living next to the development would diminish, with the loss of open views resulting in a fall in property values. The enjoyment of walkers would also be lessened. It is contended by some that the closure of the cattle rearing enterprise at South

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Field Farm would not be a sufficient argument to justify the development and the negative impacts of this would merely be transferred elsewhere.

215. Some objectors raise the topic of **ecology**, arguing that the development would have adverse impacts on deer, badgers, birds, newts with the loss of wildlife habitat and flora. Finally, there are a number of **other matters** raised in the representations. These include the argument that Government has promised more say for local people, only then to ignore what local people want. Reference is made to the Human Rights Act in terms of the entitlement to peaceful enjoyment of possessions and the right to respect private and family life.

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CONDITIONS

216. In the event planning permission is granted, the Council and the Appellants agreed draft conditions **(Document 5)**. These were discussed at the inquiry and a final version agreed **(Document 6)**. The conditions accord with the six tests in the PPG in being necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

217. The conditions, comments and reasons are set out in Annex A to this Report and are recommended in the event that the SoS allows the appeal. Additional minor grammatical amendments have been made in the interests of clarity.

S.106 DEED OF UNDERTAKING

218. A signed Deed of Undertaking **(Document 8)** dated 28 November 2014 was presented and it provides for the following:

- The Owners' Covenants with the Council in respect of the progress of the development; open space transfer and works; the provision of a senior football pitch; and the provision of a local centre, including a site for a Doctor's surgery.
- The Owners' Covenants with Lincolnshire County Council in respect of the provision of a contribution for primary education, including land for a primary school and a reserve site in the event further expansion is needed; the provision of a junior football pitch; contributions toward improved public transport; and the appointment of a Travel Plan Co-ordinator.
- Next there are provisions with relating to the transfer of the Open Space to the Management Company; to the Council, the Council's nominee or to the Town or Parish Council.
- Finally, there are provisions pertaining to the transfer of the primary school land, the primary school reserve site and junior football pitch to the County Council.

219. Nothing in the s.106 is inappropriate or likely to lead to legal or implementation complications. The parties are content that all aspects of the Undertaking and its compliance or otherwise would accord with the principles of the CIL Regulations and a Statement of Compliance has been submitted **(Document 15)**.

220. Having looked at the Obligations in relation to the criteria in Regulation 122 of the CIL Regulations and paragraph 204 of the Framework, they meet the statutory tests and are all necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonable related in scale and kind to the development. The education contribution would go to providing an infant/primary school on site to cater for the children of new residents; the contribution to transport would assist measures to promote sustainable transport and travel; the provision of open space and sports facilities would meet the needs of future residents and assist in the setting of the scheme; and the community building, local centre and Doctor's surgery would all contribute to the social welfare for new residents and reduce the need to travel.

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CONCLUSIONS

221. Having regard to the main and other material considerations identified, the conclusions are as follows. Numbers in square brackets [ ] refer to preceding paragraph numbers in this Report. **[10-12]**

Overview

222. The limited evidence presented to the inquiry by the Council owes much to the proceedings before the inquiry opened. In brief, there have been two very similar applications for mixed use development on the appeal site. Both were recommended for approval by Officers, but were refused by Members for the same reasons. However, the reasons for refusing the earlier application, and the one the subject of this appeal, were revised subsequently. Even then, the Council chose not to defend three of the residual objections at the inquiry. The later decision, which post-dates the revision to the earlier decision remains as it was decided, with the same reasons for refusal as were originally delivered for the earlier application. **[7-9, 19, 23-25, 81-82 and 168]**

223. At the opening of the inquiry I asked whether the parties considered the later decision to be a material consideration and if the reasons for refusal represented the Council's current stance on the appeal application. I was urged by both main party advocates to disregard the later refusal. This was largely on the basis that the Council Officers had not been instructed to present evidence to this inquiry on the other matters in defence of the refusal of the current appeal. As such, it was contended that only those matters incorporated in the July 2014 resolution and no other objections should be considered as part of the Council's present case. Having said this, it was not clear to me under what mechanism the remaining reasons advanced in the July 2014 resolution were further reduced to the single landscape topic defended by the Council. **[7-9, 19, 23-25, 81-82 and 168]**

224. For my part, I am in no doubt that the second decision is a material consideration. It followed the review of the appeal application decision in July 2014 and, therefore, represents the Council's latest conclusions on the development of the appeal site. Importantly, third parties would have expected the Council to defend these reasons at the appeal inquiry and this may well be why more of the 100+ who lodged written objection did not present oral evidence to the inquiry. **[7-9, 19, 23-25, 81-82 and 168]**

225. In any event, the fact that the Council did not pursue all these matters does not mean that they cease to be material planning considerations or devalue the weight they should be accorded. This was confirmed by the Council in closing, by saying that they should be taken into account **[29]**. Of course, where topics were raised by third parties, or elsewhere covered by the evidence, I was able to question the main parties on these, at least as far as the knowledge of their witnesses allowed. It is worth noting, however, that at no stage has the Council weighed all the pros and cons of the appeal scheme and reached an overall planning balance in the manner expected by the Framework. **[7-9, 19, 23-25, 81-82 and 168]**

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Policy background

226. As I write this Report, the Council's emerging Core Strategy (CS) is at a relatively early stage. No draft was presented to the inquiry and no date for the examination is fixed. The intention is to run the CS and housing site allocations DPD concurrently. As it stands, therefore, the statutory DP for the appeal site is the saved policies contained in the East Lindsey LP Alteration 1999. In this the appeal site lies outside the defined settlement boundary of Louth in open countryside and is not allocated in the LP for development. The LP does identify some housing sites, but there was no subsequent update to establish a housing requirement that reflected the Regional Spatial Strategy. **[19-21, 28, 30-32, 83-85 and 208]**

227. Thus, the principle of residential development on the appeal site is not supported by any LP development policies and cannot, therefore, benefit from the presumption in favour delivered by s.38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, it is necessary to examine the identified main and other material considerations to reach a balanced judgement on the benefits and adverse impacts. This is done in the sections below. **[19-21, 28, 30-32, 83-85 and 208]**

228. Saved LP policies cover such aspects as local areas and settlement hierarchy, highways, design and ecology. Many of these could be given appropriate and relevant weight insofar as they accord with the Framework objectives, but, with one exception, none were invoked in the Council's evidence. **[19-21, 28, 30-32, 83-85 and 208]**

229. The one LP policy relied upon by the Council is Policy C11. This is a landscape policy, which has four strands that seek to protect the Lincolnshire Wolds AONB and the adjacent AGLV. As such, it is not a policy designed to restrict housing and can, therefore carry weight. It is a matter of agreement that the first strand is the only one that could be relevant to this appeal as, in similar vein to the Framework (paragraph 115), it could arguably include protection of the setting of an AONB. All the other three strands refer specifically to development proposals within the AONB and, thus, more directly reference paragraph 116 of the Framework. The appeal site is located entirely out-with the AONB. **[19-21, 28, 30-32, 83-85 and 208]**

230. A Louth Town Plan has been prepared, but the Council stated that this has no planning status, and should not be accorded weight, even as supplementary planning guidance. The inquiry was not made aware of any work on a Neighbourhood Plan (NP). **[33, 83, 154 and 170]**

231. Finally, reliance is placed on all other relevant policies contained in the Framework and the Planning Practice Guidance (PPG) and other published Government advice. **[19-21, 28, 30-32, 83-85 and 208]**

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Material considerations

232. Having regard to the prevailing planning policies, the main material considerations to be decided in this appeal are:

i) the contribution the proposals would make to open market and affordable housing;

ii) the effect of the proposed development would have on the character and appearance and landscape setting of Louth and the surrounding countryside designations;

iii) the suitability of the site to deliver an extension to Louth of this scale; and

iv) does the appeal project represent sustainable development?

Following this, I have appraised the other, lesser material considerations raised by the parties and, finally, moved to undertake a planning balance. **[2, 7-10, 29 and 82]**

Conclusions on the main material considerations

Housing matters

233. The key to any housing land supply assessment is to base it on robust evidence. It is also necessary to keep the position updated to reflect evidential changes and to recognise that Government sees house building as a flagship of its economic recovery. The bottom line is that, at any time, sufficient housing land that delivers choice and competition has to be readily available. **[34-35, 86-90, 154, 164, 170, 172,178-179, 186-197, 204 and 208-209]**

234. In this case, the Council accepts that, on its calculation, it does not have a 5-year supply of readily available housing land, indicating that the figure currently lies between 0.8 and 1.4 years. The Appellants promote 0.8 years as the appropriate figure. If either figure is accepted, paragraph 49 of the Framework is engaged and this advises that relevant DP policies for the supply of housing should not be considered up-to-date. Housing applications should be considered in the context of the presumption in favour of sustainable development, bearing in mind the imperative in Paragraph 47 to boost significantly the supply of housing. On this basis, the provision of 970 dwellings, of which some 30% would be affordable, would be a substantial benefit that must attract significant weight in favour of the appeal proposals. **[34-35, 86-90, 154, 164, 170, 172,178-179, 186-197, 204 and 208-209]**

235. Having said this, as early as the PIM it was clear to me that the housing position in East Lindsey was anything but straightforward. Importantly, the requirement figure adopted by the Council is not evidentially based and does not relate to the most up-to-date household projection data at the time of its assessment. This manifests itself in a strongly disputed response from Lincolnshire County Council (LCC), which, despite my requests, neither main party sought to address at the inquiry. On the supply side, the Council's figure excludes those sites with just outline planning permission, unless the successful Applicants have responded to a request to furnish information about building dates and rates and this shows that they will contribute to the next 5-

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year supply. In my view this underestimates the supply side and leaves the figures open to manipulation. **[34-35, 86-90, 154, 164, 170, 172,178-179, 186-197, 204 and 208-209]**

236. I expressed concern about this situation at the PIM and followed this up with a note, which was circulated separately. I again raised it at the inquiry. In a nutshell, despite me urging the main parties to agree housing figures, no such figures were produced. At the PIM, the Council opined that its housing policies are nothing to do with LCC as it is not the LPA for the area. At the inquiry the Appellants advised that, having regard to the positions of both parties that there is not a 5-year supply, they did not consider that further work would be a beneficial use of inquiry time. **[34-35, 86-90, 154, 164, 170, 172,178-179, 186-197, 204 and 208-209]**

