



Department for  
Communities and  
Local Government

Mr Owen Jones  
Boyer Planning  
Oak Tree House  
1b Oak Tree Court  
Mulberry Drive  
Cardiff Gate Business Park  
Cardiff CF23 8RS

Our Ref: APP/J3720/A/11/2163206

24 October 2012

Dear Mr Jones,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY J S BLOOR (TEWKESBURY) LTD & HALLAM LAND MANAGEMENT  
LTD. APPLICATION REF: 09/02196/OUT  
LAND WEST OF SHOTTERY, SOUTH OF ALCESTER ROAD AND NORTH OF  
EVESHAM ROAD, STRATFORD-UPON-AVON, CV37 9RX**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Terry G Phillimore MA MCD MRTPI, who held a public local inquiry which opened on 4 April into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Stratford-on-Avon District Council to refuse outline planning permission for the construction of up to 800 dwellings; a mixed use local centre to consist of residential development, retail floorspace (1,000 sq m A1-A5) and D1 uses, and a primary school; laying out of green infrastructure consisting of open space, structural landscaping, and areas of equipped play and associated infrastructure; construction of new highway infrastructure between Alcester Road and Evesham Road and associated highway works and access connections; associated engineering and ground modelling works and drainage infrastructure; and demolition of Nos 3 and 4 Bordon Hill, in accordance with planning application ref: 09/02196/OUT, dated 26 October 2009.

2. The appeal was recovered for the Secretary of State's determination on 27 October 2011, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves residential development of over 150 units and is on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

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### **Inspector's recommendation and summary of the decision**

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and outline planning permission be granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendation. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

### **Procedural matters**

4. The Secretary of State notes those amendments and corrections at IR2-3 and has determined the appeal on that basis.

5. In reaching his decision, the Secretary of State has taken into account the Environmental Statement (ES) and additional environmental information submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR6-8, IR576-580 and IR644). Like the Inspector (IR580), the Secretary of State considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

6. Following the close of the inquiry the Secretary of State received a number of letters of objection to the proposal which he has taken into account in reaching his decision. However, he does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching his decision. Copies of these representations, listed at Annex A, can be made available upon written request to the address at the foot of the first page of this letter.

### **Policy Considerations**

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises Regional Planning Guidance for the West Midlands (renamed the West Midlands Regional Spatial Strategy (WMRSS)) (published June 2004, re-issued in January 2008), the saved policies of the Warwickshire Structure Plan 1996-2011 (2002) and the saved policies of the Stratford-on-Avon District Local Plan Review 1996-2011 (LPR) (July 2006). Development plan policies relevant to the appeal are set out at IR24-42.

8. The draft Stratford-on-Avon Core Strategy is a material consideration but as this is at a relatively early stage and is still subject to change, it has been afforded relatively little weight

9. The Localism Act 2011 provides for the abolition of Regional Strategies by Order. However, the Secretary of State has attributed limited weight to the proposed plan to revoke the WMRSS. Any decision to revoke the WMRSS will be subject to the environmental assessment which is in train.

10. Other material considerations include the local policy documents listed at IR49-52 and national policy referred to in IR53-54. In addition the Secretary of State has had regard to the Community Infrastructure Levy (CIL) Regulations (2010) as amended; Technical Guidance to the National Planning Policy Framework (2012); Baroness

Hanham's Written Ministerial Statement on Abolition of Regional Strategies of 25 July 2012; and his Written Ministerial Statement on Housing and Growth of 6 September 2012.

11. In deciding this appeal, the Secretary of State has paid special attention to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest they possess, as required under the provisions of sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As the proposal would be close to the Shottery Conservation Area, the Secretary of State has also had regard to the desirability of preserving and enhancing the character or appearance of these areas, as required by section 72 of the same Act.

### **Main Issues**

12. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR476.

#### **The development plan**

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the development plan as set out in IR477-487 and IR631-633. He notes that the site is explicitly referred to in LPR Policies STR.2A and SUA.W. He agrees that although the expectation was that the need to release the site would be addressed after the Council had prepared its Core Strategy and Site Allocations Development Plan Documents, this does not rule out the development of the West of Shottery reserve site in advance of such a stage in plan preparation being reached, if required to meet current housing needs (IR480-481). He agrees that residential development of the West of Shottery site at the present time to meet housing needs is consistent with the expectation of Policy STR.2A and in such circumstances the proposal accords with this policy (IR482). He notes that most of the requirements of Proposal SUA.W would be provided by the proposed development and he agrees that overall the appeal development substantially accords with the LPR (IR632-633).

#### **Housing land supply**

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing land supply as set out in IR488-502, IR631 and IR633. He notes that there is disagreement over the 5 year land requirement and supply position, and that the Framework requires local planning authorities to plan for the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework (IR489). For the reasons given by the Inspector on the information currently before him, he considers that the figure of 11,000-12,000 dwellings for the period 2008-2028 more closely accords with the requirements of the Framework (IR492). The Secretary of State notes that the 5 year land supply is between 2.0-3.5 years depending on the way it is calculated (IR499). Even taking the more generous assessment of housing land supply there is still a significant unmet need for housing in the district which warrants a role for the appeal site as anticipated in the LPR. He considers that the proposal thus accords with the development plan in this respect (IR502).

### Prematurity

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on prematurity as set out in IR503-511 and IR634. He agrees that given the relatively early stage reached, apparent unresolved objections to relevant policies, and areas of potential inconsistency with the Framework, relatively little weight can be accorded to the emerging Core Strategy (IR634). He does not consider that refusal of the proposal on the grounds of prematurity is justified in the circumstances of this case.

16. The Secretary of State notes that considerable work has been undertaken on the neighbourhood plan process in Stratford-on-Avon. He agrees that the Inspector is right to record that a core planning principle of the Framework is that planning should be genuinely plan-led, empowering local people to shape their surroundings. In this case he has reached the conclusion that the proposed development accords with the development plan, the LPR, which itself has been prepared with public participation. As the neighbourhood plan must be consistent with the adopted Core Strategy and both are at an early stage, he therefore considers that relatively little weight attaches to the neighbourhood plan at this stage (IR511).

### Character and appearance of the area

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on the character and appearance of the area, as set out in IR512-523 and IR635. He considers that containment of the road within a false cutting would preserve the view westwards from the Garden of Anne Hathaway's Cottage of unbroken countryside, with the skyline in its existing position (IR521). He agrees that the landscape impact of the development would be one of change but involving limited harm and that there would be no material breach of relevant development plan policies (IR523).

### Heritage assets

18. The Secretary of State agrees with the Inspector's reasoning and conclusions on heritage assets, as set out in IR524-543 and IR636-637. He agrees that the impact of the proposal on Anne Hathaway's Garden would amount to a slight element of harm as a result of visible urban development (including lighting) replacing countryside as part of its setting (IR534). He further agrees that it would involve a limited degree of harm to the setting of the assets (IR535). Overall, the Secretary of State considers that the proposal would result in less than substantial harm to the significance of the designated heritage assets and he weighs this against the public benefit of the proposal in his conclusions.

### Tourism

19. For the reasons given in IR544-547 and IR638, the Secretary of State agrees with the Inspector that while a degree of adverse effect on tourist numbers cannot be ruled out, a potential harmful economic outcome has not been sufficiently established or quantified for this to be given other than very limited weight (IR547).

### Highway conditions

20. The Secretary of State agrees with the Inspector's reasoning and conclusions on highway conditions, as set out in IR548-559 and IR639-640. He notes that predicted traffic flows are within the capacities of the affected roads and would not give rise to

serious adverse highway effects (IR639). He agrees that the proposed link road would result in only modest improvements in town centre traffic conditions (IR640). He notes that the Council raises no objection to the proposal in respect of highway safety (IR558) and that safety concerns could be met through detailed design (IR639).

#### Flooding and living conditions

21. The Secretary of State agrees with the Inspector's reasoning and conclusions on flooding and living conditions, as set out in IR560-568 and IR641-642. He agrees that the proposal would not add to the risk of flooding in the surrounding area, and would make satisfactory provision for drainage within the development (IR565). He also agrees that the impact the development would have on living conditions of properties in Bordon Hill involves an element of harm from noise (IR642).

#### Sustainable development

22. For the reasons given in IR569-575 and IR643, the Secretary of State agrees with the Inspector that the site is in a reasonably accessible location for necessary services which would enable a choice of travel modes (IR569) and that the proposal overall does represent a sustainable form of development (IR575).

#### Conditions and obligations

23. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations, as set out in IR581-630 and IR645. He agrees that no weight should be accorded to the contributions to Parkway Station and the police (IR625). He notes that there is a reservation about the enforceability of delivery and maintenance of the landscaping on the Shakespeare Birthplace Trust (SBT) land, which reduces the degree of reliance that can be placed on the planning conditions. However, he agrees that the implementation of the scheme would require the willing involvement of the SBT and this moderates the likely consequences of the risk (IR645).

#### Overall conclusions

24. The Secretary of State agrees with the Inspector's overall conclusions as set out in IR631-649. He agrees that overall the appeal development substantially accords with the LPR (IR632-633). Although the emerging Core Strategy does not include the West of Shottery proposal, he agrees with the Inspector that relatively little weight can be accorded to it (IR634).

25. Having weighed up all of the material considerations, the Secretary of State concludes that though there are material considerations weighing against the proposal, such as impact on the landscape, less than substantial harm to the significance of heritage assets, visual impact and harm from noise; these are outweighed by factors in its favour, such as helping to meet a significant unmet housing need in a sustainable location, new green infrastructure and local facilities, and some modest transport benefits from the new road. The Secretary of State therefore agrees that the benefits of the proposal outweigh the harmful impacts and that the decision should be taken in accordance with the development plan.

## **Formal Decision**

26. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for up to 800 dwellings; a mixed use local centre to consist of residential development, retail floorspace (1,000 sq m A1-A5) and D1 uses, and a primary school; laying out of green infrastructure consisting of open space, structural landscaping, and areas of equipped play and associated infrastructure; construction of new highway infrastructure between Alcester Road and Evesham Road and associated highway works and access connections; associated engineering and ground modelling works and drainage infrastructure; and demolition of Nos 3 and 4 Bordon Hill, in accordance with planning application ref: 09/02196/OUT, dated 26 October 2009, subject to the conditions listed at Annex B of this letter.

27. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

28. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

29. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

## **Right to challenge the decision**

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

31. A copy of this letter has been sent to Stratford-on-Avon District Council and the Residents Against Shottery Expansion. A notification letter/email has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

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

## Annex A

### **Post Inquiry correspondence, including correspondence not seen by the Inspector during the Inquiry**

<b>Name/Organisation</b>	<b>Date of correspondence</b>
Gordon Brace	14 May 2012
Julia Howells – Shakespeare Birthplace Trust	15 May 2012
Mrs M Serafini & Mr D Collier	24 June 2012
J Butterfield	25 June 2012
Charlotte Matthews	26 June 2012
Ms S Williams	26 June 2012
Pauline & Brian Eggleton	26 June 2012
Dr Emmie Williamson	26 June 2012
Matt Pinfield & Vicky Jordan	26 June 2012
Evelyn Abrams	26 June 2012
Dr Catherine Alexander	26 June 2012
Mary Boddington	27 June 2012
Rebecca Sayce	27 June 2012
Jean Cholerton	28 June 2012
Milan Tursner	28 June 2012
Mark Undery	28 June 2012
Rita Kubiack	28 June 2012
Sarah Undery	28 June 2012
Sarah Buttrick	29 July 2012
Jason & Catherine Duffey	30 June 2012
Mrs V Lageard	2 July 2012
Keith Vickery	3 July 2012
Paula Edwards	4 July 2012
Miles Buttrick	4 July 2012 (received)
Mavis Farthing	5 July 2012
Heskett Dawson	5 July 2012
John McDermott	5 July 2012
Alan & Sharon Morris	5 July 2012
Phil Edwards	6 July 2012
Mrs C Wilks	6 July 2012
Anne Hicks	7 July 2012
Dave Townsend	7 July 2012
Elizabeth Hicks	7 July 2012
Lisa Cartwright	7 July 2012
Ian Garrett	7 July 2012
Freda Douthwaite	7 July 2012
Robert Harding	8 July 2012
R.E.Scarlett	8 July 2012
Brian Ash	8 July 2012
Paul McGinn	9 July 2012
G Harrington	9 July 2012
Joan K M Page	9 July 2012

