



Appeal Decision

Inquiry held on 7 - 9 October 2015

Site visit made on 12 October 2015

by Karen L Baker DipTP MA DipMP MRTPI

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

Decision date: 15 December 2015

Appeal Ref: APP/P3040/A/14/2227522

Land at Abbey Lane, Aslockton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Hallam Land Management and JAB Short against the decision of Rushcliffe Borough Council.
 - The application Ref. 14/00480/OUT, dated 28 February 2014, was refused by notice dated 12 September 2014.
 - The development proposed is the development of up to 75 residential dwellings incorporating open space, access and landscaping.
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Procedural Matters

1. The Inquiry sat for 3 days between 7 and 9 October 2015. It was adjourned on 9 October 2015 to allow the main parties to submit their closing submissions in writing¹. The Inquiry was then closed in writing on 28 October 2015².
2. The planning application was made in outline, with all matters reserved for subsequent approval. As well as a Site Location Plan (Drawing No. 5704-L-01), the appellants submitted a Development Framework Plan (Drawing No. 5704-L-02 Rev. B) and an Illustrative Masterplan (Drawing No. 5704-L-03 Rev. B), for illustrative purposes only.
3. A completed Section 106 Agreement³ and a completed Unilateral Undertaking⁴ were submitted by the Council and the appellants, respectively, on 16 and 19 October 2015. The Section 106 Agreement includes obligations relating to the provision of open space, a children's play area and a sustainable drainage system, along with their maintenance and management through the establishment or engagement of a management company, travel packs and a Travel Plan, along with a Travel Plan Co-ordinator, and financial contributions towards education (£207,120), integrated transport (£3,000), library (£2,903), monitoring (£273 per obligation), Travel Plan monitoring (£7,700), sports pitch (£427 per dwelling), swimming pool (£322.68 per dwelling) and sports hall (£416.62 per dwelling). The Unilateral Undertaking includes obligations relating to the provision of 30% of the total number of dwellings to be constructed on the appeal site as affordable housing, with a tenure mix of 14% social rent, 43% affordable rent and 43% intermediate, along with a

¹ Documents 23 and 29

² Document 32

³ Document 28

⁴ Document 31

requirement for the approval of an Affordable Housing Scheme, detailing the mix of, and method and programme for, securing the provision of the affordable housing. At the Inquiry, the Council submitted a Planning Obligations and Community Infrastructure Levy (CIL) Compliance Statement⁵ and information in respect of CIL Regulation 123(3), along with supporting information⁶. I have had regard to the Section 106 Agreement and Unilateral Undertaking in my consideration of this appeal.

4. The Decision on the planning application was made on 12 September 2014, prior to the adoption of the Rushcliffe Local Plan Part 1: Core Strategy⁷ in December 2014. As such, the Council's Decision Notice⁸ refers to policies in the Rushcliffe Borough Non-Statutory Replacement Local Plan, which was adopted by the Council in December 2006 as a basis for determining planning applications within the Borough, along with Policy 2⁹ of the emerging Core Strategy.

Decision

5. The appeal is allowed and outline planning permission is granted for up to 75 residential dwellings incorporating open space, access and landscaping on land at Abbey Lane, Aslockton in accordance with the terms of the application, Ref. 14/00480/OUT, dated 28 February 2014, subject to the conditions set out in Appendix 1 to this Decision.

Application for Costs

6. At the Inquiry an application for costs was made by Rushcliffe Borough Council against Hallam Land Management and JAB Short. This application is the subject of a separate Decision.

Main Issues

7. The main issues in this appeal are:
 - a) whether or not a 5 year supply of deliverable housing land can be demonstrated;
 - b) the effect of the proposed development on the character and appearance of the open countryside;
 - c) whether or not the proposal would represent sustainable development; and,
 - d) whether or not Aslockton would be an appropriate location for the proposed development.

Planning Policy

8. The development plan for the area is the Core Strategy and the Rushcliffe Borough Local Plan¹⁰, adopted in June 1996. I have been referred to a number

⁵ Document 18

⁶ Document 21

⁷ Core Document 30 (LPA9)

⁸ Core Document 21

⁹ Policy 2 was renumbered as Policy 3 in the adopted Core Strategy

¹⁰ Core Document 28 - Six policies within this document were saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 21 September 2007. Following the adoption of the Core Strategy, however, only 5 policies remain saved – ENV15, H1, E1, E7 and E8, with Policy E4 superseded by the strategic allocation to the east of Gamston/north of Tollerton (Core Strategy Policies 3 and 25)

of policies within these documents. However, I consider the following to be particularly pertinent to my consideration of this appeal. Core Strategy Policy 1 sets out a presumption in favour of sustainable development, which reflects that contained in the National Planning Policy Framework (The Framework). Policy 2 expects all development proposals to mitigate against and adapt to climate change, and to comply with national and local targets on reducing carbon emissions and energy use, unless it can be clearly demonstrated that full compliance with the policy is not viable or feasible. It goes on to set out what is expected of, and should be demonstrated by, developments in respect of sustainable design and adaptation; reducing carbon dioxide emissions; decentralised, renewable and low carbon energy generation; and, flood risk and sustainable drainage.

9. Policy 3 of the Core Strategy sets out the spatial strategy for the sustainable development of Rushcliffe which supports a policy of urban concentration with regeneration for the whole of Greater Nottingham to 2028. It goes on to say that the settlement hierarchy for Rushcliffe to accommodate this sustainable development is defined on the Key Diagram and consists of: the main built up area of Nottingham; and Key Settlements identified for growth of Bingham, Cotgrave, East Leake, Keyworth, Radcliffe on Trent and Ruddington. In other settlements (not shown on the key diagram), with the exception of Newton and the redevelopment of the former RAF Newton, development will be for local needs only. Policy 3 also sets out the quantum of new homes to be provided as a minimum of 13,150 between 2011 and 2028, with approximately 7,650 homes in or adjoining the main built up area of Nottingham (within Rushcliffe) and approximately 5,500 homes beyond the main built up areas of Nottingham (within Rushcliffe), including: North of Bingham (around 1,000 homes); Former RAF Newton (around 550 homes); Former Cotgrave Colliery (around 470 homes); in or adjoining East Leake (a minimum of 400 homes); in or adjoining Keyworth (a minimum of 450 homes); in or adjoining Radcliffe on Trent (a minimum of 400 homes); in or adjoining Ruddington (a minimum of 250 homes); and in other villages solely to meet local housing needs. Furthermore, the policy predicts the delivery pattern of new homes over the plan period. Policy 3 also indicates that the following strategic sites have the status of allocations and are expected to begin to deliver housing by 2015: Sustainable Urban Extension (SUE) on land off Melton Road, Edwalton; SUE to the south of Clifton; North of Bingham; Former RAF Newton; Former Cotgrave Colliery; and SUE to the east of Gamston/north of Tollerton.
10. Core Strategy Policy 8 requires residential development to maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create mixed and balanced communities. Policy 10 says, amongst other things, that all new development should be designed to make a positive contribution to the public realm and sense of place; create an attractive, safe, inclusive and healthy environment; reinforce valued local characteristics; be adaptable to meet evolving demands and the effects of climate change; and, reflect the need to reduce the dominance of motor vehicles. Furthermore, it goes on to say that, outside of settlements, new development should conserve or, where appropriate, enhance or restore landscape character. Policy 14 seeks to reduce the need to travel, especially by private car, by securing new developments of appropriate scale in the most accessible locations, following the spatial strategy in Policy 3, in combination with the delivery of sustainable transport networks to serve these developments. Policy 17 requires the biodiversity of the

Borough to be increased over the plan period by, amongst other things, protecting, restoring, expanding and enhancing existing areas of biodiversity interest; and, seeking to ensure new development provides new biodiversity features, and improves existing biodiversity features where appropriate.

11. Policies 18 and 19 of the Core Strategy seek to ensure that new development is supported by the required infrastructure at the appropriate stage and that it meets the reasonable cost of new infrastructure required as a consequence of the proposal.
12. Although the Council's Non-Statutory Replacement Local Plan is not a statutory document and, as such, does not form part of the development plan for the Borough, the policies within it are being used by the Council as a basis for determining planning applications until the Rushcliffe Local Plan Part 2: Land and Planning Policies Development Plan Document is adopted. As such, it is a material consideration in my determination of this appeal. Again, I have been referred to a number of policies within this document. However, I consider the following to be particularly pertinent to my consideration of this appeal. Policy GP1 says that all development proposals must take account of the principles of sustainable development. It goes on to say, amongst other things, that developments will be encouraged that provide improved access to jobs, health, education, shops, leisure and community facilities, open space, sport and recreation, by ensuring that new development is located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car.
13. Policy EN20 of the Non-Statutory Replacement Local Plan says that the open countryside comprises all land outside of the Green Belt but excluding rural villages. It goes on to say that within the open countryside outside the Green Belt planning permission will not normally be granted, with some exceptions, including exceptional local needs housing. Finally, Policy HOU2 says that planning permission for new unallocated development within settlements will be granted provided that the size and location of the site is such that its development would not detrimentally affect the character or pattern of the surrounding area or the settlement as a whole; and the development of the site would not extend the built up area of the settlement, amongst other things.
14. I am satisfied that these policies in the Non-Statutory Replacement Local Plan are generally consistent with the policies in The Framework and, as such, I have afforded them some weight in my consideration of this appeal.