237. To sum up on housing matters, on the one hand there is an 'agreed' figure of about 1-year's land supply and most of the appeal site was identified as an available and suitable site in the latest published SHLAA in October 2012. Looking at the SHLAA sites, it looks inevitable that the existing Louth settlement boundary will have to be redrawn as part of the emerging CS. On the other hand, the basis for the requirement figure is challenged along with the distribution throughout the district and the supply figure is not established by an accepted method. Crucially, there was no willingness by the parties to engage in establishing the 'correct' figure and this was not helped by the failure to address the points made by LCC and its non-attendance at the inquiry to support its objections. **[34-35, 86-90, 154, 164, 170, 172,178-179, 186-197, 204 and 208-209]**

238. Under these circumstances, I have no confidence in the housing figures produced by either the Appellants or the Council. Notwithstanding, I am obliged to consider the appeal scheme against the default position that no 5-year housing land supply exists. In these circumstances, paragraph 49 of the Framework is triggered and the significant weight that should be afforded the 970 houses, including 30% affordable units, can be carried forward to the appraisal of sustainability and the final planning balance. **[34-35, 86-90, 154, 164, 170, 172,178-179, 186-197, 204 and 208-209]**

239. Incidentally, the point made by the Appellants that it was the Council that initiated amalgamating the sites east and west of Legbourne Road carries little weight. The precise context in which this was raised is not obvious to me, but they are clearly neighbouring sites, which arguably have some mutual interests. The bottom line is that they are now advanced as one site and they must, therefore, be treated as one site on its individual merits. **[23, 58, 88, 124-125 and 127]**

240. One related point, where the main parties present different views, is the weight that each believes should be accorded the shortfall in the 5-year supply. On the one hand, the Appellants contend that the magnitude of the shortfall in supply should attract greater weight the bigger the discrepancy. On the other hand, the Council says that once there is a lack of a 5-year supply the key elements of the Framework are engaged and this will always deliver significant weight in favour of a permission. One should not preface this with descriptors like 'very' or 'decidedly' or 'unusually', depending on the extent of the shortfall. **[36-39 and 147-149]**

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241. The Appellants acknowledge that currently there is no case law to support their thesis, but their submissions to this inquiry are pointedly intended to remedy this. They further agree that there is nothing specific in the Framework, PPG or relevant legal rulings that suggest that a greater shortfall in housing land should outweigh a greater level of harm. **[36-39 and 147-149]**

242. For my part, I support the Council's position that the quantum of the under-supply is immaterial in the context of the Framework (paragraph 49), albeit the main parties believe it to be sizeable. The only certainties are that the Framework accords significant weight to sustainable development when there is not a 5-year supply and that being able to show a 5-year supply is not a sound reason for refusing a proposal. A 5-year supply is a minimum and not a maximum. **[36-39 and 147-149]**

243. Lastly, we turn to look at the affordable housing proposals. At the time the application was first considered by the Council and again somewhat later when the decision was reviewed the affordable housing offer stood at some 20%. After the July 2014 revised decision, which still contained an objection about the proposed level of affordable housing, the Appellants discussed the matter further with the Council and raised the offer to 30%. There is no figure for affordable housing in the LP, but it is understood that 20-30% is the range proposed in the emerging CS. In support of this uprate, the Appellants now agree that the local need justifies a 30% contribution. **[8, 10, 22, 42, 90 and 171]**

244. As it appeared that the original 20% was based on an economic analysis, I asked if this had been updated. It had not, and when pressed it was accepted that no formal Economic Viability Assessment had been undertaken for the 30% figure. Nevertheless, the Appellants expressed confidence that the development of the appeal site would be able to support delivery of the required affordable housing contribution. The 30% could be secured by condition, though the absence of an audited Assessment does leave some room for doubt about the level that would eventually be delivered. **[8, 10, 22, 42, 90 and 171]**

The effect on the character and appearance of the surrounding landscape and setting of the town

245. In the context of Louth, this is a very large site, which extends well to the southeast of the current town boundary. It comprises predominantly agricultural land, much of which is Grade 2 and 3a, being the best and most versatile land. Whereas the site attracts no national or local landscape designation, it abuts an AGLV and is close to the Wolds AONB. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

246. In its deliberations, the Council did not conduct an independent landscape assessment. From those published, the Council places more emphasis on the local East Lindsey District Landscape Character Assessment (DLCA). Drawing on this, it concludes that the landscape character of the appeal site is different on the east and west sides of Legbourne Road. The two key reasons for this are, first, that the relief changes from the flatter lands to the east to the rising land to the west, and, secondly, that this higher land forms part of the setting of the AONB. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

247. The Council's perspective is that, when viewed from public vantage points, the adverse changes to the landscape character and value of the rising land to the

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west would fail to protect the natural landscape on the edge of the historic market town of Louth and the setting of the AONB. As for the land to the east, the Council adopts a far less robust stance, though it still considers there would be some harm. Overall, it concludes that the landscape harm would, of itself, outweigh the cumulative benefits of the appeal scheme. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

248. Moving to the Appellants' position, they acknowledge that building on the appeal site would occasion some harm to the landscape character and value of the land. However, they submit that similar harm would occur when developing any greenfield site, adding that to meet the level of housing required in Louth the town boundaries would have to be re-drawn and greenfield sites will have to be sacrificed. They contend that, having regard among other factors to the urban fringe feel, the appeal site is not highly sensitive to development. So much so that any adverse effects could be minimised, leaving the residual harm as not so significant and/or demonstrable as to outweigh the overall benefits of the scheme. In their appraisal, the Appellants say that the Council's position relies too much on the DLCA, which places the boundary of the LCAI1 Middle Marsh along part of Legbourne Road, with the LCAG2 Wolds Farmland to the west. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

249. Landscape matters constitute the principal areas of dispute between the main parties and the differences in opinion poses a number of questions. First, as the appeal site straddles the boundaries of two LCA areas, is there a clear change point between the areas as the Council contends? Secondly, is the character of all or part of the appeal site capable of accommodating change, without undue harm after mitigation? Thirdly, is the value of the landscape of all or a part of the appeal site important to the setting of valued landscape or other settings or views from public vantage points? **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

250. Looking first at the policy background, LP Policy C11 does invite consideration of the setting of a designated area, be it the AONB or the AGLV. However, if we move to the Framework, this would not include the AGLV. In these circumstances, it is agreed that the best way to appreciate the local landscape character, value and sensitivity to change, including setting, is through an on-site assessment. After undertaking this, neither party claims that its submissions are all right and the others all wrong. To form my own view, I was accompanied on an extensive visit of the appeal site and surrounding area. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

251. As to landscape character, the sheer extent of the appeal site makes establishing this less than straightforward. In the first place, in the absence of any particular national or local landscape designation, it is appropriate to define character from local features, having regard to the published National LCA and DLCA. Next, both parties agree that the site crosses the boundary of two different LCAs, both of which are themselves relatively large and contain several distinctive, albeit not universal features. The dividing line between the LCAs is shown as running between and roughly parallel to Legbourne Road and Kenwick Road, with the land to the east falling within LCA42, the Lincolnshire Coast and Marshes and that to the west the LCA43, the Lincolnshire Wolds. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

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252. Importantly, however, the LCA boundaries are not intended to be drawn along firm lines, where a distinct change of character is plainly evident. More often the edges merge and overlap, especially where the boundary is drawn along physical features on the ground. In my judgement, this sits well with what I saw on and around the appeal site. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

253. The defining character of LCA42 relevant to the appeal site is the Middle Marsh. This is predominantly to the east of Legbourne Road and comprises softly undulating arable landscape with a greater number of woodlands and hedgerows than other areas of LAC42. As for LCA43, this mainly lies in the AONB, but extends over the AGLV and includes a section of the appeal site to the east of Kenwick Road. This land is the most elevated section of the appeal site and has strong visual links with the adjacent LAC42. From certain locations along Kenwick Road and Kenwick Hill there are extensive views over the Lincolnshire Marshes. Although woodland cover is generally sparse within LCA43, it is more noticeable to the west of the appeal site. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

254. The submitted information suggests there are three, or even four, possible transition points between the character of the Middle Marsh and the area of higher land leading up to the AONB. The Council advances a change point at Legbourne Road and the Council's SHLAA indicates that land above the level of South Field Farm accords more with the AONB character, and should not be developed. The ES takes a similar view, though draws the line a little further west. Finally, the Appellants' landscape witness at the inquiry favoured taking the most westerly line of Kenwick Lane. **[40, 43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

255. In this matter, I am more inclined to the Council's view that there is a change in landscape character along or slightly to the west of Legbourne Road. Both sectors of the appeal site are predominantly rural, but there is a distinct change in relief from the much flatter land to the east to the higher, sloping land to the west, leading up to the AGLV and AONB. In large measure this is shown on the section I requested **(Document CDL22)**. I certainly do not see the change in character running along Kenwick Road as the Appellants suggested at the inquiry. **[40, 43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

256. Two other factors are claimed to influence the character. These are the existing built development on the southern boundary of Louth and extending along Legbourne Road and the hay bales that feature on the intensive farming enterprise at South Field Farm. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

257. From within the appeal site on both sides of Legbourne Road there are some urban fringe influences and, of course, the existing development along the southern edge of the town, along with the other trappings of human occupation, is, by definition, more urban. Even so, observation shows that this could not be described as unkempt and/or degraded land. Beyond the town boundary, the non-agricultural development on Legbourne Road is generally linear and frontage and constitutes an ordered transition between the rural area to the south and the approaching Town in the north. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

258. Whereas the straw bales at South Field Farm could be described as functional rural contributors, they are more extensive and most probably higher than one

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might expect within a conventional agricultural enterprise. Thus, on the one hand I agree with the Appellants that they do constitute a negative feature in the landscape and their removal would be an improvement. On the other hand, however, the Council's point that they are an indicator of the negative visual effects of built development at a similar elevation is well made. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