Victor Nicholls	9 July 2012
Keith Lazenby	10 July 2012
Alexis Harriott	11 July 2012
Mr and Mrs S Lawrence	11 July 2012
A Draycott – Shottery Village Association	11 July 2012
Mr & Mrs D J Sargent	11 July 2012
J E Harris	11 July 2012 (received)
Julian Emslie	12 July 2012
Stella Golding	12 July 2012
Barrie and Patricia Tracey	13 July 2012
David Bowie	13 July 2012
Diane Brennan	13 July 2012
Helen Commander	13 July 2012
Leonard Pohl	13 July 2012
James E Phillpotts	14 July 2012
P.A.E. Taylor	15 July 2012
R J Malloy JP	15 July 2012
David Chamberlain	16 July 2012
Michael & Anne Whick	16 July 2012
Mrs M A Wincote	16 July 2012
Mrs Pat Wade	16 July 2012
Adrian Wood	17 July 2012
Peter and Mary Jones	17 July 2012
Mary Malloy	17 July 2012
Katherine Zaffigani	18 July 2012
Lucien Riviere	18 July 2012
Martyn Luscombe	18 July 2012
Mary Finegan	19 July 2012
Paula Owen	19 July 2012
Russell Jones	22 July 2012
Sarah Jones	22 July 2012
Richard Thomas	23 July 2012
Steven Cooper	25 July 2012
Peter and Jane Donaghue	25 July 2012
Robin Malloy	4 August 2012
Joyce Johnson	5 August 2012
Amy Malloy	6 August 2012
Emily Thorpe	7 August 2012
Dr Anthony Malloy	7 August 2012
Michael Gerrard	8 August 2012
Elizabeth J Lawton	15 August 2012



## CONDITIONS

## Annex B

### *General*

- 1) No part of the development hereby permitted shall be commenced on any parcel (as referred to in Condition 5) until full details of the layout, scale, appearance and landscaping within the parcel (hereinafter called "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.
- 2) Application for approval of the reserved matters for the first phase of the development hereby permitted as approved under condition 5 shall be made to the Local Planning Authority no later than the expiration of three years from the date of this permission and the last application for reserved matters approval shall be made no later than seven years beginning on the date of this permission.
- 3) Each phase of the development hereby permitted as approved under condition 5 shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved for that phase.
- 4) The development hereby permitted shall not be carried out except in substantial accordance with the details shown on the following submitted plans:
  - i) Parameters Plan 1953-SK-01 Rev. S
  - ii) Access Plan 207137-00 Figure 13 Issue 05No more than 800 dwellings shall be developed on the site.
- 5) No part of the development hereby permitted shall be commenced until a detailed phasing plan showing the parcels which shall be the subject of separate reserved matters applications has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the phasing plan thus approved.
- 6) No development shall take place, including any works of demolition or clearance, until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) the loading and unloading of plant and materials;
  - iii) the storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) installation and maintenance of wheel washing facilities;
  - vi) measures to control the emission of dust, dirt and odour during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - viii) an appropriately scaled plan showing "Environment Protection Zones" where construction activities are restricted and where protective measures will be installed or implemented;
  - ix) details of protective measures (both physical measures and sensitive working practices) to minimise impacts during construction;
  - x) a timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife, particularly nesting birds, could be harmed;

- xi) details of persons/organisations responsible for:
  - a) compliance with legal consents relating to nature conservation;
  - b) compliance with planning conditions relating to nature conservation;
  - c) installation of physical protection measures during construction;
  - d) implementation of sensitive working practices during construction;
  - e) regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
  - f) provision of training and information about the importance of "Environment Protection Zones" to all construction personnel on site.
- xii) pollution prevention measures;
- xiii) details of measures to protect the public footpaths and amenity of users of the public footpaths crossing the site during the construction works;
- xiv) in relation to every element topic or subject included in the Plan, proposals for the standards to be achieved, monitoring schedules, record keeping and communication of results to the Local Planning Authority.

All works shall be carried out in accordance with the approved details. Any alteration to this Plan shall be approved in writing by the Local Planning Authority prior to commencement of the alteration.

#### Highways

- 7) No more than 150 dwellings in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as Housing Area - Alcester Road [Component A]), shall be occupied until a highway scheme substantially in accordance with drawing number 207137-00 CH-011 Issue 01 (Wildmoor Roundabout) has been submitted to and approved in writing by the local planning authority and the approved scheme has been fully implemented and is open to traffic.
- 8) Prior to the first occupation of the development, a Travel Plan, in substantial accordance with the submitted Travel Plan Framework (October 2009), to include details of the mechanisms to be used for its delivery, monitoring and enforcement, shall be submitted to and approved in writing by the Local Planning Authority.
- 9) The proposed Stratford Western Relief Road (SWRR), connections to the existing highway and new junctions on the SWRR, shall be laid out in general accordance with the following plans in the Revised Transport Assessment (February 2011):
  - 207137-00 Figure 6 Issue 03
  - 207137-00 Figure 7 Issue 03
  - 207137-00 Figure 8 Issue 04
  - 207137-00 Figure 9 Issue 04
  - 207137-00 Figure 10 Issue 04
  - 207137-00 Figure 11 Issue 04
  - 207137-00 Figure 12 Issue 03
  - 207137-00 Figure 15 Issue 06
  - 207137-00 Figure 16 Issue 04
  - 207137-00 Figure 17 Issue 03
  - 207137-00 Figure 18 Issue 05
  - 207137-00 CH-011 Issue 01
- 10) No development shall take place until a highway works agreement has been entered into and signed to secure the construction, completion and adoption of the entirety of the SWRR (as shown on Plan 207137-00 Figure 13 Issue 05).

- 11) No more than 200 dwellings shall be constructed pursuant to this permission in the southern development area (shown on Parameters Plan 1953 SK-01 Rev. S as the Housing Area - Evesham Road [Component B]). Prior to the commencement of the southern development area and notwithstanding the detail shown on the Parameters Plan 1953-SK-01 Rev. S and drawing 207137-00 Figure 15 Issue 06, an access scheme for the junction of the SWRR and the Evesham Road roundabout shall be submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied in the southern development area until the Evesham Road / Luddington Road roundabout (as shown on Plan 207137-00 Figure 15 Issue 06 and incorporating the approved amendment) has been completed and is open to traffic.
- 12) No dwellings shall be occupied in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as the Housing Area – Alcester Road [Component A]) until the new junctions on Alcester Road (as shown on Plan 207137-00 Figure 9 Issue 04) and West Green Drive (as shown on Plan 207137-00 Figure 7 Issue 03) and the new pedestrian crossing on the Alcester Road (as shown on Plan 207137-00 Figure 9 Issue 04) have been completed and are open to traffic and/or pedestrian use (as applicable).
- 13) No more than 150 dwellings in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as Housing Area – Alcester Road [Component A]), shall be occupied until the northern section of the SWRR (as shown on Plans 207137-00 Figure 16 Issue 04 and 207137-00 Figure 17 Issue 03), the improvements to the Wildmoor Roundabout (as shown on Plan 207137-00 Figure 20 Issue 07), the northern sector access roundabout (as shown on Plan 207137-00 Figure 6 Issue 03) and works to create the crossings of the SWRR for public right of way SD16, in accordance with details approved under Condition 15, have been completed and are open to traffic and/or pedestrian use (as applicable).
- 14) Within 2 years of the commencement of development or prior to the occupation of the 300th dwelling in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as Housing Area – Alcester Road [Component A]), whichever is the sooner, the entirety of the SWRR (as shown on Plan 207137-00 Figure 13 Issue 05), the Anne Hathaway's Cottage access roundabout (as shown on Plan 207137-00 Figure 12 Issue 03) and works to create the crossings of the SWRR for public right of ways SD16b and SD42, in accordance with details approved under Condition 15, shall have been completed and be open to traffic and/or pedestrian use (as applicable).
- 15) Detailed schemes for providing suitable crossings of the SWRR for public rights of ways SD16, SD16b and SB42, as shown on Plans 207137-00 6 Issue 03, 207137-00 12 Issue 03 and 207137-00 16 Issue 04, shall be submitted to and approved in writing by the Local Planning Authority. The crossings shall thereafter be implemented in accordance with the approved details concurrently with construction of the SWRR.
- 16) All new highway junctions, as shown on Plans 207137-00 Figure 7 Issue 03, 207137-00 Figure 8 Issue 04, 207137-00 Figure 9 Issue 04, 207137-00 Figure 10 Issue 04 and 207137-00 Figure 11 Issue 04, shall be laid out so as to provide the relevant visibility splays shown on these plans and thereafter no structure or vegetation exceeding 0.6m in height above the adjoining highway carriageway shall be placed or allowed to grow within the visibility splays as defined.
- 17) If the north-eastern arm of the Anne Hathaway's Cottage access roundabout (as shown on Plan 207137-00 Figure 12 Issue 03) is not brought into use within 2 years of the completion of the roundabout, it shall be landscaped during the next planting season in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. Any planting that is removed, uprooted, severely damaged, destroyed or dies within 5 years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.
- 18) With the exception of lighting that is required to directly illuminate roundabout junctions, no street lighting shall be installed on the SWRR between the northern

development area access roundabout (as shown on Plan 207137-00 Figure 6 Issue 03) and the Anne Hathaway's Cottage access roundabout (as shown on Plan 207137-00 Figure 12 Issue 03). Details of a scheme for lighting that is to be installed in connection with the SWRR including the design of lighting columns, lux levels and lighting direction shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any lighting and the works shall be carried out and permanently retained thereafter in accordance with the details thus approved.

- 19) Details of car parking provision within the local centre and primary school to be constructed as part of the development shall be submitted to and approved in writing by the Local Planning Authority prior to their construction and the development shall be carried out and thereafter retained in accordance with the details thus approved.
- 20) Details of cycle parking provision within the local centre and primary school to be constructed as part of the development shall be submitted to and approved in writing by the Local Planning Authority prior to their construction and the development shall be carried out and thereafter retained in accordance with the details thus approved.

#### *Drainage*

- 21) No development shall take place including works of demolition until such time as a phasing plan for the surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Any reference to parcels in Conditions 21-25 inclusive shall be to the parcels set out on the phasing plan approved pursuant to this condition.
- 22) The development hereby permitted shall not be commenced until such time as a scheme to provide for the following three requirements has been submitted to, and approved in writing by, the Local Planning Authority:
  - i) Ensure no raising of ground levels in the floodplain, i.e. Flood Zones 3 and 2, other than as set out specifically in the approved details for the provision of development infrastructure and in accordance with the approved floodplain compensation scheme.
  - ii) Ensure finished floor levels are set 600mm above the corresponding 100 year plus 20% for Climate Change Flood Level (set to AOD).
  - iii) Implement the flood compensation area as indicated in drawing number 1363/FL/03 Rev B contained in the submitted Flood Risk Assessment (October 2009).

The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.

- 23) Development shall not begin within each parcel until a surface water drainage scheme for that parcel, based on and in accordance with the principles outlined in the submitted Flood Risk Assessment (October 2009) together with assessment and proposals for drainage in connection with runoff from raised levels or embankments associated with the SWRR or other parts of the development, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the timetable for implementation approved as part of the scheme for each respective parcel.

The scheme for each parcel shall also include:

- i) Final drainage calculations for the site taking into account the drainage catchment areas from each phase of the development (determined through Condition 5) as they contribute to the site network.
- ii) Infiltration tests for use of soakaways.
- iii) Final drainage layouts including SUDS.

- iv) Details of how the scheme shall be maintained and managed in perpetuity after completion.
  - v) Details of the landscaping and safety features of the balancing ponds.
- 24) Prior to any site works commencing, a scheme to cover interim surface water drainage measures during construction shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.
- 25) The development hereby permitted shall not commence until comprehensive details of permanent foul drainage proposals for the site, to include phasing, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied in any parcel until the foul drainage scheme for that parcel has been implemented in accordance with the approved details.