Reasons

Housing Land Supply

15. Government guidance in paragraph 47 of The Framework says that local authorities should boost significantly the supply of housing and should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of either 5% or 20% depending on previous delivery.
16. The Core Strategy was adopted in December 2014 and it sets out a requirement to provide a minimum of 13,150 new homes in the plan period (2011 to 2028)¹¹. This requirement is not disputed by the appellants. The

¹¹ Policy 3, Criterion 2

Council's predicted delivery pattern of new homes over the plan period is also set out¹², with the housing trajectory¹³ indicating how this is expected to be achieved. I acknowledge that the housing trajectory and the housing land supply assessment set out in the adopted Core Strategy is based on the position at 1 April 2013. The Council's Housing Implementation Strategy 2013¹⁴, dated January 2014, indicates that, using the tranche approach, on 1 April 2013 the Council could demonstrate a 5.03 years supply of deliverable housing land, with a further 895 dwellings (38%) capable of being brought forward from years 6-15 of the housing trajectory to provide a buffer. This calculation utilises a variation of the 'Liverpool' method to address under-delivery or over-delivery in the Borough over future years. The Council states that this approach was accepted by the Local Plan Inspector and is included within the Core Strategy.

17. As part of its monitoring process, the Council reviewed its most recent Annual Monitoring Report (AMR) the 5 Year Housing Land Supply Assessment 2013/14¹⁵, as at 31 March 2014, in December 2014. This indicated that for the 5 year period 2014-2019 the Council could demonstrate a deliverable housing land supply of 5.97 years. However, this did not include a 20% buffer. For the purposes of this appeal, the Council has undertaken an exercise to update its 5 year housing land supply position as at 31 March 2015. The Interim 5 Year Housing Land Supply Assessment 2014/15¹⁶, as at 31 March 2015, indicates that the Council can demonstrate a 5.10 year supply of deliverable housing land, including a 20% buffer. This represents the Council's position in relation to housing land supply in this appeal.
18. The Council's Interim Assessment only provides for a partial update of the position, as it is based upon the sources of information available at the time. The Council has added new planning permissions; amended existing planning permissions to reflect their current stage of process; removed completed sites and those where planning permission has expired; and, updated the delivery on sites over 10 dwellings and on strategic allocations contained within the Core Strategy to reflect their progress as at April 2015, using primary and secondary sources of data. However, I note that the Council has not undertaken updates to add Strategic Housing Land Availability Assessment (SHLAA) sites submitted to the Council within 2015, where they are considered to be deliverable within 5 years; or given consideration to adding a windfall element for Q2 development. Both of these updates will be undertaken as part of the Council's AMR in December 2015.
19. While the appellants take no issue with the housing requirement as established by the recently adopted Core Strategy, with regards to the delivery pattern of new homes predicted over the plan period included in Policy 3, they do not concur with the Council's approach to dealing with the shortfall in supply from the start of the plan period or the way the 20% buffer has been applied. Furthermore, the appellants dispute that sufficient provision has been made to meet this requirement, by raising concerns relating to the high level of risk to the predicted supply, which they say has materialised through the failure of strategic sites to deliver as expected; and, the significant delays in bringing

¹² Policy 3, Criterion 3

¹³ Appendix D of the Core Strategy

¹⁴ Core Document 42 (LPA12)

¹⁵ Core Document 36 (LPA13)

¹⁶ Core Document 37 (LPA22)

forward the Local Plan Part 2. I therefore consider these disputed matters below.

Approach to the Shortfall and Application of the 20% Buffer

20. In calculating its 5 year housing land supply in the AMR the Council has identified a shortfall against its requirement of 269 dwellings between 2011 and 2014, which increased to a shortfall of 366 dwellings¹⁷ between 2011 and 2015 in the Interim 5 Year Housing Land Supply Assessment. Rather than including the totality of this shortfall within these assessments of housing land supply, the Council has spread the shortfall across the remaining plan period in both the AMR ($269 \div 14$) and the Interim 5 Year Housing Land Supply Assessment ($366 \div 13$) to give an annualised figure of around 19 and 28 dwellings respectively, with shortfalls of 96 and 140 dwellings to be made up in the following 5 years. At the Inquiry, the Council referred to the Local Plan Inspector's Report¹⁸ as providing support for its approach to dealing with any shortfall. However, the appellants dispute this.
21. The Council's AMR does not include reference to the 20% buffer in its calculation of the 5 year housing land supply on page 4. However, if the total shortfall of 269 identified in the AMR is included in the housing requirement calculation, as suggested by the appellants, this would result in a 5 year housing requirement of 4,085 ($3,816 + 269$) based on the Council's approach, set out in its Interim Assessment, to the application of the 20% buffer only to the annual requirement ($3,180 + 636$) and not the shortfall, against a total supply of 3,909 which would equate to 4.78 years supply. As noted by the appellants, even if the annualised shortfall figure of 19dpa is used, along with the Council's approach to the application of the 20% buffer, this would result in a 5 year requirement figure of 3,912 ($3,816 + 96$), against a total supply of 3,909 which would equate to 4.99 years supply.
22. With regards to the Council's Interim Assessment, if the total shortfall of 366 is included in the housing requirement calculation, as suggested by the appellants, this would result in a 5 year housing requirement of 5,178 ($4,812 + 366$) based on the Council's approach to the application of the 20% buffer in its Interim Assessment, against a total supply of 5,046 which would equate to 4.87 years supply.
23. I acknowledge that the Local Plan Inspector gave support¹⁹ for the Council's variation of the 'Liverpool' approach to be used in the calculation of the housing requirement for the Borough, given that a significant amount of new development in Rushcliffe is to be provided from 3 SUEs and that significant reliance on the SUEs would be likely to mean a comparatively slow build-up in delivery rates. As such, the housing requirement of some 2,350 new dwellings in the period 2013-2018 would amount to 470 new dwellings per annum (dpa), compared with an annual average of just over 770 dwellings required to provide the full 13,150 dwellings over the plan period 2011-2028. The delivery pattern included in the Core Strategy would provide for an increased housing requirement of some 6,500 new dwellings in the period 2018-2023, which

¹⁷ Although the Table in the Council's Interim 5 Year Housing Land Supply Assessment 2014/15, as at March 2015, refers to both 360 and 368 dwellings, the Council confirmed at the Inquiry that the actual figure is 366 dwellings

¹⁸ Core Document 31 (LPA10) paragraphs 62-66

¹⁹ Core Document 31 (LPA10) paragraphs 64-66

- would amount to 1,300dpa, with this reducing to a requirement of 4,100 new dwellings (820dpa) in the period 2023-2028.
24. I note the Inspector's Decision²⁰ (Appeal Ref. APP/V0510/A/14/2224671) which refers to his findings in another Decision (Appeal Ref. APP/R0335/A/14/2219888), in which he concluded that *'any deficit or shortfall only arises because there has been a failure to deliver the required housing in previous years. That does not mean that the requirement has disappeared; indeed, if that were the case there would be no point in trying to take account of the deficit at all. The housing requirement must therefore include the deficit.'* The Planning Practice Guidance²¹ (The Practice Guidance) states that local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible.
25. It is apparent from the evidence²² before me, that the requirement of 500 dwellings for the period 2011-2013 was met. However, shortfalls of 269 dwellings (between 2013 and 2014) and 366 dwellings (between 2013 and 2015) have occurred against the requirement of 470dpa. Given this, along with the constrained nature of the requirement during these years, I consider that it is imperative that any shortfall is included within the housing requirement for the next 5 years, rather than being spread across the remaining Plan period. Indeed, not to do so would be contrary to Government guidance, which seeks to deal with any undersupply in the first 5 years, and would compound the deficit problems further in the Plan period. Furthermore, the Council's approach would fail to boost significantly the supply of housing in the Borough and would mean that some of the current need would not be met until towards the end of the Plan period. In my opinion, therefore, the total shortfall amounts of 269 and 366 dwellings should be included when calculating the requirement for the 5 year housing land supply in both the AMR and the Interim Assessment respectively.
26. With regards to the buffer, the Council's Interim Assessment applied the 20% buffer to the housing target for the 5 year period 2015-2020 only, and did not apply it to the proportion of the shortfall from the period 2011-2015 included within this calculation. The appellants consider that the buffer should be applied to both the requirement and the shortfall. Had the 20% buffer been applied to the housing target for 2015-2020 (4,010) plus the shortfall to be made up within the next 5 years ($28 \times 5 = 140$), this would have given a total housing requirement of 4,980 dwellings ($4010 + 140 + 830$), against a total supply of 5,046 which would equate to 5.07 years supply. However, when applied to the housing target for 2015-2020 (4,010), plus the total shortfall for the period 2011-2015 (366), the total housing requirement would be 5,251 dwellings ($4,010 + 366 + 875$). Set against a total supply of 5,046, this would equate to 4.8 years supply.
27. Furthermore, had the 20% buffer been applied to the housing target for 2014-2019 (3,180) plus the shortfall to be made up in the next 5 years ($((269 \div 14) \times 5 = 96)$) in the AMR, this would have given a total housing requirement of 3,931 dwellings ($3,180 + 96 + 655$), against a total supply of 3,909 which would equate to 4.97 years supply. However, when applied to the housing target for 2014-2019 (3,180), plus the total shortfall for the period 2011-2014