259. Incidentally, I have not found the Appellants' suggestion that there is a discrepancy in the heights of the bales and new housing to be important. Even if there was a difference, I see this as being relatively small. The crucial point is that there would be more than one line of houses advancing up the slope and, thus, the newly built development would create a much more imposing visual 'wall'. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

260. Taking all these factors together, I conclude that the entire site does not attract the same sensitivity to change. Neither do I believe that the entire tranches of land, either to the east or the west of Legbourne Road, would be equally sensitive to change. I viewed three discrete areas. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

261. The first of these is the northern area of the appeal site to the east of Legbourne Road, abutting the existing development and behind the frontage building along Legbourne Road. I am satisfied that this has a more urban feel and could accommodate development without undue harm, even though the views west from the public footpath would be greatly foreshortened. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

262. The second area to the south of this would occasion a much greater loss of openness, and would materially extend the urban fabric of the town in an isolated and incompatible way. The proposal seeks to make building on this land acceptable by heavy strategic landscape planting. However, this would further interrupt important views of the town from the south and southeast as well as introduce urban features such as activity and lighting well beyond the existing town boundary. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

263. Nevertheless, it is the third area, which comprises the land to the west of Legbourne Road that stands apart most. Importantly, it features in the run-up to the AGLV and the AONB beyond. I am convinced that most of this would be much more sensitive to change and should remain undeveloped. It is more rural in character and its elevation delivers greater visibility over a wider area, as is evidenced by the bales. As I see it, despite the structural landscape proposed just east of Kenwick Road, the development of the appeal site along the lines indicated on the Masterplan would cause moderate to significant harm to the character of the appeal site to the west of Legbourne Road. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

264. Although I am conscious of the Appellants' point that the development of any greenfield site would inevitably cause harm to its character, this is a largely generic argument. In practice, the weight to be accorded change in any particular instance is directly proportional to the site's specific character and its sensitivity to change. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

265. Where the Appellants encounter a real difficulty is in the size of the site and the different sensitivities the different areas have to change. When one has such a large site, the degree of harm will always tend to the highest level and

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not the lowest or some intermediate one. As noted, one area in particular could accommodate change without undue harm. However this does not apply to the land to the west of Legbourne Road and this drives my conclusion, with the appeal site tendered for consideration as a whole. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

266. Turning to the visual effects, the first thing to say is that, being located some distance from the AONB, the impact would be minimal on its character and appearance. In fact, it is difficult to see them both together and certainly not to appreciate them as a landscape unit. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

267. However, the debate about whether the appeal site acts as a frame to the AONB its more finely balanced. From most directions it is hard to see the appeal site as visually intruding into the setting of the AONB. The exceptions, however, are distant views from the east and south, when the wider panorama can be appreciated. From the more remote locations distance attenuation comes into play, lessening the adverse impact. Whereas I do not subscribe to the rug and fringe theory, the western slopes of the appeal site do lead up to the open lands of the AGLV and AONB and contribute to their setting. Accordingly, I believe their loss would engender considerable harm. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

268. Having said this, I judge the Council's fears in this regard to be exaggerated, when claiming that the effects on the setting of the AONB would be substantial. The adverse effect on landscape character might be judged moderate to significant, but visually less than substantial. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

269. Where the development would be truly harmful to the value of views is in the scale of the built extension from the existing town boundary when viewed from the south and west. At present, the town largely nestles on the lower land surrounding the River Lud. Whereas I accept that the town's boundary would have to be moved to include more land for development, the appeal site would extend the town too far south. The landscape views when approaching Louth along Legbourne Road from the south would change from the transitional to a full on urban presentation. Moreover, it would be at a location where, from the Masterplan detail, I cannot foresee the development achieving a memorable, or even pleasing, gateway to this entrance to Louth. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

270. Even the carefully sited strategic landscape proposed for the western edge of the site would not disguise the march of built development up the slope toward Kenwick Road. In time this landscape would interrupt views from some vantage points to the west and provide a backdrop from others to the east. Crucially, development would intrude markedly in the open views currently available from the AGLV boundary on Kenwick Road and from the AONB boundary on Kenwick Hill. In my judgement, albeit intermittent, these are important views over the open expanses of the Middle Marsh, where the eye is drawn over and beyond the lower lying development on Legbourne Road. As such, the detrimental effect would be very high. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

271. Two further related points are canvassed by the main parties. On the first of these, I agree with the Appellants that the views across the appeal site from

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the public footpath in Kenwick Park have extremely limited duration and it is only when reaching Kenwick Hill itself do they become important. The second point pertains to the hedgerows in the area and the fact these screen the appeal site from many stretches to the south and east. This may be so at present, but there can be no guarantee they would survive, and certainly not in their present form and height. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

272. Turning to the views from some public vantage points to the east, the higher ground is an important open feature in the wider landscape and its loss would again be undesirable. As evidenced by the visual impact of the bales at South Field Farm and in line with the SHLAA conclusion, any roofline that appeared above the 40m contour would be most unfortunate. There is also little doubt that the new activity and lighting associated with it would be impossible to disguise and again it would be an incongruous extension to the town. This conclusion even allows for employing the industry best standard with regard to the lighting. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

273. In summary, development of the appeal site would not have any substantial adverse effect on the character and/or setting of either the AONB or AGLV. Even so, there would be some moderate to significant harm with the development on the higher land to the west of Legbourne Road as it leads up to the AONB. The existing built fabric to the south of the town and along Legbourne Road would make some extension to the town acceptable.

274. However, this would not apply to the higher land to the west of Legbourne Road and to a lesser extent the more southerly areas to the east. Here the extensive development proposed would be intrusive in the landscape views currently on offer and adversely affect the character of the area, by extending the Town into the open countryside in an incongruous manner and much further from the town centre than anywhere else. In my judgement this would arguably breach LP Policy C11 and be a significant downside of the appeal proposals. **[43-62, 92-125, 156, 158, 162, 167, 172, 202 and 210]**

The suitability of the site to deliver an extension to Louth of this scale

275. This issue appeared to constitute an important area of concern raised by the Members when they refused the application initially. Even when the LPA reviewed its decision, paragraph 52 of the Framework was cited in the July 2014 revised position. The original reasons for refusal were again adopted when the second application was refused in November 2014. Even so, this is one of the considerations the Council decided not to present evidence on to the inquiry. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

276. It remains, however, a major worry voiced in the third party representations presented to the inquiry and embraced by many others in their written objections. Although couched in layman's terms, the thesis is simple. Local people see this as an attractive market town recognised widely as a gem. Crucially, it is a market town that revolves around a thriving centre, with all residential areas of any size within a 2km walking distance of the full range of shops and services. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

277. The fear raised by local people is that 970 additional dwellings on a single site remote from the town centre and delivered within an unspecified timescale would change the Town in terms of its local character and social identity and

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cohesion, together with the role the town centre plays in people's lives. Local people submit that this would create the first outlying suburban area for what is essentially a compact, nuclear market town. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

278. No figures are given for the likely occupancy rate of the new dwellings, but it is easy to see that this could represent a significant percentage increase in the town's population of some 17,000 over a comparatively short period. Moreover, there are other sites in Louth that already have planning permissions, and more may come forward before the CS and Site Allocations DPD are adopted, especially should the higher requirement figures for Louth remain on the table during this period. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

279. Whatever happens, this could represent an appreciable downside. It would be difficult to see the developed appeal site in the same way as the rest of the town. Unlike the present housing areas, residents on the appeal site would be 'encouraged' to be more outward facing and this could threaten the role and character of the town going forward. Moreover, any adverse effect on the viability and vitality of the town centre would run counter to the Framework (paragraph 23) and rest uncomfortably with the core planning principle, pertaining to promoting the vitality of main urban areas and supporting thriving communities within the countryside. As noted previously, in appearance terms, development of the appeal site would present a visual extension to the town that would set it apart from the existing development, which is generally on the lower land around the River. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

280. As for the suggestion that the new proposed roundabout to serve the appeal site would provide a gateway feature to the town, I have distinct doubts. Although the scheme is at outline stage, I do not see the illustrative layout facilitating something that would in any sense be a memorable entrance to the town. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

281. In many ways, I agree with the local view that the appeal scheme would not consolidate the existing town ethos, but would create a new satellite community on its outskirts. Even allowing for any re-drawing of the Town's boundary, in my judgement, the harm that could be caused by this extension to the role and character of the town, and especially the town centre, constitutes a significant objection to the current proposal. Despite Government's urgency in getting housing land approved, this would be an extremely large site and the existing build rate – 28 dwellings between June 2013 and July 2014 **[34]** – does not convey urgency at a level that justifies the release of a site of 970 residential units. Although prematurity is not an argument advanced by the Council, allowing this extension to Louth could undermine the sensible approach to the examination of the emerging CS and the way the town grows and develops in the future. **[7-8, 13, 26, 29, 146, 153-154, 157, 159, 164, 170, 172, 178-179, 181, 186-197, 202-204 and 208]**

Does the appeal project represent sustainable development?