### *Design*

- 26) Prior to the submission of any reserved matters applications, a Design Code document for the site shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles of the Design and Access Statement (October 2009) and the Design and Access Code Addendum (October 2010) and address the matters set out in paragraphs 1.7 to 1.13 of the Addendum. Applications for approval of reserved matters shall thereafter be in accordance with the approved Design Code.
- 27) The building forms and sizes shall follow the matrix set out in Chapter 8 of the Design and Access Statement (October 2009). The 'narrow plan' dwelling form as described shall only be used for terraced or semi-detached units.
- 28) Notwithstanding the building heights set out through Condition 27, maximum building heights shall be limited in accordance with details that shall be approved as part of the Design Code submission pursuant to Condition 26.
- 29) No parcel of the development hereby permitted shall be commenced until detailed plans and sections showing existing and proposed site levels for that parcel and showing the proposed relationship with adjacent parcels have been submitted to and approved in writing by the Local Planning Authority and the development thereafter shall only be carried out as approved.
- 30) No part of the development hereby permitted shall commence until details of how 'Secured by Design' standards will be achieved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details thus approved.
- 31) The development hereby permitted shall not be commenced until a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the Local Planning Authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been agreed in writing by the Local Planning Authority, and shall thereafter be retained in place and in working order at all times.
- 32) Not less than 23% of all Private Market Dwellings shall fully comply with all relevant requirements of the Joseph Rowntree Foundation's "Lifetime Homes" standards (or any substitute therefore which may be published from time to time) and details of which of the Private Market Dwellings will comply with the "Lifetime Homes" standards shall be set out in reserved matters for each parcel and thereafter the Private Market dwellings

identified in reserved matters approvals as being those which will comply with the "Lifetime Homes" standards shall be constructed in accordance with these standards.

- 33) All new dwellings within each parcel shall achieve a minimum rating of Level 3 of the Code for Sustainable Homes as applicable at the time of commencement of development within that parcel. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that a minimum of Code Level 3 has been achieved. Copies of certificates shall be supplied to the Local Planning Authority on request.

#### *Landscape*

- 34) No part of the development hereby permitted shall be commenced or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the Local Planning Authority and has been put in place.

The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837 (Trees in relation to design, demolition and construction). Fencing shall be shown on a plan and installed to the extent of the tree protection areas as calculated using the British Standard. Nothing shall be stored or placed in those fenced areas or the ground levels altered without the prior consent in writing of the Local Planning Authority.

The development shall be carried out in accordance with the approved scheme which shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.

- 35) No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by Condition 34 has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of:

- i) induction and personnel awareness of arboricultural matters;
- ii) identification of individual responsibilities and key personnel, including the qualified arboriculturalist responsible for administering the scheme;
- iii) statement of delegated powers;
- iv) timing and methods of site visiting and record keeping, including updates;
- v) procedures for dealing with variations and incidents.

The scheme of supervision shall be carried out as approved.

- 36) No works or development shall take place in any parcel until full details of all service runs within that parcel have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- i) The location of all existing services above and below ground
- ii) The location of all proposed services (e.g. drainage, power, communications cables, pipelines etc) including routes, supports etc.

The development shall be carried out in accordance with the details thus approved.

- 37) Prior to the commencement of site works, full details of hard and soft landscape proposals for the areas of Structural Landscape, Shottery Community Park and Shottery Conservation Landscape as shown on Green Infrastructure Plan 1953-SK-04 Rev. E shall have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The details shall include the following amendments:

- a) Notwithstanding the landscaping detail shown on the northern edge of the Housing Area – Alcester Road (on Green Infrastructure Plan 1953-SK-04 Rev. E), such an area of landscaping shall accord with that shown on the

Development Principles Plan with the Land West of Shottery Statement of Development Principles Document (October 2003).

- b) Notwithstanding the landscaping detail shown within the Shottery Conservation Area ('southern field') on Green Infrastructure Plan 1953-SK-04 Rev. E these landscape features shall accord with that shown on the Development Principles Plan with the Land West of Shottery Statement of Development Principles Document (October 2003).

The submitted details shall also include:

- i) the timing of implementation, which shall be no later than the end of the first planting season following the completion of the SWRR;
- ii) planting plans;
- iii) written specifications;
- iv) a schedule of plants noting species, plant sizes and proposed numbers;
- v) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate);
- vi) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate);
- vii) existing and proposed finished levels (to include details of grading and earthworks where appropriate).

The hard and soft landscaping approved as part of this condition shall be completed in accordance with the approved timing details.

Any planting that is removed, uprooted, severely damaged, destroyed or dies within five years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.

- 38) All hard and soft landscape works, including earth works in the Shottery Conservation Landscape and adjacent to the Electricity Substation, shall be carried out in accordance with the details approved through reserved matters submissions. The works approved by all reserved matters submissions shall be completed within the first planting season following the first commencement of any part of the development on that parcel.

Any planting that is removed, uprooted, severely damaged, destroyed or dies within five years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.

- 39) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, for the Shottery Conservation Landscape (shown on Parameters Plan 1953 SK-01 S) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.

- 40) Where a parcel is crossed by existing Power Lines, all Power Lines within that parcel shall be diverted underground prior to the first occupation of any dwelling within that parcel.

- 41) Prior to the construction of the Anne Hathaway's Cottage roundabout (as shown on Plan 207137-00 Figure 12/03), a Management Plan for the Plantation to its east and north-east shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall provide details of any tree works and replacement planting including timing, as appropriate, within the Plantation as a result of weaker trees being subjected to increased wind as a result of the removal of outer trees and shall be implemented in accordance with the details approved.

## Ecology

- 42) A Combined Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The Plan shall thereafter be implemented and carried out as approved and in accordance with timescales and programmes as set out in the approved Plan. The Plan shall include the following elements:
- i) short and long term design and ecological objectives;
  - ii) description of target habitats and range of species appropriate to the site;
  - iii) selection of appropriate strategies for creating/restoring target habitats or introducing/encouraging target species;
  - iv) selection of specific techniques and practices for establishing vegetation;
  - v) sources of habitat materials (e.g. plant stock) or species individuals;
  - vi) method statement for site preparation and establishment of target features;
  - vii) extent and location of proposed works;
  - viii) management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens, to be designed to maximise ecological benefits on the site, e.g. seasonal mowing to encourage wildflowers;
  - ix) the personnel responsible for the work;
  - x) the timing of works;
  - xi) monitoring;
  - xii) disposal of wastes arising from works.
- 43) The development hereby permitted (including demolition of Nos. 3 and 4 Bordon Hill) shall not commence on any parcel, until a further bat survey of the site, to include appropriate day/night time activity surveys, preferably during May to August in the season prior to demolition or the commencement of works in that parcel, has been carried out. If evidence of bats is recorded, a detailed mitigation plan including a schedule of works and timings shall be submitted to and approved in writing by the Local Planning Authority. Such an approved mitigation plan shall thereafter be implemented in full.
- 44) The development hereby permitted shall not commence on any parcel, unless and until two weeks' notice in writing of the start of any site works has been given to a licensed great crested newt ecologist appointed by the applicant to supervise all ground work elements of the development within the site. Should evidence of newts be found, then any recommendations or remedial works shall be implemented within the timescales stated/approved by the relevant consultant ecologist and the Local Planning Authority shall at the same time be advised in writing of these.
- 45) Should a protected species, with the exception of bats, great crested newts or badgers, be found to be present and either preparing to breed or in the process of breeding or rearing young, then:
- i) work shall stop across the entire site until the Local Planning Authority has approved details of a 'permitted working area' in writing;
  - ii) site works shall thereafter only continue outside of the 'permitted working area', unless and until details of appropriate mitigation measures and contingency plans including timescales have been submitted to and approved in writing by the Local Planning Authority.

The works shall thereafter be carried out in accordance with the details approved.



46) No part of the development hereby permitted shall be commenced until a scheme for the provision of suitable bat bricks/bat access tiles and bird nesting boxes to be erected on buildings within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of box type, location and timing of works. Thereafter, the bat bricks/bat access tiles and bird nesting boxes shall be installed and retained in perpetuity.

47) Prior to the commencement of development a scheme for the provision and management of a buffer zone (at least 8m wide on one bank) alongside the Shottery Brook and of buffers around ponds and ditches present shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

The scheme shall include:

- i) plans showing the extent and layout of the buffer zones;
- ii) details of the planting scheme;
- iii) details demonstrating how the buffer zones will be protected during development and managed/maintained over the long term.

48) The proposed pond shown indicatively on the Green Infrastructure Plan 1953 SK-04 Rev. E shall be constructed in accordance with a scheme, to include the timing of its implementation, to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

49) Prior to the commencement of development, a working method statement to cover channel and bank works shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The method statement shall cover the following requirements:

- i) timing of works;
- ii) methods used for all channel and bank side water margin works;
- iii) machinery (location and storage of plant, materials and fuel, access routes, access to banks etc.);
- iv) protection of areas of ecological sensitivity and importance.

50) Prior to the commencement of development, details of all bridges proposed on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the bridges shall be constructed as set out in the approved scheme. The scheme shall comprise the following features:

- i) all bridges shall be clear spanning structures with the abutments set back from the watercourse on both banks to provide a bank width of 4 metres beneath the bridge;
- ii) bridges shall be a minimum of 4 metres from the bank top of the watercourse to provide an unobstructed corridor to allow the movements of otters and other animals;
- iii) bank revetment should not be necessary as all revetment and structural work should be associated with the bridge structure and set back at least 4 metres.

#### *Ground, Air and Noise Quality*

51) No work shall commence on the site unless the further intrusive site investigations detailed in Chapter 12 of the Geo-environmental Phase 1 Desk Study 2008 have been undertaken and the results, including any mitigation measures, have been submitted to

and approved in writing by the Local Planning Authority. Any mitigation measures proposed as a result of the investigations shall be carried out in accordance with the approved details and a validation report shall be submitted within 2 months of the works being carried out to the Local Planning Authority confirming that the mitigation works have been completed.

- 52) Construction works, construction related works or construction related deliveries shall not be carried out on the site outside of the following hours and at no time on Sundays or Bank Holidays:

Monday to Fridays 08:00-18:00 hours; Saturdays 08:00-13:00 hours.

In addition, piling operations or vehicle/equipment maintenance shall not be carried out on the site outside of the following hours and at no time on Saturdays, Sundays or Bank Holidays:

Monday to Fridays 09:00-16:00 hours.

- 53) Prior to the commencement of the development hereby permitted, details of a package of acoustic measures to allow all residential units within the development to achieve the "good" internal ambient noise criteria, as described by BS8233:1999 i.e. achieve internal noise levels equal to or less than  $30\text{dB}_{\text{L}_{\text{Aeq,T}}}$  during the day and  $30\text{dB}_{\text{L}_{\text{Aeq,T}}}$  at night for living rooms and bedrooms with the windows open in a manner typical for ventilation (or where the above criteria cannot be met with windows open, for example where habitable rooms have windows with unscreened views towards the estate through-road, using passive acoustic ventilators with equivalent acoustic performance to those approved for use under the Noise Insulation Regulations), shall be submitted to and approved in writing by the Local Planning Authority. The approved package of measures shall be installed before the proposed dwellings are occupied.
- 54) A noise mitigation/control scheme to ensure the provision of a garden area suitable for amenity use for each residential property that achieves a noise level of  $55\text{dB}_{\text{L}_{\text{Aeq,T}}}$  or lower during the day and  $45\text{dB}_{\text{L}_{\text{Aeq,T}}}$  or lower at night shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development and none of the dwellings shall be occupied until the approved scheme has been implemented.
- 55) Prior to the commencement of dwellings hereby approved in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as the Housing Area – Alcester Road [Component A]) a mitigation scheme detailing the external works proposed to mitigate the noise impact of the electricity substation affecting part of the development and a glazing/ventilation specification to protect the internal space of dwellings proposed shall be submitted to and approved in writing by the Local Planning Authority and none of the dwellings within the northern residential parcel shall be occupied until the approved scheme has been implemented.
- 56) There shall be no deliveries to or collections from any non-residential building outside the hours of 07:00-19:00 Mondays-Saturdays or at any time on Sundays or Bank or Public Holidays.
- 57) No security lighting or floodlighting shall be installed on any non-residential building until full details have been submitted to and approved in writing by the Local Planning Authority. All such installations shall be designed and located to avoid nuisance to the occupiers of nearby dwellings, and shall be implemented and thereafter retained in accordance with the approved details.
- 58) Development shall not commence on any non-residential building until details of arrangements for refuse storage have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 59) Development shall not begin on any non-residential building until details of any externally-mounted plant or equipment or any internal equipment which vents

externally, including any extraction ventilation system for a cooking area, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

*Other*

- 60) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented and the work shall be carried out by a professional archaeological organisation or person approved in writing by the Local Planning Authority.
- 61) No parcel of the development hereby permitted shall be commenced until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire fighting purposes for that parcel has been submitted to and approved in writing by the Local Planning Authority. No parcel of the development shall be occupied until the scheme for that particular parcel has been implemented in accordance with the approved details.
- 62) No dwelling or other building that has a downpipe within the development hereby permitted shall be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.