²⁰ Appendix 17 to Mr Waumsley's Proof of Evidence

²¹ The Practice Guidance: Housing and Economic Land Availability Assessment, paragraph 035

²² Appendix 2 (Development by type within Rushcliffe 1997-2014) to Mr Marshall's Proof of Evidence

(269), the total housing requirement would be 4,139 dwellings (3,180 + 269 + 690). Set against a total supply of 3,909, this would equate to 4.72 years supply.

28. It is agreed in this case that a 20% buffer is appropriate. What is not agreed is the point at which that buffer is applied. I note the 'Gresty Lane' appeal Decision²³ by the Secretary of State in which he '*disagrees with the Inspector's approach of including the allowances for each year's backlog in the overall sum to which the buffer should be applied as he sees this as double counting.*' However, there is evidence before me of other appeal Decisions since this Decision of the Secretary of State, including a Decision by the Secretary of State²⁴, where the buffer has been applied to both the requirement and the shortfall. Furthermore, I consider that the shortfall in this case can reasonably be considered to form part of the housing requirement. Indeed, I note that paragraph 47 of The Framework indicates that the purpose of a 20% buffer is to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. I therefore consider it wholly appropriate to apply the buffer to the total requirement, which would include the shortfall.
29. As such, I conclude that the total housing requirement for the Borough would be 4,139 dwellings for the period 2014-2019 based on the AMR or 5,251 dwellings for the period 2015-2020 based on the Interim Assessment, which, based on the Council's assessment of supply in these documents, would amount to 4.72 and 4.8 years supply of deliverable housing land respectively.

Housing Supply

30. In terms of the identified supply, the appellants dispute the ability of some sites to deliver the dwellings suggested by the Council within 5 years. Of particular concern are the Strategic Sites which are allocations included within the Core Strategy. Core Strategy Policy 3 includes 6 Strategic Sites in Criterion 8 which have the status of allocations and are expected to begin to deliver housing by 2015, with the Housing Trajectory at Appendix D including the expected completions from each of these Strategic Sites within the 5 year period 2015/16 to 2019/20. Indeed, of the 5,141 completions (408 + 621 + 979 + 1,638 + 1,495) anticipated between 2015 and 2020, 3,800 completions are anticipated on these 6 Strategic Sites (SUE on land off Melton Road, Edwalton – 600 dwellings; SUE to the south of Clifton – 1,000 dwellings; north of Bingham – 600 dwellings; former RAF Newton – 550 dwellings; former Cotgrave Colliery – 400 dwellings; and SUE to the east of Gamston/north of Tollerton – 650 dwellings).
31. As part of the evidence submitted for this appeal²⁵, the Council has amended the anticipated delivery within 5 years of each of these Strategic Sites. This indicates that these sites are now expected to deliver 3,020 dwellings between 2015 and 2020 (SUE on land off Melton Road, Edwalton – 550 dwellings; SUE to the south of Clifton – 500 dwellings; north of Bingham – 500 dwellings; former RAF Newton – 500 dwellings; former Cotgrave Colliery – 470 dwellings; and SUE to the east of Gamston/north of Tollerton – 500 dwellings). With the

²³ Document 9 paragraph 14 of the Secretary of State's Decision

²⁴ Core Documents 69/82 (Paragraph 52), Core Document 70 (paragraph 16), Core Document 71 (paragraph 49), Core Document 86 (paragraph 189) and Appendix 17 (paragraph 49) to Mr Waumsley's Proof of Evidence

²⁵ Appendix 1 to Mr Marshall's Proof of Evidence

exception of the former Cotgrave Colliery site, which is expected to provide an increased number of dwellings within the next 5 years, the number of completions on the Strategic Sites is now anticipated to be below that included within the Core Strategy Housing Trajectory.

32. Paragraph 47 of The Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements. To be considered deliverable, The Framework says sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. It goes on to say that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.
33. Further guidance is included in The Practice Guidance²⁶ which says that deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within 5 years. However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the 5 year supply. Local planning authorities will need to provide robust, up-to-date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints to overcome, such as infrastructure, sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a 5 year timeframe. The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust 5 year housing supply.
34. It is apparent from the evidence before me²⁷, that the anticipated delivery of development on most of the Strategic Sites has slipped significantly from the position presented to the Local Plan Inspector and included within the Core Strategy. Furthermore, the appellants contend that, with the exception of the former Cotgrave Colliery site, the Strategic Sites are heavily burdened with onerous infrastructure costs and viability issues. The Council has provided an update on the progress of each Strategic Site since the Core Strategy examination²⁸, which sets out the planning status, land ownership and developer status and justification for the anticipated delivery on each site.
35. *SUE on land off Melton Road, Edwalton*: At the time of the Inquiry, 3 planning applications²⁹ were due to be considered by the Council's Planning Committee the following week, for a total of 927 dwellings, all with an Officer recommendation that planning permission be granted subject to the prior signing of a Section 106 Agreement in respect of the provision of affordable housing on site and contributions towards provision of essential infrastructure

²⁶ Planning Practice Guidance: Housing and Economic Land Availability Assessment, paragraph 031

²⁷ Document 7

²⁸ Appendix 1 to Mr Marshall's Proof of Evidence

²⁹ Documents 15, 16 and 17

and subject to a number of conditions. The submission of these applications followed the preparation of the Edwalton Development Framework Supplementary Planning Document, which was also due for final consideration in October 2015. The site is owned by several landowners and housebuilders who are working together in a consortium. I note that there are currently 4 housebuilders committed to the site across 3 phases. The Council considers that the approval of these planning applications would enable multiple phases to commence early on in the development of the site, and although delivery will commence on this site one year after the date assumed in the Core Strategy, this would enable a faster rate of delivery to occur within the first year of development.

36. The appellants consider that, although this is an attractive site under contract to national housebuilders, no development has taken place on the site yet due to complexities with the Section 106 Agreement and the landowners. Furthermore, they refer to the currently undetermined planning applications which would, if approved, involve the discharge of complex planning conditions and Section 106 obligations in respect of highways and other matters.
37. *SUE to the south of Clifton*: At the time of the Inquiry, the site did not benefit from planning permission. The Council confirmed that an application for outline planning permission was currently under consideration, with a decision pending. The Council is confident that the outstanding matters that need to be resolved prior to the determination of the planning application around the phasing of infrastructure provision, can be resolved by the end of 2015.
38. The appellants are of the opinion that given that there is no planning permission to date, along with the need for the submission and approval of detailed reserved matters and the discharge of conditions pre-commencement of the development, it is highly unlikely that there would be any delivery on this site within the next 5 years.
39. *North of Bingham*: Outline planning permission was granted for this site in December 2013, along with the signing of a Section 106 Agreement. There have been no subsequent planning applications and no development has taken place. The site is owned by the Crown Estate and I note the Council's statement that the owner is currently considering developer partners. The Local Enterprise Partnership has agreed in principle to fund infrastructure to unlock mixed use schemes along the A46 corridor, including the provision of flood alleviation works and the improvement of electricity connections to this site.
40. Although outline planning permission has been granted on this site, the appellants state that no subsequent planning applications have been submitted and therefore no development has taken place to date. They also refer to the uncertainty as to when the site could be expected to deliver, given that the site is not on the market.
41. *Former RAF Newton*: Outline planning permission was granted for this site in January 2013, with a Section 106 Agreement signed in January 2014. The development proposed is the second phase of the site, the first phase having been completed in 2014. The site has been unsuccessfully marketed and the site owner has applied to vary a condition which would remove the requirement for a foot and cycle bridge over the A46 trunk road, in order to make the site more attractive to potential purchasers. I acknowledge that there would be