282. In the absence of a 5-year supply of readily available housing land, paragraphs 14 and 49 of the Framework demand that sustainable housing development should be granted permission unless the harm would significantly and

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demonstrably outweigh the benefits. In establishing if a development meets the test of sustainability, the Framework requires the sustainability of a proposal to be considered against its three strands: social, economic and environmental. **[26-27, 63, 126-132, 136 and 138-140]**

283. In the context of social matters, the appeal proposals would rely very much on the town's existing infrastructure, including shops, services and entertainment offers. However, the appeal development is described as mixed use and would provide some on-site services. In particular, the land for a new infant and primary school would be provided, together with an education contribution. Over and above, it would make further land available for an extension to the school, and protect this for a time, in case the education authority wishes to extend. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

284. Next, there would be the provision of a 'local centre' comprising three shops, a Doctor's surgery and a community building. The shops would be the subject of a failsafe device that should the offer not be taken up by any retail concern earlier in the development, the units would be built before the 640th dwelling was erected. In addition, a community building and Doctor's surgery would be provided for local use. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

285. Apart from the school site, there are diverging views about many of the remaining offers. It is contended by some that they are merely sweeteners and in reality would weaken the character and role of the town, by detracting from and diluting the offer already available. They argue that their provision is confirmation that the appeal site is locationally unsustainable in respect of the town centre. Even then they would be located at the furthest extreme of the development from the town. The Appellants counter this by saying that this social contribution would only be possible because of the size of the development. If it was any smaller the funding would not be available. **[26, 63, 77-80, 91, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

286. For my part, the allocation of the school land would be positive, as any material growth in Louth would see the existing infant and junior education offer exceeded, making a new school essential. Moreover, the one form entry proposed would create some headroom to accommodate children from other sites. Having said this, the additional education contribution to build the school would be the same as that required from any new development and, crucially, there is no commitment about when the school would be built, which markedly limits the benefit. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211, 213 and 219-221]**

287. I also question whether siting the school towards the southern end of the appeal site would be the most sustainable. Conversely, to locate the new school nearer the existing urban area would mean that those houses displaced would be more remote from the town centre. Either way, it is the magnitude of the extension of the town that raises doubts about the locational sustainability of the appeal site. No contribution towards secondary education is required, as the town has sufficient headroom to accommodate pupils from the development. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

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288. The community building could be of benefit, but could just as equally deflect from the existing town offers. The proposed retail units would certainly allow for top-up shopping, but as third parties opine, this merely emphasises the distance from the Town Centre and there is already a convenience store on Newmarket/New Kenwick Road south of the town centre that could serve much of the site. The problem in all cases is that erecting new buildings on the site would be no guarantee of a take-up and certainly not of continuing viability. This approach does not rest comfortably alongside the sequential tests in the Framework (Paragraphs 23 and 24) and attracts appreciable negative weight. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

289. Finally, on health matters, the NHS did submit representations, but did not attend the inquiry, although invited. The scheme proposes a new Doctor's surgery and an Agreement with the NHS provider should mean that it would be built at some stage. This could serve the site and environs and address fears about a GP shortage in Louth. In this context, doctors and dentists are judged to be demand led and, in such a pleasant town as Louth, one might assume attracting doctors and dentists would not prove problematical. However, the local NHS provider confirms third party perceptions that it has difficulty recruiting Doctors etc to Louth. Moreover, it considers that, for a site of this size, something more is needed, possibly a comprehensive health centre. The Masterplan again locates this at the southern boundary of the appeal site, and, as such, raises the sustainability concerns. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

290. Although this might fall short of the desired more comprehensive medical centre the NHS seeks, I accord the intended provision of the facility moderate weight. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

291. Concluding on the social factors, the site would contribute some 290 affordable homes to meet the local need identified by the Council, and the mix of housing should include some bungalows and other units that should be attractive to the elderly. Although the new residents would support some or all of the businesses and social functions and activities in the town, this would represent a distinct change in the town's role and character, by extending development well beyond its natural form and, for the first time, encouraging new residents to look outward from the town centre. As such, its isolation would likely weaken the town centre function. **[26, 63, 77-80, 126-127, 130-132, 138-139, 154-155, 159, 161, 164-165, 173, 181, 198-199, 205, 211 and 213]**

292. Turning to the economic benefits, many of these are generic to any new development, but they are positive. In the beginning there would be construction jobs, perhaps employing some local people and using local shops and services and possibly building suppliers. Thereafter would be the potential for new jobs at the school, the local centre and the Doctor's surgery along with those jobs invariably created by new dwellings; tradesmen and cleaning staff and childcare assistants. In addition, the increase in the town's population would support existing business. One could expect that 3,000 new residents or so would include some with entrepreneurial spirit and there is employment land available. However, there are some access inhibitors, which are looked at later. **[26, 63, 126-127, 154, 159-160, 164, 179 and 213]**

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293. Moving on to the third strand, the environmental impacts of the project undoubtedly create some significant negatives in the balancing equation. Looking at accessibility, Louth does not boast a rail link. As for bus connections, the site would be accessible for the town centre and a half-hourly Nipper service is proposed, which could connect the appeal site with services to Grimsby, Lincoln and other external destination. However, little work seems to have been done regarding the practicalities of this. For example, the current Nipper timetable shows this service starting at 0735 hours. This would not connect with the earliest buses to either Grimsby or Lincoln, meaning that a work start at 0900 hours would be impossible. In the evening, the return buses from both these locations would miss the last Nipper from the centre at 1750 hours. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

294. Now it may be that the public transport contribution could extend the service as well as increase the frequency during the day, but this had clearly not been looked at in any detail. Moreover, if residents and businesses/services within the appeal site are to derive greatest benefit from the Nipper bus it would have to run through the appeal site on both sides of Legbourne Road. This is the intention, but it would extend the journey time for the service, meaning that, without even greater financial input, a half hourly service would not be possible. Without this, there are significant areas of the appeal site that would lie more than 5 minutes from bus stops on Legbourne Road, which is given as the maximum walk distance for bus usage **(Document CD55)**. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

295. In reality, the current financial climate means there are indications that the future funding for the existing local services is not secure and certainly no discussions had taken place with the Operator. It must also be remembered that the development contribution would only last for 5-years, meaning that for this period the improved service would have to survive with an average of 250 dwellings occupied and possibly without the shops etc. Similarly, at least half of the development would not be able to gain fully from the Travel Pack, should the Nipper Bus scheme fail. In my judgement, this does not represent a significant benefit to be weighed in the balance. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

296. Bus services to Manby Park, Mablethorpe and Skegness already pass the site, though the frequency offers little flexibility. On this basis, I see most journeys to work beyond Louth being by car. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

297. Next, the road connections from the town to other centres leave much to be desired. There is no dual carriageway connection from Louth. All routes are along single carriageway roads and in some cases, these are less than ideal in terms of alignment. Motorway connections are all distant. As such, Louth is not a sustainable or attractive location for those wishing to access the wider employment and sales opportunities. Consequently, common sense suggests that new employment will look primarily inward to serve the needs of the town and immediate hinterland. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

298. Moving to the impact of the traffic generation some 970 new dwellings, local residents of the Town see this as far too great for the form and capacity of the highway network serving the Town. Two agencies at LCC require the completion of a town wide TA before confirming plans for the future of the

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town and the LCC Planning Services advocates a building trajectory commensurate with the provision of new infrastructure. In general terms, it is considered that the site is too far from the town centre for most people to walk. As such, car usage is predicted for many journeys to town, using poor highways and with the demand for parking increasing significantly, where a shortage already exists. It is not believed that the improved bus service would address this problem. Journeys beyond Louth would be by car. **[5, 7, 15, 26-27, 29, 71-76, 133-137, 153-154, 159-160, 167, 173, 180-181, 187, 195, 197, 205 and 212]**

299. I have looked at the proposals for access to the appeal site and the routes for traffic and other modes into the town centre and beyond. In the first place, I am content that suitable and safe access to serve the site could be taken from Legbourne Road. The current proposal has access as a reserved matter and so a rethink about the detail would be possible. The problems in finalising a detailed design of the access layout would be managing the potential conflict of vehicles and pedestrian/cycle movements near the access points, in a location where the existing speed limit on Legbourne Road is 40mph and it is unlit. Although a Stage 1 Safety Audit had been undertaken for the access, this was of little help as it did not include pedestrian and cycle movements and there is no tested and/or budgeted proposal to reduce the speed limit or introduce street lighting along this section of Legbourne Road. **[5, 7, 15, 26-27, 29, 71-76, 133-137, 153-154, 159-160, 167, 173, 180-181, 187, 195, 197, 205 and 212]**

300. Where I do encounter problems is with the methodology employed to demonstrate that the key junctions that traffic from the appeal site would pass through are capable of supporting the additional traffic without severe consequences. For a development of this scale, which is not identified as a site in the DP, I firmly believe that the onus falls on the Appellants to show that the proposal would not give rise to unacceptable transport impact. I draw support for this from two particular sources. **[5, 7, 15, 26-27, 29, 71-76, 133-137, 153-154, 159-160, 167, 173, 180-181, 187, 195, 197, 205 and 212]**

301. The first is LCC's urgent call for a Louth-wide transport study. Secondly, is the use of the mean generation figure taken from TRICS database. My professional view is that a mean value is too low. Crucially, it does not deliver the most robust traffic assignment, especially for a market town, where a significant area of the appeal site is outside the 2km walk isochrone and public transport accessibility only offers 2 to 3 buses an hour and none in the evenings and on Sunday. To test matters robustly, I would have expected the TRICS 85%tile value to have been used. **[5, 7, 15, 26-27, 29, 71-76, 133-137, 153-154, 159-160, 167, 173, 180-181, 187, 195, 197, 205 and 212]**

302. Incidentally, I found LCC's position as LHA somewhat unclear. At best, it acknowledges that this development would utilise all the spare capacity on the highway network. This means that future proposals should be resisted on highway grounds or face much higher infrastructure costs, thereby inhibiting the release of a range of sites as favoured by the Framework. At worst, with a more realistic generation factor there could be a severe residual impact on the highway system in advance of improvements. Under these circumstances, I do not consider the findings of the Transport Assessment that merely looks at key junctions demonstrate that the residual impacts on the local highway network would not be severe. I firmly believe that for a site of this size, not allocated within the DP, the Appellants should have adopted a much more

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robust appraisal protocol. **[5, 7, 15, 26-27, 29, 71-76, 133-137, 153-154, 159-160, 167, 173, 180-181, 187, 195, 197, 205 and 212]**

303. The case for cycling is more positive. The surrounding countryside is relatively flat, and the entire town lies within the 5km cycle isochrone. The development scheme would provide a segregated cycleway along Legbourne Road toward the town centre. Further on this would involve interaction with general traffic at a number of points and the traffic signal controlled junction of B1520 Upgate/B1200 Newmarket/South Street. Even so, this would be an improvement on the existing and be more sustainable in this regard. On the downside, any lack of cycle parking in the centre would reduce the attraction. The 5km isochrones would also include the substantial business centre at Manby Park, though the route from the appeal site along the unlit and high-speed B1200 does not offer an attractive prospect. **[27, 74, 128, 153, 163, 167, 174, 180, 205 and 212]**