End

Richborough Estates



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# Report to the Secretary of State for Communities and Local Government

by Terry G Phillimore MA MCD MRTPI

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

Date 12 July 2012

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TOWN AND COUNTRY PLANNING ACT 1990  
STRATFORD-ON-AVON DISTRICT COUNCIL  
APPEAL MADE BY

J S BLOOR (TEWKESBURY) LTD & HALLAM LAND MANAGEMENT LTD

Inquiry held on 4, 5, 11-13, 17-20, 24-26 April & 15 May 2012; site visits made on 26 April & 16 May 2012

**Land West of Shottery, South of Alcester Road and North of Evesham Road,  
Stratford-upon-Avon CV37 9RX**

File Ref: APP/J3720/A/11/2163206

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Richborough Estates

**File Ref: APP/J3720/A/11/2163206**

**Land West of Shottery, South of Alcester Road and North of Evesham Road, Stratford-upon-Avon CV37 9RX**

- 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 J S Bloor (Tewkesbury) Ltd & Hallam Land Management Ltd against the decision of Stratford-on-Avon District Council.
- The application Ref 09/02196/OUT, dated 26 October 2009, was refused by notice dated 22 September 2011.
- The development proposed is construction of up to 800 dwellings; a mixed use local centre to consist of residential development, retail floorspace (1,000 sq m A1-A5) and D1 uses, and a primary school; laying out of green infrastructure consisting of open space, structural landscaping, and areas of equipped play and associated infrastructure; construction of new highway infrastructure between Alcester Road and Evesham Road and associated highway works and access connections; associated engineering and ground modelling works and drainage infrastructure; and demolition of Nos 3 and 4 Bordon Hill.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

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**PROCEDURAL MATTERS**

1. The appeal relates to an outline planning application with all matters of detail reserved for later approval other than means of access. Among other documents, the application was supported by an Environmental Statement, a Design and Access Statement and a number of plans<sup>1</sup>.
2. The description of development on the application form referred to the demolition of Nos 3 and 4 Evesham Road. This was subsequently corrected to Nos 3 and 4 Bordon Hill (which forms part of Evesham Road)<sup>2</sup>, and this correction has been adopted above.
3. Other amendments were made to the application prior to its determination by the Council. The amendments comprised relatively minor changes to the layout and areas allocated to individual uses within the development, as shown in revised plans, with additional supporting information in an Addendum to the Design and Access Statement<sup>3</sup>. There was no change to the fundamental nature of the proposal and the Council's decision to refuse the application took account of these amendments. This report deals with the final revised scheme and it is considered that no interest would be prejudiced by determining the appeal on this basis.
4. At the inquiry a completed legal agreement and a completed unilateral undertaking containing planning obligations pursuant to section 106 of the Act were submitted, both dated 14 May 2012<sup>4</sup>.
5. Rule 6 status for the inquiry was given to a group known as Residents Against Shottery Expansion (RASE).

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<sup>1</sup> Documents CD/A/3, CD/A/9, CD/A/4-8 respectively

<sup>2</sup> CD/A/3 Errata

<sup>3</sup> CD/A/15a, CD/A/15b, CD/A/18a, CD/A/9a respectively

<sup>4</sup> INQ/APP/52, INQ/APP/53

## ENVIRONMENTAL INFORMATION

6. The proposal is Environmental Impact Assessment development under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. As stated above, the application was accompanied by an Environmental Statement. In October 2010 and February 2011 additional information was submitted in response to two Regulation 19 directions issued by the Council<sup>5</sup>. Prior to the inquiry in February 2012 the appellants issued another document referred to as a Further Environmental Information Submission, which contained supplementary details on a number of specific matters<sup>6</sup>.
7. Shortly before the start of the inquiry the National Planning Policy Framework was published on 27 March 2012. To deal with potentially relevant changes resulting from this, the appellants produced an Environmental Statement Update (April 2012)<sup>7</sup>. This was given publicity, and the representations received in response<sup>8</sup> were considered before the close of the inquiry<sup>9</sup>.
8. Together with other material information and comments from statutory consultees, these items form the environmental information which is taken into account in this report. Whether the information can be considered to be adequate for the purposes of assessing the significant environmental effects of the proposal was raised as an issue at the inquiry, and is dealt with in the reporting of the cases and conclusions below.

## THE SITE AND SURROUNDINGS

9. The site<sup>10</sup> is described in the Statement of Common Ground<sup>11</sup>. It adjoins the existing built-up area on the west side of Stratford-upon-Avon<sup>12</sup>, which is a town with a population of some 23,000 people. The town centre is approximately 3km to the east of the site. The part of the town adjacent to the site is known as Shottery.
10. The site area is 54.18 hectares. Most of the site lies between two roads that lead into the town from the west: the A422 Alcester Road to the north and the B439 Evesham Road to the south. A projection from the north edge of the site abuts the Wildmoor roundabout where the A46 Stratford Northern Bypass joins the A422. The east boundary of the site in its north section lies along West Green Drive and part of South Green Drive, which comprise a mix of mid 20th century housing. An existing electricity substation off the west side of West Green Drive is excluded from the site. The southern section of the site lies to the west of late 20<sup>th</sup> century housing along Hogarth Road, with Shottery Brook running in between. The site's central part abuts open land on the west side of Cottage Lane. This is part of the older core of Shottery village, which is a Conservation Area containing many listed buildings<sup>13</sup>. These include the Grade I listed Anne

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<sup>5</sup> CD/A/3d, CD/A/15, CD/A/16

<sup>6</sup> CD/A/23

<sup>7</sup> INQ/APP/23

<sup>8</sup> INSP/4

<sup>9</sup> INQ/APP/48

<sup>10</sup> CD/A/4a is the Site Plan

<sup>11</sup> CD/H/1. Useful photographs are contained in INQ/LPA/5 and INQ/APP/4&5

<sup>12</sup> Location plan at CD/A/9 Figure 1

<sup>13</sup> CD/F/18; INQ/LPA/5 Figure SW2; INQ/APP/4&5 Appendix 2 Figures 41 & 42

Hathaway's Cottage and its Grade 2 Registered Park and Garden<sup>14</sup>, and a section of the site's eastern boundary lies to the rear of this.

11. Two houses on the north side of Evesham Road in a section known as Bordon Hill are included within the site. A further part of the site is an area of open land to the south of Evesham Road. The site's western boundary generally follows field boundaries. Most of the site comprises land in agricultural use laid to arable/pasture with a small portion of the land to the rear of Anne Hathaway's Cottage being fallow. Within the southern part of the site are two small buildings used for equestrian purposes and a flooring showroom. Three public footpaths cross the site generally in an east-west direction. Further land to the west of the site and two other Bordon Hill properties are controlled by the appellants<sup>15</sup>.
12. Within the neighbouring countryside, the land to the south-west rises to the local high point of Bordon Hill. To the south of Evesham Road is Stratford Racecourse.

### THE PROPOSAL

13. Descriptions of the proposal are included in the Statement of Common Ground<sup>16</sup>, with information contained in the Design and Access Statement and Addendum<sup>17</sup> and the Environmental Statement and supplements<sup>18</sup>. The elements of the development are shown in the Parameters Plan and Green Infrastructure Plan<sup>19</sup>. Some visualisation material has been provided<sup>20</sup>.
14. A new single carriageway road is proposed to traverse the whole site. This would link into the existing highway network at the Wildmoor Roundabout on Alcester Road and by a new roundabout junction on Evesham Road, where nos 3 and 4 Bordon Hill would be demolished. There would be two further roundabouts along the new road. The construction of the road would involve significant elements of earthworks and landscaping, with much of it to be set within a false cutting.
15. The residential content of the scheme of up to 800 dwellings would be divided into two portions. A northern development parcel (south of Alcester Road) of up to 605 dwellings would be served from the northern roundabout along the new road. A southern development parcel (north of Evesham Road) of up to 195 dwellings would be served from junctions onto the new road. The average net density would be 37 dwellings per hectare, with a mix of accommodation of 1 bedroom to 5 bedroom units and affordable housing comprising 35% of the residential floorspace. Together the housing areas measure 19.94 hectares<sup>21</sup>.
16. To the south of the substation along West Green Drive would be a new local centre of 1.41 hectares. This would accommodate retail/commercial uses (classes A1-A5) limited to a maximum of 1,000 sq m with no one unit larger than 350 sq m. An area of 0.5 hectare would be reserved for the provision of a health facility.

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<sup>14</sup> INQ/APP/7 Appendix 9 and INQ/LPA/2 Appendix 3 contain the list descriptions; INQ/APP/7 Appendix 4.4 and INQ/APP/46 identify the location of features within and around the Registered Park and Garden.

<sup>15</sup> CD/A/4a

<sup>16</sup> CD/H/1

<sup>17</sup> CD/A/9, CD/A/9a

<sup>18</sup> CD/A/3, CD/A/16 section 2.3, CD/A/23 section 5

<sup>19</sup> CD/A/15a, CD/A/15b

<sup>20</sup> INQ/APP/4&5 Figures 31 & 32, INQ/APP/5a

<sup>21</sup> INQ/APP/1 para 4.4



17. To the south of the local centre, also on West Green Drive, would be a site of 1.66 hectares to accommodate a two form entry primary school.
18. A Neighbourhood Equipped Area of Play of 1,000 sq m would be located south of the primary school site. Two Local Equipped Areas of Play of 400 sq m each would be located in the northern and southern housing development parcels.
19. Green infrastructure within the scheme would be divided into accessible and non-accessible types. The former would comprise structural landscaping throughout (woodland planting and grassland meadow) of 3.55 hectares, incidental open space and children's play space (2.12 hectares) and the Shottery Community Park (3.78 hectares) located on the western side of the new road within the central portion of the site. The non-accessible elements would comprise structural landscape (10.23 hectares), Shottery Conservation Landscape (7.55 hectares to the west of Anne Hathaway's Cottage), and a Flood Compensation Landscape Area to the south of Evesham Road (1.53 hectares).
20. The southern roundabout along the new road would provide the potential for vehicular access onto land owned by the Shakespeare Birthplace Trust to serve a new coach/car park. This roundabout would be at grade.
21. At the closest points the new housing would be some 218 metres from Anne Hathaway's Cottage and the new road some 177 metres from the edge of the Registered Park and Garden<sup>22</sup>.

#### **PLANNING POLICY**

22. The Statement of Common Ground<sup>23</sup> identifies the development plan position. The development plan for the area comprises:
  - Regional Planning Guidance for the West Midlands (RPG11), which was published in June 2004 and became the West Midlands Regional Spatial Strategy in August 2004. It was re-issued in January 2008 following the publication of the Phase 1 Revision in respect of the Black Country sub-region<sup>24</sup>;
  - certain saved policies of the Warwickshire Structure Plan 1996-2011, adopted in 2002<sup>25</sup>;
  - and certain saved policies of the Stratford-on-Avon District Local Plan Review 1996-2011, adopted in July 2006<sup>26</sup>.
23. The following policies have been identified as of some relevance<sup>27</sup>.

#### **West Midlands Regional Spatial Strategy**

24. Policy RR1 aims for a rural renaissance in the region. Policy RR3 sets out the role for market towns and policy RR4 seeks to improve rural services.
25. Policy CF2 deals with housing beyond the Major Urban Areas, identifying the towns of Worcester, Telford, Shrewsbury, Hereford and Rugby as sub-regional foci for development. Elsewhere the function of the other large settlements

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<sup>22</sup> INQ/APP/4&5 Appendix 2 Figure 42

<sup>23</sup> CD/H/1

<sup>24</sup> CD/B/7

<sup>25</sup> CD/B/6

<sup>26</sup> CD/B/1, CD/B/2

<sup>27</sup> CD/A/20

should not generally be to accommodate migration from the Major Urban Areas. In rural areas the provision of new housing should generally be restricted to meeting local housing needs and/or to support local services, with priority being given to the reuse of previously developed land and buildings. Policy CF3 refers to rates for provision for additional dwellings, which are to be applied as minima for the Major Urban Areas and maxima elsewhere. Policy CF5 deals with delivering affordable housing and mixed communities. Policy CF6 requires development plans to incorporate policies which allow for the managed release of housing land consistent with the spatial strategy.

26. Policy QE1 seeks to conserve and enhance the environment. Policy QE2 aims to restore degraded areas and manage and create high quality new environments and policy QE3 to create a high quality built environment for all. Policy QE4 sets out objectives for greenery, urban greenspace and public spaces. Policy QE5 deals with the protection and enhancement of the historic environment, seeking respect for local character and distinctiveness. Policy QE6 seeks the conservation, enhancement and restoration of the Region's landscape. Policy QE7 requires protection, management and enhancement of the Region's biodiversity and nature conservation resources. Policy QE9 sets out objectives for the water environment.