- spin off benefits in terms of delivering the housing element of this site from funding provided by the Local Enterprise Partnership to fund infrastructure to unlock mixed use schemes along the A46 corridor, in terms of improvements to the site's access.
42. The appellants refer to the major infrastructure requirements of this site which are causing delivery and viability issues. The site is yet to be sold to a housebuilder and, therefore, the appellants consider that delivery is uncertain.
43. *SUE to the east of Gamston/north of Tollerton*: At the time of the Inquiry, pre-application discussions were taking place between the Council and the consortium of landowners and developers involved with this site. The Council acknowledges that whilst all landowners are supportive of development, with a significant proportion of the allocation owned by Nottingham City Council and Nottinghamshire County Council, there are likely to be legal issues in terms of negotiating land values. The majority of the allocation has developer involvement. Although the Council has identified no significant risks to delivery at present the consortium of developers is undertaking work in advance of submitting a planning application, which the Council will encourage to include pre application consultation on any proposal.
44. The appellants state that no planning applications have been submitted for this site and therefore no development has taken place. They consider that the level of delivery proposed at this site is pushing at the limits of what can be built and sold in one area, with there being no room for a faltering market or recession, with any delay to the start of this site likely to increase the annual rates of build and sale, possibly beyond what the market can deliver. Furthermore, the appellants refer to the site requiring major infrastructure works, along with the closing and possible relocation of the airport currently in situ. As such, the appellants do not consider that any units would be likely to be completed on this site during the next 5 years.
45. With regards to the Rushcliffe Local Plan Part 2, the Local Plan Inspector states³⁰ in her Report that this document is '*unlikely to be adopted until 2016*'. The Council confirmed at the Inquiry, however, that this document would not now be adopted until February 2017. Core Strategy Policy 3³¹ includes provision for approximately 5,500 homes beyond the main built up areas of Nottingham (within Rushcliffe), including on land in or adjoining the settlements of East Leake (a minimum of 400 homes), Keyworth (a minimum of 450 homes), Radcliffe on Trent (a minimum of 400 homes) and Ruddington (a minimum of 250 homes). The reasoned justification³² to Policy 3 states that the locations for development in these Key Settlements will be determined through the Local Plan Part 2 and relevant Neighbourhood Plans. The Council's Housing Trajectory in Appendix D of the Core Strategy includes the provision of 360 dwellings from these Key Settlements within 5 years (2018/19 to 2019/20) with 100 dwellings each in or adjoining East Leake, Keyworth and Radcliffe on Trent and 60 dwellings in or adjoining Ruddington.
46. The appellants are concerned that, given the delay in the preparation of the Local Plan Part 2, within which appropriate sites for the development of housing would be allocated in these Key Settlements, along with the potential need to

³⁰ Core Document 31 paragraph 67

³¹ Core Document 30 Policy 3 Criterion 2 b)

³² Core Document 30 paragraph 3.3.16

release sites within the Green Belt adjacent to 3 of the Key Settlements (Keyworth, Radcliffe on Trent and Ruddington), which are inset from the Green Belt, development within these areas would not be likely to deliver until 2019/20.

47. The appellants put forward 2 scenarios³³, which were subsequently updated³⁴ at the Inquiry, to demonstrate the likely extent of the shortfall against the housing requirement over the next 5 years. Scenario 1 does not include housing delivery from any of the Strategic Sites, with the exception of the former Cotgrave Colliery, which began delivering housing during 2015/16. This scenario assumes that the remaining 5 Strategic Sites would not begin to deliver housing until 2020/21 at the earliest. Scenario 1 also assumes that the Rushcliffe Local Plan Part 2 would not be completed for a further 2 years. On this basis, the appellants state that there would be no planning permissions on its allocated sites for 2 years, given that they would be likely to be on Green Belt land, with a further year to discharge any necessary planning conditions or reserved matters applications, with the exception of development in or adjoining East Leake, which is not located within the Green Belt. Taking the former Cotgrave Colliery as an example, the appellants consider that development on these sites would not be likely to commence until 4 years after the original planning permission has been granted, with the first completion resulting in year 5. As such, locations identified for growth in Policy 3 Criterion 2 b) on land in or adjoining Keyworth, Radcliffe on Trent or Ruddington, would not be likely to deliver until 2019/20. The Core Strategy Housing Trajectory indicates that sites in and around these settlements would be expected to provide a total of 260 dwellings between 2018 and 2020. Scenario 1 indicates that, with a total requirement of 5,251 including a 20% buffer, the Council can only demonstrate 2.03 years supply of deliverable housing land.
48. The appellants' updated Scenario 2, assumes Scenario 1, but includes a reassessment of the Strategic Sites using the delivery rates set out in the Council's most recent AMR, with the exception of the former Cotgrave Colliery, which remains as per Scenario 1, given that development on that site is currently underway. It again assumes the basis of a 4 year lead in period from outline planning permission, with the first completion on these sites expected in year 5. Scenario 2 indicates that, with a total requirement of 5,251 including a 20% buffer, the Council can only demonstrate 3.17 years supply of deliverable housing land. The appellants consider that Scenario 2 would be the most probable, although it includes a significant degree of optimism for activity on the larger Strategic Sites.
49. It is apparent from the evidence before me, both in the Local Plan Inspector's Report³⁵ and in the Core Strategy³⁶, that significant reliance is placed on the SUEs and the other strategic allocations within the housing land supply. Indeed, given the profile of housing delivery from these Strategic Sites, the Core Strategy begins with a lower expected annual rate of housing delivery, which then rises in subsequent periods, before receding again as key sites near completion. Nevertheless, it is clear that the anticipated delivery of development on most of the Strategic Sites has slipped significantly from the position presented to the Local Plan Inspector and included within the Core

³³ Pages 56-61 of Mr Waumsley's Proof of Evidence

³⁴ Document 8

³⁵ Core Document 31 paragraph 64

³⁶ Core Document 30 paragraph 3.3.10

Strategy. Furthermore, I am concerned about the limited progress that has been made on many of these Strategic Sites since the adoption of the Core Strategy. Indeed, there is a distinct danger that further slippage may occur and sites may not deliver as expected within the next 5 years, particularly given the need, in some cases, to obtain planning permission, seek the approval of reserved matters, the requirement for major infrastructure works and the discharging of planning conditions and the signing of legal agreements.

50. I am also concerned about the delay in the preparation of the Local Plan Part 2, which is now anticipated to be adopted in February 2017, which is significantly later than the date put before the Local Plan Inspector. Indeed, the implications of this later adoption, along with the anticipated changes to the Green Belt around the Key Settlements of Keyworth, Radcliffe on Trent and Ruddington that may be required in order to accommodate the necessary development in and around these settlements, may lead to delays in the expected completions included within the Housing Trajectory.
51. I note the monitoring provisions that the Council has in place and acknowledge that its next AMR is due to be published in December 2015. Furthermore, the Core Strategy states that where sites identified in Policy 3 do not prove to be capable of delivery within the envisaged timescales, the Council will look to make up the resulting shortfall of homes on other sites identified through the Council's SHLAAs³⁷. The appeal site is one such site³⁸.
52. From the evidence before me, based on the figures in the AMR and the Interim Assessment in terms of supply, I consider that the Council can only demonstrate 4.72 and 4.8 years supply respectively, if the whole of the shortfall is included within the 5 years and the 20% buffer is applied to the total requirement. Furthermore, I am concerned that some of the figures included within the supply by the Council are likely to be overly optimistic, given the difficulties associated with bringing some of the Strategic Sites forward for development and the delay in the adoption of the Local Plan Part 2, which may have implications for the delivery of development in and around some of the Key Settlements. As such, I consider that the current supply is a best case scenario and may well be further reduced and require adjustment through the release of other sites identified in the SHLAA. I conclude, therefore, that a 5 year supply of deliverable housing land cannot be demonstrated. As such, having regard to the guidance in Paragraph 49 of The Framework, the relevant policies for the supply of housing should not be considered up to date. I have afforded this matter substantial weight in my consideration of this appeal.

Character and Appearance

53. The appeal site is an arable field located in open countryside, to the south of Abbey Lane and adjacent to the western edge of the settlement of Aslockton. It is a greenfield site largely contained by a mature hedgerow. To the north of the appeal site, on the other side of Abbey Lane is residential development, which extends along around two thirds of the appeal site's frontage. Immediately to the east of the appeal site is residential development along Crawford's Meadow, with further residential development along Fields Drive beyond. The residential properties in the vicinity of the appeal site are mostly

³⁷ Core Document 30 paragraph 3.3.23

³⁸ Core Document 39 Site Ref. 1: Land at Abbey Lane, Aslockton

2 storey detached and semidetached houses. Allotments are sited adjacent to the south eastern corner of the appeal site, to the south of the development along Fields Drive. To the west of the appeal site, beyond a substantial boundary hedge, is further agricultural land. To the south, beyond the slightly elevated Nottingham to Grantham railway line, is further agricultural land, beyond which is Aslockton Hall and HM Prison Whatton, along with a small residential estate of former prison worker dwellings. The village of Aslockton is located to the east of the appeal site and to the south, beyond the railway line, is the settlement of Whatton-in-the-Vale. A public footpath runs through the northern half of the appeal site, providing a link from Abbey Lane to the north to Abbey Farm in the west. An overhead electricity line runs through the south east corner of the appeal site. The submitted Illustrative Masterplan (Drawing No. 5704-L-03 Rev. B) indicates how up to 75 dwellings, along with public open space and landscaping, could be accommodated on the appeal site.