304. Finally, when we examine the prospects for pedestrian access this highlights a further weakness of the scheme. Although the walk isochrones show much of the site within the 2km radius of the town centre, this has not been refined by testing the reality of the situation. When this is looked at more closely, the practical walk distance to the town centre from extensive parts of the site would fall well outside the 2km walk isochrone. Even though a new footway would be provided along Legbourne Road, this does not make it sustainable and it would be the first neighbourhood of the town where this was not the case. As such, walking is unlikely to be an attractive mode to access any off-site destination. **[13, 27, 128, 157, 167, 173-174 and 181]**

305. One further downside for pedestrians would be the inability to make full use of the old railway line. This has been converted into a cycle/pedestrian route towards the town centre and passes a number of key destinations such as the Leisure Centre. Potentially this offers a good route, but unfortunately it is unlit and anecdotal evidence suggests the Police advise against its use during hours of darkness or when walking alone. Observations on site confirm the sense of this, with the sides heavily planted providing many places for the ill-intentioned to hide. The inquiry was not made aware that this was to be upgraded as part of the appeal scheme or by any other agency in the foreseeable future. As such, at best it can only be regarded as an occasional pedestrian route. **[180 and 205]**

306. A similar fate would befall those for whom Kenwick Road would offer the closest route to the town. Here the footway from the development would be a path through the heavily wooded strategic landscape area, with no suggestion of lighting or metalled surface. This means that the most likely route for pedestrians would be through the estate to join the footway on Legbourne Road, adding significantly to the walk distance to the town centre facilities. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

307. There would be a Travel Plan as part of the scheme, but again this lacks substance. In the first place, some of the Travel Plan benefits would cease when the site is only half developed. Secondly, there are no targets proposed for modal shift. When I asked about this, it was suggested that targets were not a sensible way forward and could be worthless in a situation, such as pertains in Louth, where one was starting from a low base. Perhaps where public transport use started at a small percentage, a 50% increase would

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essentially be meaningless. In my view this looks at targets in the narrowest sense and doing nothing means that there would be no objective incentives for modal shift to deliver a more sustainable movement. As such, it is of minimal benefit. **[26, 75-76 and 136]**

308. Taking all these aspects of accessibility together, the improvements and offers are unlikely to prove particularly attractive for the majority of off-site journeys. While the contribution to an improved bus service would be helpful, the Undertaking would mean that the bus subsidy would end, with around a half of the dwellings still to be constructed. This would leave the bus operator in the position of being unlikely to know if the continuation of the service improvements would be viable and the newer residents quite possibly not being able to benefit fully from the Travel Pack proposed for the site. This uncertainty counts as a negative factor in the balance. **[26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

309. The provision of the school, shops and community building should reduce the need to go off-site for some trips, but these are unlikely to be the majority of journeys. Importantly, however, if located to the extreme south of the site the local centre would not be in the most sustainable location to attract custom from the existing built up area, placing pressures on the viability of the new retail units. All in all, this does not appear to me to be a robust and tested attempt to create a mixed use development of the pedigree sought by the Framework (paragraph 52). **[8, 26, 73, 75, 136, 155, 157-159, 164, 173, 181, 203, 205, 212 and 218]**

310. Moving away from travel, development of the appeal site would also mean the loss of appreciable tranches of the best and most versatile agricultural land, graded 2 and 3a. The significant downside arising from landscape intrusion identified in the previous section of the Report would also count heavily against the scheme. **[17, 29, 55, 142-143, 164, 177, 201 and 208]**

311. Next, one of the most concerning aspects of the development would be the comparatively low density of the proposed housing. If the development was built out at an average of 30 dwellings per hectare, instead of the 23 proposed, this should mean the development would take some 10ha less land. The additional 10ha would have to be found elsewhere, as well as the landscape and open space that would be necessary component. **[17, 26, 41 and 132]**

312. In addition, the entire area of the appeal site extends to 60ha, with only some 42ha actually proposed to be built on. Of course the land for the school and retail and community facilities (2.4ha) would have to be deducted. However, this leaves some 16.5ha that would be down to landscape and open space. While clearly some dedicated openspace would be essential, in a location where the site bounds open countryside on three sides, the need for the extensive structural landscape would be more to screen the site from view rather than deliver any functional benefit for residents of the development or the town's existing population. As such, the weight to be afforded the structural landscape is greatly discounted. **[17 and 132]**

313. When asked about the density, the Appellants responded by saying the client wants to build a high quality scheme and it was primarily this factor that dictated the Masterplan layout. Clearly that is a matter of choice, but the undesirable loss of 10ha of agricultural land, much of which is high grade,

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would not be an efficient use of land and severely dents the sustainability accreditation of the scheme and rests uncomfortably with the Framework (paragraph 112). There is no suggestion that developing on a smaller area would create any planning, landscape or other unmanageable impacts. As such, the inefficient use of a scarce resource stands as a significant objection. **[17 and 132]**

314. Finally, the Design and Access Statement (DAS) accompanying the application presents some sustainable construction features to reduce the carbon footprint and sustainably manage waste and water. However, such matters as maximising solar gain or specific renewable energy features do not seem to feature. In particular, the DAS does not look beyond providing homes built above Level 3 of the Code for Sustainable Homes. This is unfortunate for a scheme expected to have a construction period of 10-years and is more indicative of lip-service than commitment. As this is an outline application, it would fall to the Council to secure more desirable features as part of any subsequent reserved matters application. **[18 and 146]**

315. Summing up on the sustainability accreditation of the appeal scheme, there are some significant benefits such as the housing, both market and affordable, and the provision of the school site. Equally, however, there are very significant downsides to the scheme, including landscape harm, loss of high grade agricultural land, the likely effects on the character and function of the town, the development density and uncertainty about several transport and travel features. In my judgement these downsides lead me to conclude that the scheme is not sustainable and, therefore, does not attract the presumption in the Framework (paragraph 49).

Other material considerations

Ecology

316. Objections were voiced about the loss and disturbance to wildlife on the appeal site, in terms of both flora and fauna. To a large extent, the former extends to the trees and hedges and the aim would be to retain as many of these as possible. Inevitably some would be lost, but these are not identified as being specimens worthy of preservation. Moreover, many new trees would be planted as part of the appeal project. Thus, I am satisfied that this does not represent a basis on which to refuse permission and protection during construction can be secured through an appropriately worded condition. **[215]**

317. As for the fauna, there are some claims by local people that the site hosts deer, badgers, owls, other nesting birds, bats and newts. No specialist evidence was produced to support these claims. The ecological survey produced as part of the ES shows that there are no statutory or non-statutory designated ecological sites on or abutting the appeal site. Evidence of protected species was limited to some badger activity, habitat and foraging for bats and evidence of some local garden and farmland species of birds. The proposals would accommodate all these, employing conditions and landscape features. As such, the effects would only register a small negative factor, and sensitive operations could be restricted to appropriate times of the year to minimise impact on the ecology of the site. **[215]**

Footpaths

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318. The only public footpath actually crossing the development site is in the extreme northeast corner of the appeal site. This would be kept open on its existing line though the open rural views to the south and west currently available to users would be significantly foreshortened by the built development. This is unfortunate, not least for the people who currently make use of this asset. External footpaths giving views of the site have been included in a specific feature walk around the town. While the route would remain, there would undoubtedly be a diminution of enjoyment with the loss tranquillity and of perceived openness, and a change to the setting of the town in the surrounding landscape, whether caused by the proximity of built development or the additional activity and landscape features. **[15, 57, 113, 116, 118-119, 121, 162 and 214]**

319. On the benefit side, within the site new paths would be created that should be of recreational value and provide some links to the outside. However, largely being through structural landscape blocks they would only allow very limited vistas to the external countryside, and it is not suggested that these become public in the statutory sense. Accordingly, this attracts only a small positive factor. **[26 and 132]**

Open space

320. The loss of open fields would obviously affect those looking over the site from their homes and gardens or the quiet enjoyment of those walking through or around the land. However, the appeal site does not constitute functional open space, but is largely passive, though important from some public vantage points in the setting of the town. As the Appellants point out, there is no proposition to seek designation of all or part of the site as Green Open Space and, in any event, it would be unlikely to meet the criteria. Although the inevitability that open space would be lost to provide the level of housing needed is advanced by the Appellants, this site would extend into the open countryside much further than most of the other identified sites. **[113 and 214]**

Loss of outlook and privacy

321. Some residents would suffer a marked loss of an open view, but this would not be of such magnitude as to justify withholding planning permission. Buildings and planting would have to be laid out such that there would be no inordinate sense of overbearing or undue loss of light or privacy. There should be no difficulty in achieving acceptable space standards. Having said this, the loss of view for a limited number of residents does constitute a minor level of objection to the scheme. While this may seem to undervalue the present open aspects they enjoy, it has to be remembered that no-one has the right to an uninterrupted view. In similar vein, any fall in property values occasioned by the development would not constitute a material planning matter. **[214]**

Drainage

322. There is undoubtedly a history of localised flooding in the vicinity of surrounding water courses and on Legbourne Road. Photographic evidence is testament to this. Some work has been carried out in recent years, but this clearly has not entirely addressed the problem. **[27, 128, 140, 156, 165, 175-176, 179, 200, 205 and 211]**

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323. In the first instance, it is worth acknowledging that there have been short periods of intense rainfall in the recent past. In recognition of this, drainage on and off the site has been reviewed to ascertain the extent of any problems. For the affected section of Legbourne Road, there is a particular problem caused by having too few gulleys to drain the rainfall. This would be remedied as part of the scheme and could be covered by condition. **[27, 128, 140, 156, 165, 175-176, 179, 200, 205 and 211]**

324. As for the flow of surface water from the site, this would be restricted to levels no more than for the undeveloped site and, in fact, there would be an improvement. This would require on-site storage in times of heavy rain, which is a relatively straightforward engineering protocol. In respect to managing the foul sewage, there are no problems raised by the responsible authorities that could not be dealt with satisfactorily by condition. **[27, 128, 140, 156, 165, 175-176, 179, 200, 205 and 211]**