#### **Warwickshire Structure Plan**

27. Very few policies have been saved. Policy GD.7 deals with previously-developed sites. Policy T.7 promotes public transport. Policy T.10 seeks developer contributions for transport to serve development and regeneration. Policy TC.2 defines a hierarchy of town centres, with Stratford-upon-Avon identified as a Major Town Centre.

#### **Stratford-on-Avon District Local Plan Review 1996-2011**

28. Policy STR.1 provides a settlement hierarchy, with Stratford-upon-Avon identified as the main town. Policy STR.2 sets out provision for approximately 1,450 dwellings to be completed in the District in the period 2005-2011, with sites identified for approximately 425 new dwellings. Permission will not be granted for housing proposals which would lead to or exacerbate significant over-provision of housing in relation to the requirements of the Regional Spatial Strategy.
29. Policy STR.2A states that: "*The release of sites for housing development will be regulated...*". Three sites "*are identified as Strategic Reserve Sites to help meet long term (post 2011) housing needs*". One of these is proposal SUA.W 'land West of Shottery' (which as shown on the Proposals Map effectively comprises the appeal site), with the others SUA.X 'Egg Packing Station, Bishopton Lane' and SUA.Y 'land south of Kipling Road'. The policy goes on to state:
- "Any development which would prejudice the long-term use of these sites for housing will not be permitted. The development of any of the sites, in whole or in part, for housing will not be permitted before 31 March 2011, unless there is a significant under provision of housing land identified through the monitoring process."*
30. Policy STR.2B sets out an average density requirement of between 30 and 50 dwellings per hectare in order to make efficient use of land. Policy STR.4 expects development to utilise previously developed land except in accordance with the provisions of specific policies in the Plan.

31. Policy PR.1 requires all development proposals to respect and, where possible, enhance the quality and character of the area. Reference is made to supplementary planning guidance. Policy PR.2 deals with Green Belt. Policy PR.5 expects development to minimise the depletion of irreplaceable resources. Policy PR.7 deals with flood defence, and sets out criteria for development in an area at risk from flooding, all of which must be met as fully demonstrated by a flood risk assessment. Policy PR.8 resists development which could give rise to harmful air, noise, light or water pollution or soil contamination.
32. Policy PR.10 safeguards land for specific identified improvements to transport infrastructure.
33. Policy EF.5 encourages the conservation and enhancement of parks and gardens of historic interest, and development which adversely affects their appearance, character, setting or possible restoration will not be permitted.
34. Policies EF.6 and EF.7 provide protection and aims with respect to nature conservation and geology. Policy EF.9 gives protection to woodland and, where appropriate, promotes the establishment of new woodlands. Policy EF.10 seeks to preserve and enhance the landscape, amenity and nature conservation value of trees, woodlands and hedgerows.
35. Policies EF.11 and EF.11A seek to protect archaeological sites. Policy EF.13 sets out that proposals which do not preserve or enhance the character or appearance of a conservation area or its setting will not be permitted. Policy EF.14 aims to secure the preservation of listed buildings.
36. Policy DEV.1 sets out principles to be taken into account in requiring development proposals to have regard to the character and quality of the local area through layout and design. Policy DEV.2 requires the landscape aspects of a development proposal to form an integral part of the overall design, and sets out means to achieve a high standard of landscape. Policy DEV.3 provides requirements on amenity open space.
37. Policy DEV.4 gives requirements on access arrangements to serve development. Policy DEV.5 refers to car parking standards. Policy DEV.6 sets out requirements on off-site services and infrastructure to serve development. Policy DEV.7 gives requirements on drainage, including an expectation for sustainable drainage systems to be incorporated. Policy DEV.8 expects energy conservation in the layout and design of new development. Policy DEV.9 deals with access for people with disabilities, and policy DEV.10 with crime prevention.
38. Policy COM.3 encourages the provision of new shops and services which meet the needs of local communities. Policies COM.4 and COM.5 give standards and requirements for open space. Policy COM.7 sets out measures by which support will be given to bus services and policy COM.8 for rail services. Policy COM.9 expects the layout and design of proposals to incorporate facilities for walking and cycling which are safe, convenient to use and well connected. Policy COM.12 deals with proposals for the existing housing stock. Policy COM.13 sets out measures towards maximising the supply of affordable housing, including for on-site provision. Policy COM.14 requires a range and mix of dwelling types in larger developments, with policy COM.15 expecting provision of accessible housing. Policy COM.16 seeks the retention of existing business uses.
39. Policy SUA.1 on Town Setting sets out requirements for proposals outside the Built-Up Area Boundary on the fringe of the urban area of Stratford-upon-Avon,

including having regard for distinguishing features of 'character areas'. Policy SUA.2 requires a proposal within the built-up area to complement rather than conflict with the character of the area to which it relates. Policy SUA.3 seeks environmental enhancement of Stratford-upon-Avon.

40. Proposal SUA.W deals with the Strategic Reserve Site of Land to the West of Shottery, and sets out components that it is expected will be included in the development. These are:
- (a) approximately 15.5 hectares (gross) to the south of Alcester Road, for residential (including a proportion of affordable units) and associated uses
  - (b) approximately 5.6 hectares (gross) to the north of Evesham Road, for residential (including a proportion of affordable units) and associated uses
  - (c) a road link between Alcester Road and Evesham Road, incorporating a rear vehicular access to Anne Hathaway's Cottage, and associated traffic calming measures in the Shottery area
  - (d) approximately 6 hectares of public open space
  - (e) a local centre, to include a convenience store, a primary school and a doctor's surgery
  - (f) areas of woodland west of the proposed residential development off Alcester Road and north-west of the proposed residential development off Evesham Road.
41. Policy CTY.1 sets out a restrictive approach to development in the countryside.
42. Policy IMP.1 identifies requirements for supporting information with planning applications. Policy IMP.2 refers to adopted supplementary planning guidance. Policy IMP.3 refers to detailed development site guidance being prepared in appropriate cases. Policy IMP.4 requires arrangements to be put in place to secure the provision of the full range of physical and social infrastructure necessary to serve and support proposed development, and policy IMP.5 deals with transport infrastructure provision. Policy IMP.6 gives requirements for Transport Assessment, and policy IMP.7 for Green Transport Plans.

### **Emerging Policy**

#### ***West Midlands Regional Spatial Strategy Phase 2 Revision***

43. A Phase 2 Revision was commenced by the Regional Assembly in order to update certain other elements of the 2004 Regional Spatial Strategy in addition to those revised under the Phase 1 Review. This included strategy and levels of housing. A Preferred Option was prepared and submitted to the Secretary of State for the purpose of Examination in December 2007<sup>28</sup>. The Examination in Public was conducted in the spring/summer of 2009, and the report of the Panel was published in September 2009<sup>29</sup>. No Proposed Changes have been prepared. The main parties agree that with the Government's intention to revoke Regional Spatial Strategies it is highly unlikely that this document will progress further<sup>30</sup>.

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<sup>28</sup> CD/E/1

<sup>29</sup> CD/E/2

<sup>30</sup> CD/H/1 para 7.1

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## ***Stratford-on-Avon Core Strategy***

44. Work commenced on the Core Strategy in 2007, with an Issues and Options document published for consultation<sup>31</sup>. A Draft Core Strategy was issued for consultation in October 2008<sup>32</sup>. This was prepared in the context of the Regional Spatial Strategy Phase 2 Revision Preferred Option as submitted for Examination in Public. It contained a housing requirement of 5,600 additional dwellings between 2006 and 2026. The Draft included West of Shotton as a strategic allocation (proposal SUA.4) to be developed after 2016.
45. A second Draft Core Strategy was issued for consultation in February 2010<sup>33</sup>. This was prepared in the context of the Report of the Regional Spatial Strategy Panel, which recommended that the level of housing to be provided in the District should be 7,500 between 2006 and 2026. With the incorporation of the higher housing requirement, the West of Shotton site was identified as a strategic allocation for development after 2011 (Proposal SUA.7).
46. Both these draft Core Strategies incorporated a strategy where Stratford-upon-Avon is the main focus for development, reflecting its role and function as the District's main town. The suitability of the West of Shotton proposal for accommodating future development is repeated in the consultation documents<sup>34</sup>.
47. At a Meeting of its Cabinet on 5 September 2011 the Council resolved to prepare a third Draft Core Strategy for consultation, with this to be based on a level of housing of 8,000 dwellings between 2008 and 2028<sup>35</sup>. This third Draft version was issued for consultation in February 2012<sup>36</sup>. It envisages a wider dispersal of development throughout the District than previous versions of the Core Strategy<sup>37</sup>. Thus, with a proposed provision of approximately 8,000 dwellings during the period 2008-2028, policy CS 16 proposes up to 560 dwellings in Stratford-upon-Avon and, to preserve the character of the town, a maximum estate size of 100 homes. Elsewhere dwellings are to be provided in the Main Rural Centres (up to 1,680), Local Service Villages (up to 2,240), within and adjacent to smaller settlements (up to 560), and on large previously developed land sites in the countryside (up to 560). A proposal for development on land West of Shotton is no longer included.
48. The most recent timetable for preparation of the Core Strategy is: consultation February-March 2012; formal period for representations/objections August-September 2012; submission to Secretary of State for Examination November 2012; Examination March 2013; Adoption May 2013<sup>38</sup>.

## **Other Local Policy and Documents**

49. There are a number of other local documents of relevance. 'Land West of Shotton - Statement of Development Principles' was prepared for the Council in 2003 in support of policy SUA.W of the Local Plan Review<sup>39</sup>. At the same time

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<sup>31</sup> CD/E/7

<sup>32</sup> CD/E/8

<sup>33</sup> CD/E/9

<sup>34</sup> CD/E/8 p 19, CD/E/9 para 7.1.19

<sup>35</sup> CD/E/16a, CD/E/16b

<sup>36</sup> CD/E/18

<sup>37</sup> CD/E/18 para 9.06

<sup>38</sup> CD/E/19

<sup>39</sup> CD/B/5

- the 'Stratford-upon-Avon Western Relief Road Scheme Assessment Study' was produced by Warwickshire County Council<sup>40</sup>.
50. On design, the District Council adopted the 'Stratford-upon-Avon Town Design Statement'<sup>41</sup> as supplementary planning guidance in 2002. In 2007 it adopted the 'Urban Design Framework for Stratford-upon-Avon'<sup>42</sup> as a supplementary planning document. Several other items of supplementary planning guidance and supplementary planning documents have been adopted by the Council, including on 'Meeting Housing Needs' and 'Developer Contributions towards Transport Schemes'<sup>43</sup>.
51. A number of reports have been prepared for the Council to inform its Local Development Framework. The 'Green Infrastructure Study for the Stratford-on-Avon District'<sup>44</sup> and the 'Stratford-on-Avon Landscape Sensitivity Assessment'<sup>45</sup> were issued in 2011. The GL Hearn report 'Housing Provision Options Study' was issued in June 2011<sup>46</sup>.
52. Warwickshire County Council has prepared the 'Warwickshire Local Transport Plan 2011-2026'<sup>47</sup>.

### National Policy

53. As already stated, the National Planning Policy Framework was issued shortly before the start of the inquiry. Evidence for the inquiry had been prepared having regard to Government policy in a number of Planning Policy Statements and Planning Policy Guidance documents<sup>48</sup> which were withdrawn on publication of the Framework. As a result, supplementary proofs of evidence dealing with the revised national planning policy context were submitted by most witnesses<sup>49</sup>.
54. In addition to the Framework, relevant national policy is set out in 'The Planning System: General Principles' and Circular 11/95 'The Use of Conditions in Planning Permissions'. The 'PPS5 Historic Environment Planning Practice Guide' and Circular 06/2005 'Biodiversity and geological conservation' are also referred to in evidence and submissions.