54. The Council and local residents are concerned about the impact of the proposed development on the character and appearance of the area. In particular they consider that the appeal site has a role as part of the wider countryside surrounding Aslockton and, as such, it forms part of the setting of the village. Furthermore, the development of up to 75 homes is considered to be a significant expansion of the village in terms of scale and would represent an extension of the village into the open countryside.
55. The appeal site lies within National Character Area (NCA) 48: Trent and Belvoir Vales, as assessed by Natural England, and within Draft Policy Zone (DPZ) SN06: Aslockton Village Farmlands in the Greater Nottingham Landscape Character Assessment (2009), conducted by Nottinghamshire County Council. The latter sets out the overall character and condition of the landscape within what is a relatively large character area which covers a vast landscape and includes the market town of Bingham and numerous villages within the Vale of Belvoir. It says that the area *'is characterised by very gently undulating landform which is a series of Mercia Mudstone outcrops and narrow alluvial levels. The land is mostly arable farming with pockets of pasture which are more intimate in character close to village fringes. There is regularly dispersed pattern of small distinctive rural villages. The landscape has a strong rural tranquil character which feels remote from urban centres. Fields are a mixture of medium to large scale which are mostly modern enclosure with some larger areas of older enclosure present around villages. The area has a low level of woodland cover; small coverts and copses are scattered throughout the landscape. Other woodland cover includes clumps and avenues along roads and parkland and linear belts along maturing hedgerows and disused railways. These combine to give a wooded impression in views.'*
56. As part of the planning application process, the appellants submitted a Landscape and Visual Impact Assessment (LVIA)³⁹, which sets out a detailed analysis of landscape character and visual resources. The LVIA judged the overall landscape effects of the proposed development at Year 15 to be minor adverse – negligible and the overall visual effects at Year 15 to be slight adverse – negligible. The LVIA and its findings are not disputed by the Council.
57. The Illustrative Masterplan indicates how the proposed development could be set back from the Abbey Lane frontage, beyond an area of public open space

³⁹ Core Document 18

and a proposed detention basin. Furthermore, it shows the retention of existing vegetation, supported by structural landscaping and individual tree planting, and further open space alongside the Internal Drainage Board drains/easements. Although the planning application was made in outline and this plan is for illustrative purposes only, the appellants have suggested that a condition could be imposed on any approval requiring that any future development of the appeal site is implemented in accordance with the Development Framework Plan (Drawing ref. 5704-L-02 Rev. B), which sets out the development parameters, and the Design and Access Statement.

58. I note the concerns of local residents about the impact of the proposed development on their outlook and in views from Abbey Lane. Dwellings along the northern side of Abbey Lane, opposite the appeal site, are set back from the highway with gardens to the front. The occupiers of these dwellings currently benefit from views through the existing boundary planting, across the appeal site to the open countryside beyond. In addition, the occupiers of Crawford's Meadow and users of the public footpath, which crosses the northern part of the appeal site, currently have unrestricted views across the appeal site. Furthermore, users of Abbey Lane benefit from glimpsed views across the open countryside through the existing boundary planting along the northern part of the appeal site. Although existing and proposed planting would provide some screening of the proposed dwellings, and the Illustrative Masterplan indicates that their siting would mean that they would be set back from the road frontage, beyond public open space, given the opening up of an access point and the extent of the development proposed, it would result in a change to the outlook of neighbouring residents, albeit that there is no right to a view, and to users of Abbey Lane and the public footpath running through the appeal site.
59. Local residents and the Council have expressed concern about the scale of the proposed development compared to the historical pattern of development within Aslockton. It was apparent from my site visit that the historic core of Aslockton is centred around Main Street, Dawn's Lane and parts of Abbey Lane and Mill Lane, which make up the Aslockton Conservation Area. Beyond the conservation area boundary to the west, along Abbey Lane, modern residential development exists within the cul de sacs of The Capes, Abbey Close and Fields Drive. Although these residential estates contain fewer dwellings than the number proposed on the appeal site, the pattern of development proposed, which includes development in depth, between Abbey Lane and the railway line, served via a single cul de sac, would not be dissimilar to these neighbouring developments. As such, I am satisfied that the proposed development would not appear incongruous or out of keeping with the character and appearance of Aslockton and would represent an appropriate extension to the village.
60. It is apparent from the evidence before me, and from my site visit that, given the nature of the development proposed, namely the use of a greenfield site on the edge of a settlement, it would be likely that some degree of landscape and visual harm would occur. However, although the residents of neighbouring properties would experience a change in their outlook and the proposed development would be visible to users of the public footpath and from Abbey Lane, there is no right to a view from residential properties and, in any event, I do not consider that the proposal would represent a significant visual intrusion, as it would not introduce features that would be completely uncharacteristic of,

or incompatible with, the immediate area. Furthermore, I consider that, given the outline nature of the proposal, along with the provision of a substantial area of amenity space within the proposed development and landscaping around the site shown on the submitted plans, further opportunities exist to secure an appropriate design and landscaping at the reserved matters stage which would lessen the impact of the proposed development on the surrounding area.

61. I conclude, therefore, that the proposed development would lead to the loss of some open countryside and would cause some harm to the character and appearance of the area, in particular in views from the public footpath, Abbey Lane and neighbouring residential properties. Given the nature of these impacts, I consider that some weight should be afforded to the landscape and visual changes that would result from the proposed development.

Sustainable Development

62. Paragraph 7 of The Framework sets out the 3 dimensions to sustainable development: economic, social and environmental and Paragraph 8 says that the roles performed by the planning system in this regard should not be undertaken in isolation, because they are mutually dependent. It goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system, which should play an active role in guiding development to sustainable solutions.
63. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
64. The Council and interested parties do not consider that the appeal site is in a sustainable location. Nor do they consider that it has sustainable transport links. The appellants, on the other hand, state that this cannot be sustained by a reasonable analysis of the independent studies of accessibility and sustainability carried out to date and the services, facilities and employment, along with sustainable transport opportunities that exist. Furthermore, they argue that the development of the appeal site would help to sustain and maintain the viability of services and facilities in both Aslockton and neighbouring Whatton-in-the-Vale.
65. In terms of the economic role, the appellants state that the proposed development would provide economic benefits in the short term through the New Homes Bonus and the construction of the new dwellings and that, once completed, future occupiers would contribute to the local economy by ensuring that additional support is provided to local services and facilities, along with local employers.
66. With regards to the social role, the appellants refer to the provision of 30% affordable housing which would go some way to addressing the pressing and acute need for such housing in the Borough. Furthermore, they refer to the provision of market housing, in a Borough that cannot demonstrate a 5 year

- supply of deliverable housing land, which would contribute to addressing this shortfall, given that the site would be deliverable within 5 years.
67. Although some harm would occur to the character and appearance of the area and the proposed development would lead to the loss of a greenfield site on the edge of the settlement, the appellants consider that there are other matters which should be weighed in the balance when considering the environmental role of sustainable development. Firstly, the appellants refer to the environmental benefits of the proposed development, including generous on site open space and ecological enhancements. Secondly, the appellants say that, in addition to reducing flood risk to the village, which is primarily from fluvial sources (the River Smite), by providing additional drainage capacity in the event of a breach of the defences through the opening up and re-routing of the culvert across the site as an open water course around its perimeter, this and the on site Sustainable Drainage (SuDs) System would also reduce the potential for surface water flooding in the area.
68. In addition, the appellants consider that the appeal proposal would further the dimension of environmental sustainability due to the location of the site in a settlement which is highly accessible by public transport (in relative terms for the rural area) and the clear opportunity for walking, cycling, car sharing and park and ride facilities. Furthermore, given the close proximity of Aslockton to Bingham, which is earmarked for major employment and retail growth in the Core Strategy, as well as representing a key destination for leisure and shopping, the appellants consider that this would clearly reduce the need to travel by ensuring that future residents of the proposed development can shop and work locally, with good transport options for reaching Bingham by both bus and train.
69. With regards to the locational sustainability of the site, I note the findings of the Accessible Settlements Study for Greater Nottingham⁴⁰, February 2010, which assesses in general terms the level of accessibility of existing settlements within the Greater Nottingham area, including Rushcliffe, in terms of their residents' access to jobs, shopping, education and other services by walking, cycling and public transport. Table A1.1 of this Study indicates the total score by District for each settlement within it. The appellants have reproduced an extract from this table⁴¹ which ranks each settlement within Rushcliffe in order of its total score. This shows that Aslockton is the 18th most accessible settlement within Rushcliffe, out of a total of 67 settlements. Furthermore, it indicates that Aslockton is ranked first amongst the settlements in the Rural East Housing Market Area. I also acknowledge the proximity of Aslockton to Bingham, which lies around 3km to the west and is ranked 8th in the list of accessible locations and settlements.
70. Aslockton benefits from a range of local services and facilities, including a primary school, shop/post office, pub, hairdressers, church, village hall and local club organisations. It also benefits from a variety of sustainable transport modes, including rail, bus and cycling, with good transport links to Bingham, Nottingham and Grantham. Indeed, it is one of only 4 settlements within Rushcliffe to benefit from a railway station. Given the proximity of the appeal site to local services and facilities, along with the variety of sustainable

⁴⁰ Core Document 46 (LPA28)

⁴¹ Appendix 1 to Mr Waumsley's Proof of Evidence

transport links available within the settlement, I consider that it is sustainable in locational terms.