325. In summary, none of the responsible authorities sustained their original concerns about the drainage regime that could not be addressed satisfactorily by condition. Had there been, this would have triggered concerns. Moreover, the objective evidence available does not invite me to reach any reasoned conclusion to the contrary. **[27, 128, 140, 156, 165, 175-176, 179, 200, 205 and 211]**

Odour

326. One of the objections raised by interested residents relates to the intensive livestock farming that takes place on South Field Farm and the effect this would have on prospective residents. Following an extensive visit to the Farm, apart from any perceived visual impact, it is difficult to see the unit as an on-going problem. I am certain there are times where the smell is distinctly rural, but that is only to be expected on an agricultural regime, where activities like muck spreading will be regular feature. If there was a statutory problem, then the Council has powers to act. As for people moving to a rural location, they should expect to experience some agricultural smells. I do not see this as a reason for resisting the current proposal. **[64-65, 129, 141, 156, 182-184 and 206]**

327. In practice, the Appellants have decided to close the unit should planning permission be granted, and claim this as a benefit of the scheme. The Council disagree, saying that there is no statutory nuisance and some odour must be expected from an agricultural operation. Clearly any reduction in odour levels would reduce the potential for conflict between farming and residential use. However, the intensive farming enterprise seemed to me to be exceptionally well managed, and by an enthusiast for the regime. Certainly, during my visits no offensive odours were experienced. In fact, there was very little odour at all and there was active intervention to minimise the risk. Although future management of the holding could not be guaranteed, this did show what can be achieved. As such, closing the enterprise would only be a very small benefit to be weighed in the balance. **[64-65, 129, 141, 156, 182-184 and 206]**

Other matters

328. In addition to those aired above, there are also the concerns about localism. Localism arguments are often misunderstood and it needs to be remembered that the intention of Government's legislation in this regard is not that local views can impose a veto to policy. The intention is that locally generated

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views should influence how Government policy can best be implemented in the local context, through the development plan process and the preparation of Neighbourhood Plans. In this case, having regard to the concerns raised by LCC and the lack of any up-to-date plan of any sort, where the local people have had the opportunity to be heard, one can understand the local populous feeling excluded or disengaged. **[81, 168, 170, 178 and 215]**

Overall Planning Balance and Conclusion

329. The starting point must be to consider the appeal scheme's conformity with the DP. Whereas in strict terms it would not comply, this is a very old plan and time expired. Thus, policies relied on should only carry weigh if they conform to the policies contained in the Framework. As for the housing position, in the absence of an agreed position and substantiated evidence in which I can place any confidence, I have reluctantly adopted the default position that there is not currently a 5-year supply of readily available housing land. Accordingly, the provision of 970 dwellings, of which 30% would be affordable/ social, would be a substantial benefit that attracts significant weight in favour of the appeal proposals. However, I afford no extra weight to the quantum of the under-supply, albeit it could plainly be very sizeable.

330. Additional benefits would be the dedication of a school site, with room for expansion, and the prospect of three retail units, a Doctor's surgery and a community building. To these must be added the contribution to public transport and the upgraded pedestrian and cycle links into Louth and the provision of improved drainage and public open space. In my opinion, none of these are determinative, but have the potential to be modestly beneficial. Even the provision of the school site should not be seen as compelling. While the wooded areas proposed would not be out of place the structural landscape attracts less weight in an area where ready access to the wider countryside would be immediately on the doorstep. Similarly, I have not attached any great weight to the cessation of the intensive livestock enterprise at South Field Farm, but if operations cease this would remove any risk of tension between new residents and the farming operation. This would be of minor benefit. Finally, there are the generic economic and social benefits that are delivered by any housing scheme.

331. On the negative side of the equation, for a variety of reasons I have not found the appeal scheme would be sustainable development in the terms expressed by the Framework. Next, even allowing that settlement boundaries would have to be revised to accommodate most of the SHLAA sites, there is a particular concern that the scale and setting of this development would threaten the integrity, role and character of this nuclear market town, through the creation of what I see as Louth's first detached suburb. Albeit very small, there are minor ecological and amenity dis-benefits to be weighed in the balance.

332. I conclude, therefore, that the appeal scheme is not sustainable. Moreover, the negative impacts including shortcomings in the sustainability accreditation of the site, the adverse effects on the function and character of the town and the surrounding countryside attract very great weight. In this, they are sufficient, cumulatively, to significantly and demonstrably outweigh the benefits of the appeal scheme taken as a whole, including the significant housing and other benefits. Accordingly, and having taken into account all other planning matters, I submit that this appeal should be dismissed.

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RECOMMENDATION

333. It is recommended that this appeal should fail. However, if the SoS is minded to allow this appeal and grant planning permission the conditions set out in Annex A are commended.

J S Nixon

INSPECTOR

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APPEARANCES

FOR EAST LINSEY DISTRICT COUNCIL:

Ms Thea Osmund-Smith	of Counsel, instructed by Ms Charlotte Lockwood, Solicitor with East Lindsey District Council

She called:

Mr David J Loveday BSc(Hons) MRTPI	Interim Planning Officer, Lindsey District Council, Planning and Built Development Section.
Mr Andy Allan	Planning Officer, Lindsey District Council (in attendance for the conditions session only)

FOR A R& MA PRIGEAON AND GLADMAN DEVELOPMENTS:

Mr Martin Carter	Of Counsel, instructed by Martyn Twigg, Gladman Developments

He called:

Mr Gary Holliday BA(Hons) MPhil CMLI	Director FPCR Environment and Design Limited
Mr Nigel Weeks BSc FACE	Director Stirling Maynard Transportation
Mr Martyn Twigg BSc(Hons) MRTPI	Project Manager, Gladman Developments Limited

FOR LINCOLNSHIRE COUNTY COUNCIL:

Mr Cliff Vivian	Lincolnshire County Council, Highways Department
Mr Stephen Mason	Lincolnshire County Council, Highways Department

INTERESTED PERSONS:

Cllr Jill Makinson Sanders	Ward Member
Mr Andrew Leonard	Mayor, Town Councillor and resident
Cllr Pauline Watson	District and Town Councillor

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Mr Stuart Watson	District Councillor and resident
Ms Margaret Gray	Resident
Ms Susan Maskell	Resident
Cllr Eileen Ballard	Louth Town Council
Cllr George Horton	Ward and Town Councillor
Mr Michael and Mrs Pauline Surr	Residents
Mr Andrew Laughton	South Field Farm

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DOCUMENTS
(Those in ***italic*** were submitted prior to the opening of the inquiry)

INQUIRY DOCUMENTS

Document	1	Attendance sheets (not included)
Document	*2*	*Notification letters and circulation lists (See Document CD1/*
Document	*3*	*Planning Statement of Common Ground (see Document GDL6)*
Document	*4*	*Highway Statement of Common Ground (see Document GDL7)*
Document	*5*	*Draft conditions (see Document GDL 5)*
Document	6	Final Draft Conditions
Document	*7*	*Draft s.106*
Document	8	Signed s.106 undertaking
Document	9	Site visit itinerary
Document	10	Appellants opening statement
Document	11	Appellants closing submissions
Document	12	Council's opening statement
Document	13	Council's closing submissions
Document	14	Third party submissions
Document	15	Statement of compliance
Document	16	Appellants Application for costs
Document	17	Council's response to application for costs
Document	18	Environmental statement addendum
Document	19	Confirmation that ES is adequate dated 6 October 2014
Document	20	PIM Agenda
Document	21	PIM Minutes
Document	22	Note sent following PIM asking for further clarification
Document	23	Louth Area Committee comments on funding for bus services

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Document	24	Louth Town Plan 2009-2020
Document	25	Extract from "The Streets of Louth" by Dr Tom Green 2012
Document	26	Letter from LCC Highways and Transportation dated 12 March 2014
Document	27	Bus times
Document	28	Housing approvals in Louth

APPELLANTS' DOCUMENTS

Document GDL1 Martyn Twigg's Proof of Evidence

Appendix 1 – AH Statement October 2014

Appendix 2 – Gladman's SHLAA submissions

Appendix 3 – ELDC Housing submissions to 10 October 2014

Appendix 4 - appeal decision re proposal by Fox Strategic Land and Property against the decision of Cheshire East Council The application (Ref No 10/3471C) APP/R0660/A/10/2141564

Appendix 5 - Third Party representations

Document GDL2 Gary Holliday's Landscape proof of evidence

Appendix 1 - Aerial Photograph

Appendix 2 - Plan for the Garden Centre

Appendix 3 - Plans from the LVIA

Appendix 4 - Plans and illustrations for the proof of evidence

Appendix 5 - Extracts from the Masterplan document (Figures 15, 16 and 17)

Appendix 6 - Framework Layout

Appendix 7 - LVIA Methodology (GLVIA3)

Appendix 8 - Photomontages and methodology

Appendix 9 - Updated schedule of Visual Effects

Appendix 10 - Updated Photo-viewpoint Plan and view

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		from the path north of Stewton
Document	*GDL3*	*Nigel Weeks' proof of evidence*
		Appendix 1 – 2 and 5 km Catchments
		Appendix 2 – New Pedestrian/Cycle Links
		Appendix 3 – Acceptance of Travel Plan
		Appendix 4 – LINSIG printouts
		Appendix 5 – Points Raised by the Inspector
Document	*GDL4*	*Draft Unilateral Undertaking*
Document	*GDL5*	*Draft Conditions*
Document	*GDL6*	*Planning Statement of Common Ground (SoCG) between the Appellants and East Lindsey District Council*
Document	*GDL7*	*Highways SoCG*
Document	*GDL8*	*Education SoCG*
Document	GDL9	Supplemental Planning Proof by Martyn Twigg
Document	GDL10	Legbourne Road Proposed Junctions Safety Audit - Stage 1 - TMS:11867 Nov 14
Document	GDL11	Legbourne Road Proposed Junctions Safety Audit - Stage 1 - Stirling Maynard Designers Response
Document	GDL12	SoS Appeal Decision: 13/05/14 - Melton Road, Barrow Upon Soar: SoS Decision Notice & Para 327
Document	GDL13	Appendix 4:Figure 1 Rev B - Corrected Designation Plan – FPCR
Document	GDL14	Louth Response to Inspector on the UU
Document	GDL15	Letter NHS to Banks Long 7-11-14 re surgery
Document	GDL16	Environmental Protection Act 1990 S80
Document	GDL17	Environmental Protection Act 1990 S79
Document	GDL18	Statutory Nuisance Appeals Regulation
Document	GDL19	14-11-27 Louth -SM- Walk distance to facilities