### REASONS FOR REFUSAL AND SUBSEQUENTLY AGREED MATTERS

55. The planning application was refused by the Council for 9 reasons<sup>50</sup>. In summary, these raised objections on grounds of: 1. detrimental impact on character and appearance resulting in unacceptable harm to the setting of the town, including due to the density of the northern parcel and the incongruity of housing in the southern parcel to the west of the link road; 2. visual and noise harm to the setting of Anne Hathaway's Cottage and its associated Registered Park and Garden and the setting of Shottery Conservation Area; 3. adverse highways impact with no substantial highway benefits; 4. harm to existing and

<sup>40</sup> CD/D/1

<sup>41</sup> CD/C/6

<sup>42</sup> CD/C/10

<sup>43</sup> CD/C/1-CD/C/9

<sup>44</sup> CD/E/14

<sup>45</sup> CD/E/13

<sup>46</sup> CD/E/12

<sup>47</sup> CD/D/2

<sup>48</sup> CD/G/1-CD/G/20

<sup>49</sup> INQ/LPA/1a, INQ/LPA/4a, INQ/LPA/7a, INQ/LPA/9a, INQ/APP/1b, INQ/APP/3b, INQ/APP/6c, INQ/RASE/7

<sup>50</sup> CD/A/22

- proposed residents from traffic noise; 5. harm to existing residents of West Green Drive from intensified traffic use; 6. inadequate minimisation of energy use; 7. harm to the Racecourse Meadows Site of Special Scientific Interest from increased drainage runoff; 8. not environmentally sustainable and premature pending the Local Development Framework; 9. absence of planning obligations to deal with physical and social infrastructure.
56. Prior to the inquiry the Council reconsidered some aspects of these objections, as recorded in the Statement of Common Ground between the Council and the appellants<sup>51</sup>. As a result it withdrew the reference in reason 1 to the housing in the southern parcel to the west of the link road, and confirmed that in this reason landscape is not an urban design objection but solely one of landscape impact. It also advised that it no longer considered the density of the northern parcel to be too high. In addition, the Council withdrew reasons 5, 6 and 7, and accepted that there is no conflict with policy DEV.8 or policy EF.6 of the Local Plan.
57. Other points in the Statement of Common Ground can be noted. The Council agrees that urban design is not at issue, and that the strategy set out in the Design and Access Statement and Addendum are satisfactory. It is agreed that the use of Design Codes would ensure that the development would achieve a high quality environment, and that the scheme represents an efficient and effective use of the site<sup>52</sup>.
58. The Council, with relevant statutory bodies, is satisfied with the submitted Flood Risk Assessment and the drainage proposals, and considers that any risks of contamination could be adequately controlled by condition<sup>53</sup>.
59. In addition, no disagreement is raised by the Council with respect to the scheme's acceptability with regard to archaeology; affordable housing; private market housing mix and composition; ecology; air quality; the technical noise assessments and the noise standards for new dwellings; crime prevention; public open space and play provision; impact on neighbouring amenity with respect to daylight, sunlight and privacy; and the location and uses of the proposed local centre<sup>54</sup>. On highways, there is substantial agreement on the technical aspects of the Transport Assessment, and on pedestrian and cycle links, car parking and the principles of the travel plan<sup>55</sup>.
60. In contrast, RASE has objections to the proposal in many of the areas of agreement between the appellants and the Council. Its position on these is recorded in an annotated version of the Statement of Common Ground<sup>56</sup>, and the specific points are set out in the statement of its case below.
61. The summaries of cases of the main parties now set out are based on the closing submissions supplemented by the written and oral evidence and with references given to relevant sources.

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<sup>51</sup> CD/H/1 part 12

<sup>52</sup> CD/H/1 part 13

<sup>53</sup> CD/H/1 parts 14.1,14.2

<sup>54</sup> CD/H/1 parts 14.3-14.12

<sup>55</sup> CD/H/1 part 14.15

<sup>56</sup> INQ/RASE/8

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## THE CASE FOR J S BLOOR (TEWKESBURY) LTD & HALLAM LAND MANAGEMENT LTD

62. The main points are:

### Introduction

63. The integrity and credibility of the planning system are both at stake in the appeal. The appeal proposals have been promoted by the Council for a decade: they were expressly included by the Council in its draft Local Plan Review (LPR)<sup>57</sup>, endorsed by the LPR Inspector<sup>58</sup>, saved by the Secretary of State in a Saving Direction<sup>59</sup> and then subsequently incorporated by the Council in both the First and Second Drafts of its Core Strategy<sup>60</sup>. However, they have been dropped from the latest (Third) Draft of the Core Strategy<sup>61</sup> after the refusal of the planning application which is the subject of this appeal against its officers' recommendation<sup>62</sup> and the refusal by members to accept officers' advice about the targets which should form the basis for its Core Strategy<sup>63</sup>.
64. The prematurity case against the appeal proposals relies on an approach to spatial distribution in which additional housing numbers for Stratford-upon-Avon, the District's principal settlement, have been reduced to 35 per annum until 2028<sup>64</sup>, and the site specific (strategic allocation) elements of the Core Strategy have been abandoned altogether.
65. None of these elements is the product of a robust evidence base. The approach consistently goes against the advice of professional officers and the Council's own appointed consultants (GL Hearn<sup>65</sup>). It is apparently based on the mistaken premise that the 'localism agenda' gives a local council freedom to do what it wishes, however inconsistent with its previous actions and ungrounded in analysis. A recent decision on a proposal at Bidford-on-Avon<sup>66</sup> is the latest example of this pattern.
66. This can be expected to continue until the Core Strategy examination, unless suitable indications are given by the Secretary of State on this appeal.

### The National Planning Policy Framework

67. The National Planning Policy Framework was published just before the opening of the inquiry and has been the subject of specific evidence for the appellants<sup>67</sup>. The Framework gives the following advice on 'Decision-taking'<sup>68</sup>:

*"Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between*

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<sup>57</sup> CD/B/1

<sup>58</sup> CD/B/3 paras 85, 731-784

<sup>59</sup> CD/B/2

<sup>60</sup> CD/E/8 & CD/E/9

<sup>61</sup> CD/E/18

<sup>62</sup> CD/A/20

<sup>63</sup> CD/E/16a, CD/E/16b

<sup>64</sup> CD/H/1 policy CS 16 (560 divided by 16 years)

<sup>65</sup> CD/E/12

<sup>66</sup> INQ/APP/28

<sup>67</sup> INQ/APP/1b, INQ/APP/ INQ/APP/3b, INQ/APP/6c

<sup>68</sup> CD/G/24 paras.186-187



*decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.*

*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area”.*

68. The appeal proposals are the product of the development plan process. They were initiated by the Council back in 2002; they have been developed through extensive engagement across the full range of consultees; they were endorsed by an independent Inspector as part of a wide-ranging exploration of where best to locate additional development around Stratford<sup>69</sup>. The proposals were adopted by the Council<sup>70</sup> and saved by the Secretary of State<sup>71</sup>. They remain fully part of the statutory development plan, which itself remains the starting point for the consideration of all applications for planning permission.

69. The Framework gives guidance on the weight to be given to development plan policies, which will be dealt with below in the context of the key policies. It is also relevant to note the judgment of the High Court in London Borough of Bromley v. SoSCLG and Castlefort Properties Limited<sup>72</sup>, in particular:

*“While the weighing of material considerations is a matter for the decision maker, the re-weighing of the same material considerations that have been weighed already in the plan process is not, it seems to me, the exercise contemplated by the words “unless material considerations indicate otherwise”. If it is evident that a consideration had indeed been taken into account in the adoption of the plan, it seems to me that no reasonable Inspector could properly conclude that the identical consideration was material or, alternatively, if it was material, that any weight should be put upon it.”*

70. It is accepted that the Judge goes on to observe that :

*“Once a circumstance has changed and the consideration is not quite the same, or there are other new relevant circumstances to take into account, the significance or otherwise of the differences becomes a matter of the Inspector’s judgment with which the court will not interfere unless the judgment is Wednesbury unreasonable.”*

71. The appeal involves matters of judgment. However, some of the key judgments are bound up in the development plan’s inclusion of Proposal SUA.W. These include the acceptability or otherwise as a matter of principle of introducing development into the landscape west of Shottery, the acceptability of impacts on the setting of Anne Hathaway’s Cottage, and the acceptability of introducing a new access on Evesham Road. These judgments alone cannot properly be relied upon *without more* as reasons for refusing permission.

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<sup>69</sup> CD/B/3

<sup>70</sup> CD/B/1

<sup>71</sup> CD/B/2

<sup>72</sup> INQ/APP/54

## The Benefits of the Appeal Proposals

72. Reflecting some of the themes addressed in evidence, the appeal proposals have the following 10 sustainable characteristics:

- a) They would function as an urban extension to the District's largest town, adding homes and local facilities at a location which is very well placed to benefit from all that the town already has to offer in terms of its employment, retail, social, transportation and cultural role<sup>73</sup>.
- b) The two development parcels of 600 and 200 houses would be located where they are physically able to link with the existing urban form, with the minimum of disruption. A new primary school is also proposed, with the written support of the current Head Teacher and Governors<sup>74</sup>, which would serve both existing and new communities.
- c) There would be no impact on any environmental designation, with no Green Belt, Area of Outstanding Natural Beauty, Site of Special Scientific Interest or National Trust land affected.<sup>75</sup>
- d) Housing would be built to modern standards of sustainability and would include a full 35% affordable housing. This would be provided against a backdrop of inadequate provision of affordable housing by the Council, which has consistently failed to meet its own targets by a wide margin<sup>76</sup>.
- e) This boost to housing and affordable housing supply for the District could be achieved without unacceptable impacts on the highway network: the local highway authority and the Highways Agency are content with the proposals, which give rise to no concerns with regard to safety or capacity<sup>77</sup>.
- f) The proposals could link into an existing network of footpaths, cycle ways and bus services<sup>78</sup>. The planning obligation provides for the extension and reinforcement of public transport provision to serve the new housing areas<sup>79</sup>. The County Council is satisfied that this provision is appropriate<sup>80</sup>.
- g) Approximately half the area to be developed is not proposed for any form of built development but rather for very extensive green infrastructure<sup>81</sup>. Power lines would be 'undergrounded'<sup>82</sup>, a public park provided and this extensive new green infrastructure managed for increased biodiversity<sup>83</sup>. This is to be contrasted with the raw urban edge presently along much of the west of Shottery, which is

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<sup>73</sup> INQ/APP/10 para 4.5.2

<sup>74</sup> CD/A/19; summarised in CD/A/20

<sup>75</sup> INQ/APP/3

<sup>76</sup> INQ/APP/1 paras 9.49-9.60

<sup>77</sup> INQ/APP/10 section 4

<sup>78</sup> CD/A/18 section 3.1

<sup>79</sup> APP/INQ/52

<sup>80</sup> INQ/WCC/1

<sup>81</sup> INQ/APP/3 paras 6.17-6.20

<sup>82</sup> INQ/APP/35

<sup>83</sup> INQ/APP/3 paras 8.15-8.17

compounded by the electricity substation, and with the arable or 'improved' pasture nature of the agricultural regime<sup>84</sup>.

- h) The proposals are acceptable to the Environment Agency and would help to alleviate existing conditions by, among other things, attenuating surface water flows and increasing the capacity of the culvert under Evesham Road.<sup>85</sup>
- i) The proposed Stratford Western Relief Road (SWRR) would provide relief both to the environmentally sensitive lanes of Shottery Conservation Area and also to key junctions within the town centre<sup>86</sup>. Additional benefits could arise from the implementation of traffic management measures in Shottery<sup>87</sup>. The SWRR also offers the opportunity (by providing additional highway capacity) to undertake further pedestrian improvements in the town centre, in particular to the Historic Spine<sup>88</sup>, which is a long held aspiration of the District and County Councils.
- j) The SWRR further offers the opportunity to the Shakespeare Birthplace Trust to relocate its existing car and coach parking facilities from within the historic core of Shottery Conservation Area where they are near to Anne Hathaway's Cottage, and to utilise its land holding more effectively for conservation purposes.<sup>89</sup>

### **The Development Plan and Housing Land Supply in the District**

- 73. Express policy provision was made in the LPR – when adopted in 2006 and saved in 2009 as part of the statutory development plan – for the appeal site to serve as one of only 3 sites in the District earmarked "to help meet long term (post 2011) housing needs"<sup>90</sup>.
- 74. Some time has been taken debating whether there is any significance to be attached to the words "identified as Strategic Reserve Sites" in policy STR.2A. However, whether the words 'allocated' or 'identified' are used in the development plan amounts to a distinction without a difference<sup>91</sup>. Proposals SUA.W, X and Y are incorporated into the development plan using precisely the same format as sites intended for development pre-2011 and are all expressly shown as Proposals on the LPR Proposals Map<sup>92</sup>.
- 75. The logic underlying this provision is to be found in the supporting text for the policy:

*"the Council is...cognisant of ministerial guidance stating that Local Plans should make provision for at least 10 years potential supply of housing from adoption<sup>93</sup>. The identification of these three sites as Strategic Reserves recognises their potential role in meeting housing needs post 2011. It also*

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<sup>84</sup> INQ/APP/3 section 4

<sup>85</sup> INQ/APP/12, INQ/APP/13

<sup>86</sup> INQ/APP/10 p 9, INQ/APP/22

<sup>87</sup> INQ/APP/10, INQ/APP/22, INQ/APP/3 paras 6.31-6.32, CD/A/23

<sup>88</sup> INQ/APP/50

<sup>89</sup> INQ/APP/1 paras 4.21-4.24

<sup>90</sup> CD/B/1 policy SRT.2A

<sup>91</sup> Cross-examination and re-examination of Mr Jones

<sup>92</sup> INQ/APP/2 Appendix 4

<sup>93</sup> i.e. to 2016

*acknowledges the Inspector's conclusions that all three sites are suitable for development... (It) is reasonable to assume that there will be an ongoing need for the District to accommodate development consistent with meeting local needs... (The) identification of these sites as Strategic Reserves is considered appropriate to ensure that there is a continuous land supply to meet longer-term housing requirements."*<sup>94</sup>

76. The LPR emphasises that:

*"The District Planning Authority maintains that the development of land west of Shottery represents a long term sustainable development option... When the need to release additional greenfield land is identified, priority is likely to be given to the release of land at Shottery in a phased manner."*<sup>95</sup>

77. Thus the development plan, when adopted in 2006 (and as saved in 2009), recognised that housing needs would not cease in 2006. It took the opportunity to comply with national guidance to look ahead to 2016 by endorsing 3 sites for development that were the product of a lengthy and comprehensive local plan process which explored the potential expansion of Stratford-upon-Avon in all directions. Thus the Council was effectively 'banking' these Strategic Reserve Sites for the post 2011 period and ensuring that the process was not wasted. That approach is commended, particularly given the slow progress which has subsequently been made with the LDF (see below).