71. The provision and maintenance of employment within the construction industry, through the construction of the proposed dwellings, along with the additional spending from future occupiers of the proposed dwellings, would help support the local economy and maintain facilities and services in the local area.
72. The proposed development would provide up to 75 dwellings, of which 30% would be affordable. I acknowledge the statements of local residents that there is no affordable housing need in Aslockton at present, given that the need that was recorded in the Aslockton Rural Housing Needs Survey⁴², November 2003, of 6 affordable homes, has been met by the development at Crawford's Meadow. However, there is a substantial need for new residential development, both market and affordable, in the Borough as a whole. As such, I am satisfied that the proposed development would go some way towards meeting the needs for such housing in the wider area.
73. The proposal would involve the loss of an area of open countryside and I have afforded the loss of this open countryside and the harm to the character and appearance of the area, in particular in views from the public footpath, Abbey Lane and neighbouring residential properties, some weight in my determination of this appeal. However, the proposed development would include substantial environmental benefits, including generous on site open space and ecological enhancements, along with a reduction in the flood risk to the village, by providing additional drainage capacity in the event of a breach of the defences through the opening up and re-routing of the culvert across the site as an open water course around its perimeter. Furthermore, this and the on site SuDs System would also reduce the potential for surface water flooding in the area. Given this, in addition to the social and economic gains detailed above, along with the highly accessible nature of the appeal site, I consider that the proposed development would, on balance, represent a sustainable form of development.
74. I conclude, therefore, that the proposal would represent sustainable development. As such, it would accord with Policy GP1 of the Non-Statutory Replacement Local Plan and guidance in The Framework.

Appropriate Location

75. The Council refers to Policy 3 of the Core Strategy, which sets out the spatial strategy for the Borough. It follows the principle of urban concentration through the provision of SUEs on the edge of the main built up area of Nottingham (within Rushcliffe) and regeneration through the allocations at the former Cotgrave Colliery and the former RAF Newton. It also allows for some growth around the more rural sustainable settlements of East Leake, Keyworth, Radcliffe on Trent and Ruddington, across the rest of Rushcliffe. Furthermore, Policy 3 b) enables development in other villages, including Aslockton, solely to meet local housing needs. The Council refers to paragraphs 3.3.5 and 3.3.17 of the reasoned justification of this policy. The former says that in line with the strategy, outside of those Key Settlements listed in part 1 b) of the policy and with the exception of the former RAF Newton, development will be of a scale

⁴² Appendix 9 the Mr Waumsley's Proof of Evidence

- appropriate to meet local needs. The latter says that local needs will be delivered through small scale infill development or on exception sites.
76. The Council considers that in order to assess the proposed development, regard should be had to the settlement of Aslockton which has a population of around 885, once the inmates of HM Prison Whatton are deducted. Although the settlement of Whatton-in-the-Vale is located to the south east of Aslockton, on the other side of the railway line, the Council considers that these villages should be treated separately and that their coalescence should be guarded against. The Council considers that the development of up to 75 dwellings on the appeal site would represent a large scale extension to the village and a complete break from the modest pattern of development within Aslockton to date. Furthermore, the Council considers that there is an evidential burden to prove a case for the level of development proposed, which the appellants have not done, given the low quantum of development required across the rural villages by Policy 3 of the Core Strategy. On this basis, the Council does not consider that Aslockton is an appropriate location for the proposed development as the proposed development of up to 75 dwellings would not be small scale infill development in the context of Aslockton and it would not be an exception site. As such, it would not meet local housing needs.
77. The appellants disagree with the Council's approach. They refer to the quantum of development required by Core Strategy Policy 3 b) in other villages as being 1,980 dwellings, of which the proposed development would represent less than 4%. They also note that there is no definition of the terms 'local need' or 'small scale' in the Core Strategy and that paragraph 3.3.17 continues to say that where small scale allocations are appropriate to provide further for local needs, these will be included in the Local Plan Part 2, including Neighbourhood Plans. The appellants therefore consider that these terms are best understood having regard to the quantum of development which Policy 3 apportions to the 'other settlements' and indeed the overall growth planned for the Borough (0.5% of the minimum level of housing required).
78. The appellants also consider that the scale of the proposed development should be assessed in the context of the local area. While the Council considers that this should be done against the settlement of Aslockton alone, the appellants consider that an appropriate assessment should include Aslockton and Whatton-in-the-Vale. However, irrespective of which assessment is undertaken, the appellants do not consider that the proposed development would be out of scale with Aslockton, or Aslockton and Whatton-in-the-Vale, as it would be in line with the scale of more modern development which has taken place to both the east and south of Aslockton. Furthermore, they state that even judged against a population figure of 885, which the appellants say is not supported by any evidence, the population increase (based on 2.4 persons per dwelling) would be around 20%, which is not considered to be harmful, having regard to the Inspector's approach in another appeal Decision⁴³.
79. Reference is also made to paragraph 2.3.5 of the Core Strategy by the appellants, which discusses the role of 'identified settlements' and then goes on to say that other villages have experienced smaller levels of development in line with meeting local needs (especially affordable housing), supporting their communities, and maintaining their vitality, viability and local distinctiveness.

⁴³ Core Document 79

The appellants consider that the proposed development would ensure an active population to support existing facilities and services, including transport infrastructure.

80. From the evidence before me, it is apparent that Core Strategy Policy 3 includes an allowance of around 1,980 dwellings to be built in other villages solely to meet local housing needs. From the reasoned justification to this policy, reference is made to development being of a 'scale appropriate to meet local needs'⁴⁴ and 'will be delivered through small scale infill development or on exception sites'⁴⁵. However, paragraph 3.3.17 states that 'Beyond this, where small scale allocations are appropriate to provide further for local needs, these will be included in Local Plan Part 2'. I acknowledge there is no explanation of how the 1,980 dwellings would be distributed throughout the 'Other Villages' during the Plan period, other than through small scale infill development, exception sites and small scale allocations in the Local Plan Part 2 to meet local housing needs. However, Core Strategy Policy 3 indicates a clear intent for some development to be undertaken in other villages within the Plan period.
81. Nevertheless, in my opinion, Core Strategy Policy 3 is a policy for the supply of housing and, given that I have found that the Council cannot demonstrate a 5 year supply of deliverable housing sites, it should not be considered up to date. Paragraph 14 of The Framework says that at its heart there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of The Framework taken as a whole.
82. I have found that the proposal would represent a sustainable form of development. However, the proposal would lead to the loss of some open countryside and some harm to the character and appearance of the area has been identified in terms of the localised impacts in association with private views from neighbouring residential properties and public views from the public footpath running through the northern part of the appeal site and Abbey Lane, and I have afforded some weight to the landscape changes that would result from the proposed development.
83. Local residents and Aslockton Parish Council have raised concerns about highway safety and flooding. I note that the Highway Authority, Environment Agency and Trent Valley Internal Drainage Board had no objections, subject to the imposition of appropriate planning conditions on any approval. From the evidence before me, I am satisfied that the proposed development would be laid out in accordance with the 6C's Design Guide (2009) with appropriate visibility splays and access arrangements. As such, it would not be detrimental to highway safety. Furthermore, the improvements proposed as part of the development to drainage on the site would be likely to result in the reduction in the flood risk to the village and surface water flooding in the area. These matters can be controlled by the imposition of appropriate planning conditions on any approval.

⁴⁴ Paragraph 3.3.5

⁴⁵ Paragraph 3.3.17

84. The Parish Council, along with Bingham Town Council, have also raised concerns about the impact of the proposed development on local infrastructure and facilities, including transport, education and health services. I have no evidence before me to suggest that the existing transport and health provision would not have sufficient capacity to cope with the proposed development. In terms of education, Nottinghamshire County Council, as Education Authority, is seeking a financial contribution towards secondary school places which would be generated by the proposal and which could not be accommodated within the existing schools, given that they are at capacity. The appellants have included the required financial contribution within the submitted Section 106 Agreement.
85. In my opinion, the lack of a 5 year supply of deliverable housing land is a material consideration of substantial weight in this appeal. I have considered all the other matters raised by the Council and third parties including the loss of agricultural land; precedent; the objections of local people; the impact on the Aslockton Conservation Area; the increase in population; and the accuracy of some of the information accompanying the planning application. However, given that the proposal would represent a sustainable form of development, along with the need to boost significantly the supply of housing in Rushcliffe, I do not consider that the loss of this open countryside and the limited harm identified to the character and appearance of the area and the other matters raised would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
86. I conclude, therefore, that Aslockton would be an appropriate location for the proposed development. As such, the appeal should be allowed.