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Document GDL20 14-11-27 Louth -SM- Email Walk Cycle time intervals

Document GDL21 Revised Planning Conditions Agreed between the Appellant and Council

Document GDL22 Southfield Farm West Legbourne Rd Site Section

COUNCIL'S DOCUMENTS

Document ELDC1 Proof of evidence of Mr D J Loveday

Document ELDC2 Appendices to the proof of evidence of Mr D J Loveday

Appendix 1 Boundary of AGLV taken from Local Plan

Appendix 2 SHLAA plan and commentary

Appendix 3 Housing land supply schedule and background

Appendix 4 Round Louth Walk Leaflet

Appendix 5 Schedule of affordable housing need in Louth September 2014

Document ELDC3 Plan showing housing numbers on SHLAA sites in and around Louth

Document ELDC4 ELDC Affordable Housing Topic Paper June 2014

Document ELDC5 Relevant extracts from Guidelines for Landscape and Visual Impact Assessment, 3rd edition

Document ELDC6 PPG Planning Obligations Guidance

Document ELDC7 Email of Stephen Mason regarding distances from appeal site to local schools

Document ELDC8 List of planning application plans

Document ELDC9 CIL justification note for ELDC Open Space obligations

Document ELDC10 Gary Holliday Appendix 9 table as amended by David Loveday

Document ELDC11 Lincolnshire Wolds AONB Management Plan 2013-2018

Document ELDC12 Note of number of build completions for East Lindsey District

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CORE DOCUMENTS

Document CD1	*Application Documents* *Including:* *Masterplan and Design and Access Statement CD1/34* *Environmental Statement CD1/9-32*
Document CD2	*National Planning Policy Framework 2012 (not included)*
Document CD3	*2005Planning Practice Guidance 2013 (not included)*
Document CD4	*The Planning System General Principles (not included)*
Document CD5	Not used
Document CD6	*Extracts of East Lindsey Local Plan 1997*
Document CD7	*Secretary of State's Saving Direction Letter*
Document CD8	*Draft Core Strategy Consultation Document (Oct 2012)*
Document CD9	*SHLAA 2012 - Extracts for Appeal Site*
Document CD10	*ELDC SHMA (2012)*
Document CD11	*ELDC Planning Policy Committee Minutes 10 September 2013*
Document CD12	*ELDC Planning Policy Committee Housing Options Paper 10 September 2013*
Document CD13	*ELDC Planning Policy Committee Minutes 7 November 2013*
Document CD14	*ELDC Planning Policy Committee Inland Housing Paper 7 November 2013*
Document CD15	*ELDC Extraordinary Planning Policy Committee Minutes 9 December 2013*
Document CD16	*ELDC Extraordinary Planning Policy Committee Briefing Paper 9 December 2013*
Document CD17	*ELDC Planning Policy Committee Briefing Paper, 24 April 2014*
Document CD18	*Application Statutory Consultee Responses*
Document CD19	*Committee Report Including Supplemental and Appendicies 13th Mar 2014*
Document CD20	*Minutes of the Committee Meeting 13th March 2014*

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Document CD21	*ELDC Planning Committee Agenda Report Item 4 Meeting - 21/08/2014 - Appellants Deferred 2nd Application*
Document CD22	*ELDC - ORS SHMA Update Jan 2014*
Document CD23	*ELDC May 14- Proposed Housing Target & Preferred Options for Growth Topic Paper –**SUMMARY***
Document CD24	*ELDC May 14- Proposed Housing Target & Preferred Options for Growth Topic Paper*
Document CD25	*ELDC Employment Review Dec 2013*
Document CD26	*13-09-10 Planning Policy Committee AH Briefing Paper*
Document CD27	*Three Dragons Economic Viability Assessment - June 12*
Document CD28	*14-06-12 ELDC Planning Policy Committee AH Housing and Single Plots*
Document CD29	*17-07-2014 Planning Committee Addendum Report –App. No: N/105/01376/13*
Document CD30	*ELDC Local Development Scheme 2012*
Document CD31	*ELDC Housing Land Supply Assessment April 2014*
Document CD32	*GL Hearn OAN for East Lindsey*
Document CD33	*APP/H1840/A/12/2171339 – land at Honeybourne, Wychavon (allowed 24 August 2012) paragraph 24*
Document CD34	*Gallagher Estates Ltd v Solihull MBC [Case No: CO/17668/2013] (30 April 2014)*
Document CD35	*Hunston Properties Ltd v St Albans City and District Council [Case No: CO/4686/2013] (5 September 2013)*
Document CD36	*Forest Road, Branston, Burton-on-Trent, Decision Letter (February 2014) – Ref No: APP/B3410/A/13/2193657*
Document CD37	*Land off North Road, Glossop, Derbyshire, SK9 7AX Ref No: APP/H1033/A/13/2205644*
Document CD38	*Louth Retail Impact Report, Banks Long – May 2014*
Document CD39	Not used
Document CD40	*Natural England Lincolnshire Coast and Marshes Character Area 42 Profile*
Document CD41	*Natural England Lincolnshire Wolds Character Area 43 Profile*

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Document CD42	*Lincolnshire Wolds AONB Management Plan - 2013-2018*
Document CD43	*ELDC Landscape Character Assessment - July 2009*
Document CD44	*Urban Design Study for Louth 2004*
Document CD45	*Louth Conservation Area Appraisal: August 2008*
Document CD46	Not used
Document CD47	Not used
Document CD48	Not used
Document CD49	Not used
Document CD50	*DfT Travel Survey 2012*
Document CD51	*DfT 'Guidance on Transport Assessment' (2007)*
Document CD52	*DfT Statistical Release 8 May 204: Congestion on Local 'A' roads, England: January to March 2014*
Document CD53	*DfT 'Planning for Sustainable Transport: Towards better practice'*
Document CD54	*CIHT guidance 'Cycle Friendly Infrastructure' (2004)*
Document CD55	*CIHT guidance 'Guidance for Planning for Public Transport in Developments' (1999)*
Document CD56	*CIHT guidance 'Providing for Journeys on Foot' (2000)*
Document CD57	*DFT & DCLG Manual for Streets*
Document CD58	*DFT & DCLG Manual for Streets2: Wider application of the principles*
Document CD59	*Revised Framework Travel Plan Rev C: August 2014*

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ANNEX A

Suggested Planning Conditions

1. The first application for approval of reserved matters must be made not later than 3-years beginning with the date of this permission, and the development must be begun before the expiration of 2-years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved and all subsequent reserved matters shall be submitted no later than 10-years from the date of this permission.

   Reason: As required by Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act. The 10-years for final approval of reserved matters is included in recognition of the size of the site.

2. The plans hereby approved are:

   - Site Location Plan Ref:J1240 (08) 01
   - The Framework Layout

   Reason: For the sake of clarity and to ensure that the development follows the form envisaged by the Local Planning Authority in circumstances where the proposal is subject of an Environmental Statement (ES) in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

3. The residential development hereby permitted shall comprise no more than 970 dwellings.

   Reason: The proposal is subject of an ES in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 where significance is based on an upper limit of 970 dwellings and the significance of any material alteration and impact that has not been assessed must be considered. The development must be limited accordingly and not exceed the total of 970 dwellings tested by the ES and to ensure sustainable development in accordance with the Framework paragraph 14.

4. No development in any phase of development to be agreed pursuant to condition 5 of this permission shall take place without the prior written approval of the Local Planning Authority of the details of the following matters for that phase (hereinafter called the "reserved matters") which shall be substantially in accordance with the Framework Layout and the development shall be carried out as approved:

   i. the access;
   ii. the layout ;
   iii. the scale and appearance of the buildings; and
   iv. the landscaping of the site.

   Reason: The application was submitted in outline only and the above details are required to enable the Local Planning Authority to assess the detailed scale and appearance and layout of the development as well as ensure that appropriate landscaping and access is provided to serve the development. This condition is imposed in accordance with Policies A4, A5, and H12 of the East Lindsey Local Plan Alteration 1999 (LP) and Paragraph 58 of the Framework.

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5. As part of the first reserved matters application a Phasing Plan for the whole site shall be submitted to the Local Planning Authority for approval in writing. The Phasing Plan shall include details of:

   i. The phasing of the development identifying the order of the development phases.
   ii. The intended number of market and affordable dwellings for each phase of development.
   iii. The general locations and phasing of key infrastructure; including surface water drainage; green infrastructure; open space; community facilities and access for pedestrians; cyclists and vehicles
   iv. The cessation of the existing intensive beef rearing farming operations within the application site to the west of Legbourne Road
   v. the removal of the existing 'slurry pit' within the application which shall be prior to the 1st occupation on the area west of Legbourne Road.

   Unless agreed in writing by the Local Planning Authority, the development shall be carried out in accordance with the phasing plan so approved.

   Reason: To ensure that the scheme of development accords with the approved Master Plan and ES which has identified and assessed environmental issues and relevant mitigation measures and to secure a high standard of development in accordance with Policies A5 and H12 of the LP and paragraphs 56 – 66 inclusive of the Framework.

6. No development shall commence until a scheme for the following Footway and Cycle Links have been submitted to and agreed in writing by the Local Planning Authority which shall accord with Drawing Nos:4636/00/16 & 17:

   i. A Footway/Cycle Link along Legbourne Road from the Development to the Junction with Stewton Lane; and
   ii. A Footway along Kenwick Lane from the Development to the Junction with Legbourne Road.

   The approved works shall be implemented prior to the occupation of the first residential dwelling on the development.

   Reason: In the interests of the safety of the users of the public highway and the safety of the users of the site in accordance with Policy TR3 of the LP and paragraphs 17 and 35 of the Framework.