78. This approach of course left open the question of precisely what housing needs might be post-2011, which is dealt with below, but this was the only unresolved issue of principle. In the Inspector's decision on an appeal relating to the SUA.Y site Land South of Kipling Road<sup>96</sup>, the Inspector clearly found that bringing forward that strategic reserve site at this stage (2011) accorded with policy STR.2A.

79. It is acknowledged that the LPR, when adopted in 2006, anticipated that it would be unlikely to be necessary to release any of the Strategic Reserve Sites until after the adoption of the Core Strategy and Significant Allocations DPD<sup>97</sup>. However, in 2006 the Council's Local Development Scheme expected that this process would be complete by 2009, i.e. well before 2011<sup>98</sup>. Thus the timetable envisaged in 2006 has proved to be grossly optimistic, and there has been slippage of at least 5 years from the LDF adoption timetable anticipated at the time of the adoption of the LPR<sup>99</sup>. In the meantime housing needs remain.

### **Post 2011 housing needs**

80. As the appeal site is expressly identified in the development plan for the purpose of meeting post 2011 needs, it is necessary to consider whether such needs arise and to what extent. The appellants' planning expert has undertaken a comprehensive review of this issue<sup>100</sup>. This is supplemented by his analysis of the present state of the Council's 5 year Housing Land Supply<sup>101</sup>. The latter

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<sup>94</sup> CD/B/1 paras 2.4.12 and 2.4.13

<sup>95</sup> CD/B/1 para 2.4.14

<sup>96</sup> CD/F/13 para 8

<sup>97</sup> CD/B/1 para 2.4.16

<sup>98</sup> INQ/APP/2 Appendix 11 p 58

<sup>99</sup> Cross-examination of Mr Brown

<sup>100</sup> INQ/APP/1 section 9

<sup>101</sup> INQ/APP/36

considers the supply in a variety of permutations in order to demonstrate the weakness and dependence on self-serving assumptions of the Council's claim that it has a Framework compliant supply<sup>102</sup>. Certain key differences between the parties can be identified.

81. First and most significant is the target or requirement figure, which is the starting point. The Council has used the figure of 8,000 dwellings for the period 2008-2028 which it has 'rounded down' from Option 3 in the GL Hearn housing study<sup>103</sup>. However, the Council has sought to use that figure in its third Draft Core Strategy of February 2012<sup>104</sup> without observing the pre-conditions that GL Hearn set out for its use<sup>105</sup>. These require "*displaced demand*" issues to be addressed. No evidence of any sort has been seen that these issues were addressed prior to the Council adopting an 8,000 target, nor is there evidence that they have been subsequently<sup>106</sup>. Indeed, a January 2012 Council Cabinet Report identified a need to generate an evidence base to support the Core Strategy<sup>107</sup>.
82. Initial consultation responses on the third Draft Core Strategy from a neighbouring authority such as Wychavon<sup>108</sup> confirm that displaced demand is still entirely unaddressed. By contrast, 11-12,000 dwellings is the figure which officers recommended to Members following receipt of the GL Hearn Report<sup>109</sup>. The Report was commissioned by the Council expressly to serve as a key element of its Core Strategy evidence base. The figure accords closely with that of 12,000 plus relied upon by the Inspector in the Land South of Kipling Road appeal<sup>110</sup> on the basis of the demographic evidence of the late Professor King using the Chelmer model<sup>111</sup>.
83. The 12,000 figure is therefore greatly to be preferred over the 8,000 figure, which as the Council's officers identified is described by the consultants as "*risky and unlikely to be found sound by an independent Inspector*"<sup>112</sup>. The professional evidence is to be preferred over the conclusions advanced by RASE<sup>113</sup>.
84. The second difference between the parties is the treatment of backlog. The appellants' approach is supported by appeal decisions at Alsager<sup>114</sup> and Moreton-in-Marsh<sup>115</sup>, the latter being a Secretary of State decision. This approach ensures that authorities are obliged to 'catch up' when there has been a significant shortfall in provision in the early years of a trajectory and are not able simply to defer most of the shortfall to the middle and back end of the trajectory, whilst current needs are unmet or inadequately met. The appellants' planning

<sup>102</sup> INQ/LPA/17

<sup>103</sup> CD/E/12

<sup>104</sup> CD/E/18

<sup>105</sup> CD/E/12 paras 9.50-9.52

<sup>106</sup> Re-examination of Mr Jones

<sup>107</sup> CD/E/17

<sup>108</sup> INQ/APP/27

<sup>109</sup> CD/E/16a

<sup>110</sup> CD/F/13

<sup>111</sup> INQ/APP/26

<sup>112</sup> CD/E/16a para 7.11; INQ/APP/1 para 9.13

<sup>113</sup> Oral addition to closing submissions, in response to INQ/RASE/19 para 1.11.4

<sup>114</sup> INQ/APP/29

<sup>115</sup> INQ/APP/39

- expert was not challenged on his treatment of this issue<sup>116</sup>, nor has the Council offered any evidential support for its approach of spreading the shortfall across the whole plan period.
85. The third difference is the treatment of windfalls. The Framework permits an allowance to be made for windfalls where there is "*compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply*"<sup>117</sup>. At Stratford-on-Avon, despite the investigations by the appellants' planning expert<sup>118</sup>, the evidence as to precisely what types of site have made up the supply of windfalls is not only not "*compelling*" but completely absent. It would be dangerous and contrary to the Framework to rely on windfalls making up a significant element of supply when it is impossible to understand how such supply has come forward in the past and thus equally impossible to make judgments or extrapolations about the future.
86. Accordingly, and on the basis of these three variables alone, the District's housing land supply to meet its 5 year requirement is well below 5 years. This is shown in a range of calculated estimates using different permutations of inputs, most of which are below 3 years<sup>119</sup>. For example, based on a 12,000 unit requirement and using the Council's land supply figure (and with a correction of completions to date) gives a supply of 3.22 years (estimate *l*). This reduces to 2.40 years with the backlog added to the 5 year requirement (estimate *i*). Adjusting the land supply by removing windfalls reduces these periods to approximately 2.63 years and 1.96 years respectively<sup>120</sup>. With an 8,000 unit requirement, keeping a windfall allowance but adding the backlog to the first 5 years gives a period of 3.86 years (estimate *xii*). This can properly be regarded as a significant shortfall, which lends proportionately significant weight to the appellants' case.
87. In addition, further adjustments should be made to the land supply figure. The Former Cattle Market Site in Stratford-upon-Avon (197 units) has been vacant for a considerable number of years and the demand for flatted schemes has virtually disappeared<sup>121</sup>. There is no implementable permission on this site<sup>122</sup>. Chestnut Walk (7 flats) is also a flatted scheme and should be removed<sup>123</sup>. Maudslay Park (179 units) is an extra care facility and a Class C2 residential institution, and therefore should not be included, as with the Tiddington Fields development for the same reason<sup>124</sup>. Deleting these sites further reduces the 5 year housing supply period to as low as 1.47 years (estimate *x*).
88. The Framework requires that the buffer moved forward from later in the plan period should be increased to 20% where there has been a persistent record of under delivery of housing<sup>125</sup>. Even on the basis of the requirement of 8,000

<sup>116</sup> Cross-examination of Mr Jones

<sup>117</sup> APP/G/24 para 48

<sup>118</sup> INQ/APP/36 paras 18-33

<sup>119</sup> INQ/APP/36 Schedule

<sup>120</sup> The schedule attached to INQ/APP/36 does not provide a calculation where the only adjustment to the land supply is removal of the windfall allowance of 494 units. However, the calculations at estimates *v* and *ix* under scenario 3 which removes 487 units can be taken as close approximates for this.

<sup>121</sup> INQ/APP/36 para 11

<sup>122</sup> INQ/APP/51; oral addition to closing submissions

<sup>123</sup> INQ/APP/36 para 11

<sup>124</sup> INQ/APP/36 paras 8 & 12

<sup>125</sup> CD/G/24 para 47

dwelling(s) relied upon by the Council, over the first 4 years of the Core Strategy period (2008-2012) only 685 dwellings are expected to be built rather than 1,600 units, a shortfall of 915 units<sup>126</sup>. The shortage of housing supply in the District has been a consistent theme of decision making since 2010<sup>127</sup>. Despite the number of sites granted permission in 2011/12 there continues to be a difficulty in achieving the minimum requirement for housing land supply. The extent of deliverable supply will not remedy the shortfall in housing completions between 2008-2012 in anything other than the long term. Moreover, there is an obvious shortage of affordable housing in the District. The Housing Needs Strategy 2009-2014 identified an annual shortfall of 532 affordable homes<sup>128</sup>. In contrast the average annual provision of affordable homes between 2005/2006 and 2010/2011 is 91. Estimated future supply would not increase this average<sup>129</sup>. In these circumstances the Council must be considered to have performed poorly hitherto and the 20% buffer would be applicable. In this scenario the requirement would be increased to 2,743 dwellings (based on an 8,000 target), in effect an additional year's supply being required, and the supply estimate could not achieve this<sup>130</sup>.

89. However, the appellants' case does not depend on the housing land supply shortfall alone. The Council's own position is that it needs to find sites for some 5,000 dwellings<sup>131</sup>. The SUA.W site can contribute to this need in the way envisaged by policy STR.2A and by the Council when the development plan was adopted. These policies were saved in 2009 for the purpose of "*supporting delivery of housing and necessary infrastructure*"<sup>132</sup>. It is anticipated that, with a development programme involving 3 house builders and a housing association, the scheme could contribute 400 dwellings by 2016/2017 (the end of the current 5 year housing supply period) while providing a continuous supply of housing for a further 4 years<sup>133</sup>. One house builder has signed up in advance of permission being granted<sup>134</sup>.
90. Thus there is a clear and present need for the release of additional land for housing in the District. The SUA.W site was expressly identified to meet this contingency post 2011 and allowing this appeal would be in accordance with the clear intent of the statutory development plan. The prospect of alternative sites being allocated in time to meet this present need (pursuant to the LDF process) is so remote as to be negligible. The Council's own officers<sup>135</sup> and sustainability auditors<sup>136</sup> plainly have serious doubts about the soundness of Members' decisions, and the Core Strategy - even if it progresses in its present form - proposes no site allocations. The more likely scenario is that the Core Strategy will be found unsound by the examining Inspector.

<sup>126</sup> INQ/APP/36 paras 34-43

<sup>127</sup> INQ/APP/1 section 10

<sup>128</sup> INQ/APP/1 para 9.51

<sup>129</sup> INQ/APP/1 paras 9.55 & 9.56

<sup>130</sup> INQ/APP/36 Schedule - estimate xxii; estimate xxi is with a 20% buffer on a 12,000 unit target

<sup>131</sup> CD/E/18 para 9.08

<sup>132</sup> CD/B/2; INQ/APP/1 para 6.19

<sup>133</sup> INQ/APP/1 paras 4.9-4.19.