Section 106 Agreement and Unilateral Undertaking

87. The Council and the appellants submitted a Section 106 Agreement⁴⁶ and a completed Unilateral Undertaking⁴⁷, respectively under Section 106 of the Town and Country Planning Act 1990, which include a number of obligations to come into effect if planning permission is granted. I have considered these in the light of the statutory tests contained in Regulation 122 of the CIL Regulations 2010. I have also had regard to the Planning Obligations and CIL Compliance Statement and information in respect of CIL Regulation 123(3)⁴⁸, along with further supporting information⁴⁹ submitted by the Council. The Council confirmed in its CIL Compliance Statement that only the secondary school and library contributions have other Section 106 Agreements that would count towards the pooling limit. In respect of the education contribution, there is one other Section 106 contribution towards additional accommodation at Toothill School (Planning Application Ref. 10/01962/OUT), with a single Section 106 contribution towards the library facilities at Bingham (Planning Application Ref. 10/02105/OUT). Therefore, I am satisfied that this Section 106 Agreement is not affected by the pooling limit restrictions in respect of CIL Regulation 123(3).
88. Core Strategy Policy 19 says that all development will be expected to meet the reasonable cost of new infrastructure required as a consequence of the

⁴⁶ Document 28

⁴⁷ Document 31

⁴⁸ Document 18

⁴⁹ Document 21

proposal. It goes on to say that prior to the implementation of a CIL, and following implementation where it remains appropriate, planning conditions and obligations will be sought to secure all new infrastructure necessary to support new development either individually or collectively. The obligations within the Section 106 Agreement and the Unilateral Undertaking relate to the following matters.

89. *Education:* Nottinghamshire County Council is the Education Authority for the area. It calculates that the proposed development would yield an additional 16 primary and 12 secondary school places. Although, based on current pupil projections, the additional primary school places could be accommodated in existing schools, the secondary schools are at capacity. The Planning Obligations Strategy⁵⁰, April 2014, published by Nottinghamshire County Council sets out how the cost of such provision is calculated. In this case, a contribution of £207,120 towards the provision of secondary school places is sought (£17,260 x 12). The Section 106 Agreement includes a financial contribution towards education of £207,120. Given that existing secondary schools are at capacity and the expected yield from the proposed development, I am satisfied that this obligation would pass the statutory tests.
90. *Integrated Transport:* The Highway Authority requires improvements to public transport infrastructure in order to achieve sustainable development through integrated transport. A financial contribution of £3,000 towards measures to reduce reliance on the private car by residents of the proposed development, which may include the provision of cycle parking facilities at Aslockton railway station, is included in the Section 106 Agreement. Given the need to encourage future occupiers of the proposed development to use sustainable transport options, I am satisfied that this obligation would pass the statutory tests.
91. *Library:* The County Council requires a financial contribution of £2,903 towards libraries, based upon the following formula: ((Number of dwellings permitted x 2.4) x 1,532 x £10.53) ÷ 1,000. The Section 106 Agreement includes a financial contribution of £2,903 towards the provision of additional stock at Bingham Library. As future occupiers of the proposed development would be likely to increase the demand for the services provided by Bingham Library, I consider that this obligation would pass the statutory tests.
92. *Open Space Scheme:* The Section 106 Agreement includes obligations relating to the provision of open space, a children's play area and a sustainable drainage system as part of an Open Space Scheme, along with their maintenance and management through the establishment or engagement of a management company. I note the Council's Community Development Manager's comments that there is currently an oversupply of formal and informal amenity open space and formal parks and gardens and that the existing supply can accommodate new development. However, the existing supply of equipped children's play areas cannot accommodate new residential development. I am satisfied that, given the likely needs of future occupiers, the provision of open space, children's play area and a sustainable drainage system as part of an Open Space Scheme would pass the statutory tests.
93. *Sports Hall, Sports Pitch and Swimming Pool:* The Council's Community Development Manager states that the existing supply of sports pitches and

⁵⁰ Document 21

sports changing facilities cannot accommodate new residential development. As such, a financial contribution of £427 per dwelling for sports pitches is sought. Furthermore, the Council's Leisure Contracts Manager states that commuted sums of £24,201 (£322.68 per dwelling) and £31,246 (£416.62 per dwelling) would be required for off site swimming pools and sports halls respectively. The Section 106 Agreement includes financial contributions per dwelling towards sports hall, sports pitch and swimming pool as sought by the Council. Given that future occupiers of the proposed development are likely to increase demand for these services, I am satisfied that these obligations would pass the statutory tests.

94. *Travel Packs and a Travel Plan:* The Highway Authority requires that a revised Travel Plan be prepared in order to encourage future occupiers of the proposed development to use sustainable alternative modes of travel to the private car. In addition, free travel passes would be expected to be made available to new residents of the proposed development on first occupation. The Section 106 Agreement includes the provision of a Travel Plan, including its monitoring and the appointment of a Travel Plan Co-ordinator, and a Travel Pack for each dwelling, which would include details of each initiative in the Travel Plan, information on bus/rail services and additional measures to encourage walking, cycling and public transport use. Given the location and scale of the proposed development, I consider these measures would be necessary to encourage the use of sustainable transport modes, rather than single occupancy car use. I am satisfied, therefore, that these obligations would pass the statutory tests.
95. *Monitoring:* The Section 106 Agreement includes financial contributions towards monitoring (£273 per obligation) and Travel Plan Monitoring (£7,700). Given the nature of the obligations within this Section 106 Agreement, I am satisfied that these monitoring obligations would pass the statutory tests.
96. *Affordable Housing:* Policy 8 of the Core Strategy says that new residential developments should provide for a proportion of affordable housing on sites of 5 dwellings or more or 0.2 hectares or more. It sets out the proportion of affordable housing that should be sought through negotiation on Strategic Sites and within each housing submarket. Within the Rushcliffe Rural Sub Market, which includes the appeal site, Policy 8 says that 30% affordable housing will be sought. The Unilateral Undertaking includes obligations relating to the provision of 30% of the total number of dwellings to be constructed on the appeal site as affordable housing, with a tenure mix of 14% social rent, 43% affordable rent and 43% intermediate, along with a requirement for the approval of an Affordable Housing Scheme, detailing the mix of and method and programme for securing the provision of the affordable housing. Given the acknowledged need for affordable housing within the Borough, I am satisfied that this obligation would pass the statutory tests.

Conditions

97. An agreed list⁵¹ of appropriate conditions was provided during the course of the appeal. In addition to the standard time limit condition, the agreed list includes 12 conditions⁵². The Council suggested a further condition⁵³ during

⁵¹ Core Document 62

⁵² This excludes suggested condition No. 12 which, it was agreed at the Inquiry, could be incorporated into suggested Condition No.9

⁵³ Document 19

the course of the Inquiry. I have had regard to the advice in The Practice Guidance⁵⁴ when considering these conditions.

98. Although a condition is suggested which sets out the details to be submitted as part of any reserved matters application, I consider that it would be necessary to also include the standard reserved matters condition, given the nature of the outline application, which reserves all matters for subsequent approval. Furthermore, as suggested by the appellants, I consider that it would be reasonable to include a condition requiring the future development of the site to reflect the parameters within the Development Framework Plan (Drawing No. 5704-L-02 Rev. B) and Design and Access Statement. It would be necessary, in the interest of highway safety, to require at least one garage or parking space within the curtilage of each dwelling. The submission and approval of details of the facing and roofing materials to be used on all external elevations and a detailed landscaping scheme would be necessary to safeguard the character and appearance of the area. A condition which seeks to protect the retained trees and/or hedges would also be necessary to safeguard the character and appearance of the area.
99. The provision of visibility splays of 2.4m by 65m and the use of wheel washing facilities by vehicles during the construction period would be necessary in the interests of highway safety. A condition requiring the submission and approval of details for the disposal of foul and surface water drainage would be necessary to reduce the risk of flooding. The provision and management of a 6m wide buffer zone alongside the proposed watercourse to the west and south of the site would be reasonable to protect the ecological value of the watercourse. A condition which requires a scheme to treat and remove suspended solids from surface water run-off during construction works would be necessary to reduce the risk of pollution. The implementation of an archaeological field evaluation during construction or excavation work on the site would be reasonable to ensure that any archaeological items are recorded. A condition requiring the retention of the hedgerows along the northern and western boundaries of the site would be necessary to safeguard the character and appearance of the area. Finally, a condition requiring the provision of a new footpath link would be reasonable to provide a sustainable development.