7. No development shall commence in relation to any phase of the development until a scheme for the provision of open space relevant to that phase has been submitted to and agreed in writing by the Local Planning Authority in accordance with the approved phasing details. The approved open space scheme shall be implemented and completed in accordance with the agreed scheme prior to the occupation of the first dwelling approved within the relevant phase, unless agreed otherwise in writing by the Local Planning Authority, and that area shall not, thereafter, be used for any purpose other than public open space.

   Reason: In the interests of residential amenity, visual amenity and provision of multi-functional Green Infrastructure and connectivity in accordance with the principles of good design of sustainable development in paragraphs 56 to 66 of the Framework.

8. The application(s) for Reserved Matters shall include a surface water drainage scheme for the site, based on sustainable drainage principles as identified in the submitted Flood Risk Assessment (Report No: 5586/R1 Rev C) and an assessment of the hydrogeological context of the development. The drainage scheme shall demonstrate the surface water

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run-off generated up to and including the 100-year plus climate change. The critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event and the scheme shall include:

i. discharge rate from the North East Area to be no more than 127.4l/s unless otherwise agreed in writing;
ii. discharge rate from the South West Area to be no more than 87l/s unless otherwise agreed in writing;
iii. total discharge volume from the proposed site to be no greater than existing greenfield run-off volume unless otherwise agreed in writing;
iv. details of the proposed sustainable drainage infrastructure/surface water system to be submitted and approved in writing prior to commencement of phased development this will include elements such as retention basins as identified in the concept drainage drawings. This will also include an Infrastructure Plan demonstrating how the individual parcels of land are incorporated and identify what elements of the surface water system need to be constructed and commissioned during development phases;
v. confirmation of the long term maintenance and adoption of the Sustainable Drainage/surface water infrastructure will need to be agreed in writing prior to commencement of any phase of the development;
vi. a plan must be submitted showing the overland flow routes for surface water flooding, which considers the hazard of the flood water and additional works that are required to contain the flood water on site to avoid increasing flood risk to third parties. This will need to incorporate any identified above ground flooding for the 100-year plus climate change shown in the detailed surface water calculations;
vii. a report and drawings/details on the improvements required to Kenwick Hill Land Drain must be submitted and approved and completed prior to surface water discharging into the Drain; and
viii. the phasing of the surface water infrastructure provision, identifying the order of the provision in relation to the development phases.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: In order to reduce the risk of flooding both on and off site during construction/development and once the works are completed; and to ensure that surface water run-off is adequately addressed so as to prevent flooding on or downstream of the site. This condition is imposed in accordance with the requirements of Policy ENV3 of the LP and the requirements of Paragraphs 102 and 103 of the Framework.

9. The application(s) for Reserved Matters shall incorporate the mitigation and enhancement measures outlined in the 'Mitigation and Enhancement', 'Bat Survey' and 'Breeding Bird Survey Report' sections of the Environmental Statement received by the Local Planning Authority on 22 July 2013, subject to details of the arrangements for monitoring the proposed mitigation and enhancement measures during and following construction, which shall be submitted with the application(s).

Reason: In order to protect and enhance biodiversity in accordance with Paragraphs 109 and 118 of the Framework 2012.

10. No development shall take place on a phase of the development within the approved Phasing Plan unless and until a scheme for the enhancement of biodiversity in accordance with the principles contained within Section 8: Ecology and Biodiversity of the Environmental Statement accompanying the application has been submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be incorporated into the treatment of the open spaces to be approved pursuant to condition 7.

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Reason: In order to protect and enhance biodiversity in accordance with Paragraphs 109 and 118 of the Framework 2012.

11. In accordance with the recommendations contained in the Environmental Statement, received by the Local Planning Authority on 22 July 2013, the application(s) for Reserved Matters shall incorporate the retained trees shown as part of the layout and landscaping drawing (reference: 4694-A-08 Revision A, outlined as Figure 3 in the Arboricultural Assessment); and the trees shall subsequently be protected as outlined in Section 5.0 of the Arboricultural Assessment.

    Reason: In order to protect and enhance biodiversity in accordance with Paragraphs 109 and 118 of the Framework 2012.

12. Further to the recommendation contained within the Renewable Energy Statement supporting the application, the application(s) for Reserved Matters shall include a strategy for the incorporation of renewable technologies within the development of the site in accordance with the submitted Energy and Sustainability Statement. The development shall be carried out in accordance with the approved strategy.

    Reason: In the interests of tackling climate change and creating a sustainable development, which meets standards for energy efficiency in accordance with paragraph 97 of the Framework.

13. The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

    i. the numbers, type, tenure and location on the site of the affordable housing provision to be made, which in total shall consist of not less than 30% of the dwellings;
    ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
    iii. the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
    iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
    v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

    Reason: To ensure that affordable dwellings are provided to meet identified local need, and remain affordable in perpetuity, in accordance with Policy H6 of the LP.

14. The 'Local Centre', meaning an area of up to 0.77ha within the land to the east of Legbourne Road and comprising commercial floor space, the community hub and the Doctor's surgery site, to be included in the Phasing Plan pursuant to condition 5 above shall be provided on the site in accordance with the approved Phasing Plan and before the 640th dwelling is erected on the site.

    Reason: To ensure that a sustainable development takes place, with an appropriate range of facilities to serve the local day-to-day needs for occupiers of the dwellings, in accordance with paragraph 38 of the Framework.

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15. The convenience store to be provided within the 'Local Centre' shall have a maximum of 270 square metre net floor space and no individual retail units shall be combined without the written consent of the Local Planning Authority.

    Reason: To ensure that the local facilities provided as part of the development do not have a detrimental impact on the vitality and viability of Louth town centre in accordance with paragraphs 23 to 27 of the Framework.

16. No development shall take place on a phase of the development within the approved Phasing Plan unless and until details of a comprehensive contaminated land investigation and assessment has been submitted to and approved by the Local Planning Authority (LPA) in writing and until the scope of works approved therein have been implemented in accordance with the approved Phasing Plan. The assessment shall include all of the following measures unless the LPA dispenses with any such requirements in writing; and the application(s) for Reserved Matters for Layout must demonstrate how the findings of the investigations and remediation strategy required by virtue of parts (a) and (b) of this condition have been addressed:

    i. further investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion;
    ii. where the risk assessment identifies any unacceptable risk or risks, a detailed remediation strategy to deal with land contamination and/or pollution of controlled waters affecting the site shall be submitted and approved by the LPA in writing. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the LPA;
    iii. remediation of the site shall be carried out in accordance with the approved remediation strategy. No deviation shall be made from this scheme without the express written agreement of the LPA;
    iv. on completion of remediation, two copies of a validation report shall be submitted to the LPA. The report shall provide validation and certification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report;
    v. if during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out on the phase or phases affected by the contamination until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the LPA;
    vi. the development hereby permitted shall not be commenced until ground gas and waste-lagoon leachate risk assessments are carried out and adequate gas protection measures are proposed for the development; and
    vii. the development hereby permitted shall monitor ground gas concentrations for the appropriate time period and if required install adequate gas protection measures for all dwellings on this development.

    Reason: To ensure potential risks arising from previous site uses have been fully assessed; that proposed remediation is appropriate and carried out to an agreed protocol; that verification that the required remediation has been carried out to the required standards; that all contamination is dealt with / removed; that development would be safe and adequate protection provided for occupiers. This condition is imposed in accordance with the requirements of Paragraphs 109, 120 and 121 of the Framework 2012.

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17. No development shall take place until arrangements have been made for an archaeological "watching brief" to monitor development during the period of construction of each phase of the development and to record any archaeological evidence revealed on the site.
The Local Planning Authority shall be notified in writing of the intention to commence works at least fourteen days before the start of archaeological work within each phase, in order to facilitate adequate monitoring arrangements. No variation shall take place without prior written consent of the Local Planning Authority.

    Reason: In order to ensure the preparation and implementation of an appropriate scheme of archaeological mitigation and then to ensure satisfactory arrangements are made for the recording of possible archaeological remains. This condition is imposed in accordance with the requirements of Section 12 of the Framework 2012.

18. A report of the archaeologist's findings shall be submitted to the Local Planning Authority, and the Historic Environment Record Officer at Lincolnshire County Council, within 3 months of the works hereby given consent being commenced unless, otherwise agreed in writing by the Local Planning Authority; and the condition shall not be discharged until the archive of all archaeological work undertaken hitherto has been deposited with the County Museum Service, or another public depository willing to receive it.

    Reason: In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site. This condition is imposed in accordance with the requirements of Section 12 of the Framework 2012.

19. No development shall take place on any part of the development unless and until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include and specify provision to be made for the following:

    i. overall strategy for managing environmental impacts which arise during construction;
    ii. measures to control the emission of dust and dirt during construction;
    iii. control of noise emanating from the site during the construction period;
    iv. hours of construction work for the development;
    v. publicity of a contact number where complaints can be lodged with a responsible member of the construction team and a published protocol for response;
    vi. location, scale and appearance of contractors' compounds, materials storage and other storage arrangements, for cranes and plant, equipment and related temporary infrastructure;
    vii. designation, layout and design of construction access and egress points;
    viii. internal site circulation routes;
    ix. directional signage (on and off site);
    x. provision for emergency vehicles;
    xi. provision for all site operatives, visitors and construction vehicles loading and unloading plant and materials;
    xii. arrangements for site operatives and employees travel to work
    xiii. Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;
    xiv. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles
    xv. routing agreement for construction traffic to avoid the use of Blanchard Road; and
    xvi. enclosure of each phase or development parcel and the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

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The approved Construction Management Plan shall be adhered to throughout the construction periods and the approved measures shall be retained for the duration of the construction works.

Reason: In the interests of protecting the amenities of local residents. This condition is imposed in accordance with Policies A4, H12 and TR3 of the LP and the requirements of Paragraphs 17, and 123 of the Framework 2012. A further section is added to provide a contact number for residents etc.

20. Before the development is first occupied a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority in accordance with the submitted framework Travel Plan Ref: FP002. The development shall be carried out in accordance with the Travel Plan so approved.

Reason: To ensure that a development takes place which exploits opportunities for the use of sustainable transport modes for the movement of goods and people in accordance with paragraphs 34 and 35 of the Framework.

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Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;
The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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