Karen L Baker

INSPECTOR

⁵⁴ Circular 11/95: The Use of Conditions in Planning Permissions has been largely superseded by the Planning Practice Guidance, with the exception of Appendix A (Model Conditions)

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Hogan <i>of Counsel</i>	Instructed by Mr Paul Cox, Borough Solicitor at the Council
He called	
Mr Phillip Marshall BTP MRTPI	Principal Policy Planner
Mrs Melissa Kurihara MA MRTPI	Principal Planning Consultant, Urban Vision Partnership Limited
Mr Jeff Hall	Senior Area Planning Officer (Discussion of Conditions/Section 106/Unilateral Undertaking Sessions and Site Visit only)

FOR THE APPELLANTS:

Miss Alison Ogley <i>of Counsel</i>	Instructed by Mr Christopher Waumsley, Freeths LLP
She called	
Mr Philip Rech BA BPhilLD CMLI	Director of FPCR
Mr David Cheetham BA(Hons) MSc FILT MIHT	Regional Director of Waterman Transport and Development
Mr Christopher Waumsley DipTP MRTPI	Head of the Planning Environment Group at Freeths LLP
Mr Paul Burton	Director of Hallam Land Management (Discussion of Conditions/Section 106/Unilateral Undertaking Sessions only)

INTERESTED PERSONS:

Mr Mansfield Barker	Chairman of Aslockton Parish Council
Mr Chris Smith	Local Resident
Mr John Breedon	Local Resident and Neighbouring Landowner

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Appearance list for the appellants, submitted by the appellants
- 2 Opening statement on behalf of the appellants
- 3 Opening statement on behalf of the Council
- 4 Council's notification letter informing interested parties of the date, time and venue for the Inquiry, submitted by the Council
- 5 Public Notice detailing the date, time and venue for the Inquiry, submitted by the Council
- 6 Nottingham Post news article relating to staff shortages at HMP Whatton, submitted by the appellants
- 7 Table setting out the differences between 3 trajectories, submitted by the appellants
- 8 Proof of evidence update by Mr Waumsley, submitted by the appellants
- 9 Appeal Decision Ref. APP/R0660/A/13/2209335, submitted by the Council
- 10 Statement by Mr Chris Smith
- 11 Statement by Mr Mansfield Barker

- 12 Statement by Mr John Breedon
13 Photos of flooding from the River Smite and traffic within Aslockton,
submitted by Mr Mansfield Barker
14 Emails between Nottinghamshire County Council and the appellants
relating to archaeological matters
15 Report to the Planning Committee on planning application Ref.
15/00339/FUL, submitted by the appellants
16 Report to the Planning Committee on planning application Ref.
14/01238/FUL, submitted by the appellants
17 Report to the Planning Committee on planning application Ref.
14/02715/FUL, submitted by the appellants
18 Planning Obligations and CIL Compliance Statement, submitted by the
Council
19 Additional suggested planning condition, submitted by the Council
20 Supplementary Statement of Common Ground, submitted by the
appellants
21 Supporting information in respect of the CIL Compliance Statement,
submitted by the Council
22 Technical Note by JBA Consulting, submitted by the appellants
23 Written Note of Closing on the part of the local planning authority,
submitted by the Council
24 Written Note of Costs Application on the part of the local planning
authority, submitted by the Council
25 Court of Appeal Judgment (Case Numbers: C1/2013/2619, 2622, 3551
and 3781), submitted by the Council
26 High Court Judgment (Case Number: CO/2468/2014), submitted by the
Council
27 Court of Appeal Judgment (Case Number: C1/2013/2734), submitted by
the Council
28 Certified Copy of the completed Section 106 Agreement and Plans,
submitted by the Council
29 Closing Statement on behalf of the appellants, submitted by the appellants
30 Response to the Council's Application for Costs on behalf of the appellants,
submitted by the appellants
31 Certified Copy of the completed Unilateral Undertaking, submitted by the
appellants
32 Letters from The Planning Inspectorate closing the Inquiry

PLANS

- A1/1 Site Location Plan (Drawing No. 5704-L-01)
A1/2 Development Framework Plan (Drawing No. 5704-L-02 Rev. B)
A1/3 Illustrative Masterplan (Drawing No. 5704-L-03 Rev. B)

Appendix 1 – Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Application for approval of reserved matters shall be in accordance with the parameters set in the Development Framework Plan (Drawing No. 5704-L-02 Rev. B) and the Design and Access Statement.
- 5) The development hereby permitted shall only be carried out in accordance with detailed plans and particulars relating to the following items and the development shall not be commenced until these details have been submitted to and approved in writing by the local planning authority.
 - A detailed layout plan of the whole site;
 - Cycle and bin storage facilities;
 - Sections and cross sections of the site showing the relationship of the proposed development to adjoining land and premises;
 - The means of enclosure to be erected on the site;
 - The finishes of the hard surfaced areas of the site;
 - The layout and marking of car parking, servicing and manoeuvring areas;
 - Plans, sections and cross sections of any roads or access/service roads or pedestrian routes within the site, and this shall include details of drainage, sewerage and lighting;
 - The siting, design and external appearance of the proposed buildings; and,
 - The means of access.
- 6) The detailed plans and particulars referred to in Condition 5 shall make provision for at least one garage or parking space within the curtilage of each dwelling and the dwelling(s) shall not be occupied until these facilities have been provided and are available for use.
- 7) The development hereby permitted shall not be commenced until details of the facing and roofing materials to be used on all external elevations have been submitted to and approved in writing by the local planning authority and the development shall only be undertaken in accordance with the approved details.

- 8) No dwellings shall be occupied until a detailed landscaping scheme for the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in the first tree planting season following the substantial completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 9) No operations shall commence on site until the existing trees and/or hedges which are to be retained have been protected in accordance with details to be approved in writing by the local planning authority and that protection shall be retained for the duration of the construction period. No materials, machinery or vehicles are to be stored or temporary buildings erected within the perimeter of any fence erected to protect the retained trees and/or hedges, nor is any excavation work to be undertaken within the confines of the fence, without the written approval of the local planning authority. No changes of ground level shall be made within the protected area without the written approval of the local planning authority.
- 10) The development hereby permitted shall not be brought into use until visibility splays of 2.4m by 65m have been provided for the junction on to Abbey Lane.
- 11) No development shall take place until details of wheel washing facilities to be provided on site have been submitted to and approved in writing by the local planning authority. These facilities shall be provided prior to development commencing and shall be maintained on site during the period of construction. All commercial vehicles shall have their wheels washed before entering the public highway.
- 12) The development hereby permitted shall be carried out in accordance with details for the disposal of foul and surface water drainage which shall have been submitted to and approved in writing by the local planning authority and informed by the approved reports 'Aslockton Breach Modelling Report', dated October 2013 by JBA Consulting, 'Drainage Strategy Report', dated January 2014 by Rodgers Leask, and 'Proposed Drain Diversion Routes' as detailed on D-12-267 (Drawing No. 202), and the following mitigation measures detailed within the Flood Risk Assessment:
 - Provision, implementation and maintenance of a Sustainable Drainage (SuDs) System with storage provided up to the 100 year plus climate change allowance and surface water run-off limitation to existing greenfield run-off rates;
 - Identification and provision of safe routes into and out of the site to an appropriate safe haven, outside of areas shown at risk in a breach event;
 - Confirmation and technical details showing the diversion and daylighting of the Trent Valley Internal Drainage Board piped drain crossing the site to increase capacity;

- Finished floor levels are set no lower than 21.18m Above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- 13) No dwellings shall be occupied until a scheme for the provision and management of a minimum 6 metre wide buffer zone alongside the proposed watercourse to the west and south of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- Plans showing the extent and layout of the buffer zone;
 - Details of any proposed planting scheme;
 - Details demonstrating how the buffer zone will be protected; and,
 - Details of any proposed footpaths, fencing and lighting.
- The scheme shall be completed before all the dwellings are occupied.
- 14) The development hereby permitted shall not commence until a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
- 15) No development shall take place until details of a scheme for the implementation of an archaeological field evaluation to be carried out during construction and/or excavation work on the site, by a professional archaeologist or archaeological organisation, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 16) With the exception of the sections to be removed to enable the provision of the vehicular and pedestrian access, the hedgerows located along the northern and western boundaries of the site shall be retained and any part of the hedgerows removed, dying, being severely damaged or becoming seriously diseased shall be replaced with hedge plants of such size and species, details of which shall be submitted to and approved in writing by the local planning authority, within one year of the date of any such loss being brought to the attention of the local planning authority.
- 17) None of the dwellings hereby approved shall be occupied until a new footpath link connecting the site to the existing footpath network has been provided in accordance with details that have first been submitted to and approved in writing by the local planning authority. Thereafter the footpath link shall be retained for pedestrian use in accordance with the approved details.