<sup>134</sup> Oral evidence of Mr Jones

<sup>135</sup> CD/E/17

<sup>136</sup> CD/E/20

### ***Proposal SUA.W and the SWRR***

91. The next matter to examine is whether the proposal meets the requirements of proposal SUA.W<sup>137</sup>. These are very clearly set out in sub-paragraphs (a) to (f). All of these requirements have been met or could be secured by planning condition. Accordingly SUA.W is satisfied and the appeal proposals are clearly in accordance with the development plan in this regard.
92. The Council and RASE have sought to undermine the express support given to the appeal proposals by the LPR on the basis that the Inspector's report<sup>138</sup> referred to the anticipated relief to Stratford Town Centre which the SWRR would bring, along with opportunities to improve the pedestrian environment in the historic core. Whilst it is clear that a Major Scheme Bid was being considered at the time of the LPR inquiry, there are a number of reasons why the objectors' heavy reliance on this point is misplaced:
- a) The LPR Inspector did not make his recommendation contingent upon the Bid proposals going ahead.
  - b) The Council on adopting the LPR made no reference to such lapsed Bid proposals in either the required components of the development or the explanatory text (in contrast to the requirement for "*associated traffic calming in the Shottery area*"<sup>139</sup> ... "*to ensure the effectiveness of the new road link*"<sup>140</sup>).
  - c) The Council applied for the policy to be saved and a Saving Direction was issued quite independently of the lapsed Bid proposals.
  - d) In any event, the SWRR would provide relief to some of the key junctions in the town centre and is still seen by Warwickshire County Council (the local highway authority) in its current Local Transport Plan 2011-2026 as a "*Key Proposal*"<sup>141</sup>. Its role in providing relief in Shottery and the town centre is expressly acknowledged in the Local Transport Plan<sup>142</sup>, and it would still be a relief road. It would enable cross town traffic to avoid the town centre by re-routing via Severn Meadows Road and Evesham Road, and analysis of traffic flows and conditions shows that overall conditions in the town would be better than those in the base models<sup>143</sup>. Queue levels at the critical junctions are forecast to fall in almost all cases. The biggest reduction in total delay in the AM peak would be at the Birmingham Road/Arden Street junction, with a 22 minute reduction (-9.9%). The largest in the PM peak would be a 51 minute reduction in total delay at the Alcester Road/Arden Street junction (-22.1%). These are key town centre junctions which experience large levels of junction delay. Some of the biggest reductions in delay would occur in the central area, such as a 33% reduction in delay in the PM peak at the High Street/Bridge Street junction. On a daily basis, total delay in the peak periods in the town

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<sup>137</sup> CD/B/1

<sup>138</sup> CD/B/3

<sup>139</sup> CD/B/1 policy SUA.W

<sup>140</sup> CD/B/1 para 7.15.47

<sup>141</sup> CD/D/2 p 96 Figure 11.3

<sup>142</sup> CD/D/2 p 105-106

<sup>143</sup> INQ/APP/10 paras 4.5.4 & 6.1-6.15; INQ/APP/22



centre would reduce by over 15 hours from a base level of 133.6 hours. Flows in Shottery would typically reduce even with the inclusion of the development, with some 148 vehicle movements less on roads through Shottery in the AM peak hour and 136 in the PM peak hour. The most pronounced reductions would be in those roads with a parallel alignment to the SWRR, i.e. Hathaway Lane, Cottage Lane and Church Lane. There would be further potential benefits with traffic management<sup>144</sup>. An area wide scheme could see traffic flows on Cottage Lane reduce by over 50%<sup>145</sup>.

- e) Moreover, the SWRR would have the effect of introducing new capacity onto the road network in Stratford-upon-Avon<sup>146</sup>. This would facilitate and provide headroom for schemes similar to those contemplated as part of the Bid, in particular in relation to the Historic Spine<sup>147</sup>, which it appears residents see as a priority<sup>148</sup>. Pedestrianisation schemes need to make provision for displaced traffic, and the SWRR would be able to play a role in accommodating such traffic, if and when such schemes come forward (as originally envisaged in the Major Scheme Bid).

### ***Conclusion on the development plan***

93. The appeal proposals therefore accord with the provisions of policies STR.2A and SUA.W, which directly anticipate the grant of permission for a development such as that proposed in the period post 2011. This level of accord would require very substantial material considerations to “*indicate otherwise*” than that permission should be granted.
94. The Framework indicates that “*due weight*” should be given to relevant policies in existing (pre LDF) plans according to their degree of consistency with the Framework<sup>149</sup>. The LPR (although pre LDF) was adopted in 2006 and most of its policies were saved in 2009. This reflects the fact that its structure and content are strongly reflective of the principles of sustainable development, for example paragraph 1.2.10, as acknowledged by the Council’s planning expert<sup>150</sup>. Accordingly its saved policies remain part of the development plan and should attract substantial weight. Submissions to the effect that the LPR is ‘out of date’ are inconsistent with the Framework<sup>151</sup> and should be rejected.

### **Prematurity in respect of the Emerging Development Plan**

95. A prematurity objection requires the decision maker to consider the status of what it is that is emerging and how reasonable it is to hold up lawfully submitted planning applications on the grounds that they might prejudice another process, which is necessarily inchoate. European legislation, referred to by the Council<sup>152</sup>, does not require everything to be put on hold once a core strategy is underway<sup>153</sup>.

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<sup>144</sup> INQ/APP/10 paras 6.16-6.19; APP/APP/22; CD/A/23

<sup>145</sup> INQ/APP/10 para 6.19

<sup>146</sup> Evidence in chief and cross-examination of Mr Ojeil

<sup>147</sup> INQ/APP/50

<sup>148</sup> INQ/APP/49

<sup>149</sup> CD/G/24 para 215

<sup>150</sup> Cross-examination of Mr Brown

<sup>151</sup> CD/G/24 para 211

<sup>152</sup> INQ/LPA/25 para 9.2

<sup>153</sup> Oral addition to closing submissions

96. ODPM Guidance in 'The Planning System: General Principles' appears still to be extant. It advises that: "*Where a DPD is at the consultation stage, with no early prospect of submission, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question*".<sup>154</sup>
97. The Stratford-on-Avon Core Strategy is unlikely to be submitted before November 2012<sup>155</sup>. Officers reporting on a recent Bidford-on-Avon planning application felt that the Core Strategy did not have an "*early prospect of submission*" within the terms of the ODPM guidance and should only be accorded "*limited weight*"<sup>156</sup>.
98. The consultation on the Third Draft Core Strategy has produced over 1,600 responses<sup>157</sup>, a small sample of which was produced at the inquiry<sup>158</sup>. Some of these are objections from statutory consultees (such as District and Parish Councils) which will not be easy to resolve. Many of the smaller towns in the District have already grown at a faster pace than Stratford-upon-Avon, as the Council's planning expert accepted<sup>159</sup>. He observed that, in relation to the consultation on the Third Draft Core Strategy, the Council has "*a major task on its hands*"<sup>160</sup>. Moreover, the Council has additional and serious obstacles to overcome:
- a) it does not have an evidence base in place which addresses "*displaced demand*" issues (such as those referred to by GL Hearn<sup>161</sup> and now Wychavon DC<sup>162</sup>)<sup>163</sup>;
  - b) it has significant sustainability audit issues to address which strike at the heart of the draft Core Strategy<sup>164</sup>.
99. Even assuming that the Core Strategy is submitted and goes to examination, it proposes no allocations, so specific land use issues will remain unresolved for the foreseeable future. The notion that the gap can be plugged by one or more Neighbourhood Plans is not realistic. The current information<sup>165</sup> on the Stratford Neighbourhood Plan reveals little more in terms of engagement than a short and simplistic survey, and it cannot sensibly progress without clarity on the Core Strategy in any event. It is unknown how Neighbourhood Planning could possibly address the allocation of thousands of houses across the District (if that is being suggested). In the meantime, in relation to the Council's own target figure of 400 units per year from 2008 (1,600 units), it is so far showing a shortfall in excess of 900 units<sup>166</sup>. This shortfall would be larger were a more realistic target adopted.

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<sup>154</sup> CD/G/23

<sup>155</sup> CD/E/19

<sup>156</sup> INQ/APP/28, pp 40 and 41

<sup>157</sup> Information given at the inquiry

<sup>158</sup> INQ/APP/27, INQ/APP/38

<sup>159</sup> Cross-examination of Mr Brown; CD/B/6, paras.2.3.2 & 2.3.3

<sup>160</sup> Re-examination of Mr Brown

<sup>161</sup> CD/E/12

<sup>162</sup> INQ/APP/27

<sup>163</sup> CD/E/19 para 4.5

<sup>164</sup> CD/E/20 pp 21, 25, 32

<sup>165</sup> INQ/RASE/14

<sup>166</sup> INQ/LPA/17 calculated from Table 2

100. By contrast, the appeal site is already identified for development post-2011 in the statutory development plan and is ready to assist in addressing the inevitable further hiatus. The suggested alternative sites for development put forward by RASE are not sufficiently genuine to substantiate an allegation of prematurity<sup>167</sup>.
101. Were, contrary to all the above, the Council to be successful in persuading the examination Inspector that dispersal of development to the rural hinterland is sustainable, and the appeal proposal has been granted permission by then, it would still be able to divert 86% of new housing<sup>168</sup> to the rural areas. Its spatial distribution policy would therefore be largely unaffected. It is clear that there is no prospect of 5,600 homes being located on brownfield land in the District and no one has suggested the contrary<sup>169</sup>.
102. It is therefore not plausible to argue that granting permission for the appeal proposal would have such an individually substantial or cumulative effect that the Core Strategy would not be able to achieve its apparent aim of redirecting growth to the rural areas were that to be accepted.
103. This case is fundamentally different from cases at Winchester<sup>170</sup> and Sandbach<sup>171</sup> (even had these decisions not been quashed) or Newmarket<sup>172</sup>. None of these involved sites that had adopted development plan status.
104. In summary, delaying permission for the appeal development on grounds of prematurity just at the moment when its preordained time (post 2011) has arrived would be nothing short of perverse.

#### **The Effect on the Character and Appearance of the Area**

105. A character and appearance objection to the proposal is difficult for the Council to pursue, given the presence of adopted and saved proposal SUA.W on the LPR Proposals Map<sup>173</sup>, which is virtually identical to the appeal proposals.
106. The LPR Inspector considered these matters against the backdrop of the now lapsed Special Landscape Area designation across the land west of Shottery<sup>174</sup>. Notwithstanding this designation, he concluded that:
- "...whilst there would be inevitable changes to the area immediately west of the existing urban edge, the overall cumulative impact on the SLA would not be materially harmful".*<sup>175</sup>
- One can properly substitute *"the wider landscape setting of Stratford"* for *"the SLA"*.
107. He also concluded that: *"...the impact on views to and from Bordon Hill and its environs would be minimal"*<sup>176</sup>, and that *"...the harmful effects of the proposals would be, perhaps surprisingly, limited"*<sup>177</sup>.

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<sup>167</sup> INQ/APP/1 paras 10.49-10.57

<sup>168</sup> CD/E/18 para 9.08 (5,600 units to be provided on allocated sites): 5,600-800/5,600 gives 85%

<sup>169</sup> CD/E/18 sections 9.0 & 9.1

<sup>170</sup> CD/RASE/5

<sup>171</sup> CD/RASE/7

<sup>172</sup> CD/RASE/7A

<sup>173</sup> INQ/APP/2 Appendix 4

<sup>174</sup> INQ/APP/3 para 5.25

<sup>175</sup> CD/B/3 para 756

<sup>176</sup> CD/B/3 para 756

<sup>177</sup> CD/B/3 para 781

108. Nothing significant has happened since to this landscape to undermine his conclusion. It was a conclusion that the Council has shared for the past decade and which was supported by four landscape professionals at the LPR inquiry (acting for the District Council, the County Council, the Shakespeare Birthplace Trust and the appellants<sup>178</sup>). The Landscape and Visual Assessment undertaken as part of the Environmental Statement for the current application confirms that the effects would be no greater than those considered by the LPR Inspector<sup>179</sup>. The mitigation measures provide a high degree of certainty that the extensive green infrastructure proposals would generate long term landscape enhancement. The development would be visually contained and, when visible at all, would generally be seen against the existing urban edge, and would not result in unacceptable landscape or visual harm<sup>180</sup>.
109. The only change since 2006 is that the Council's consultant Mr White has undertaken an assessment of the landscape setting of Stratford-upon-Avon<sup>181</sup> using his own somewhat idiosyncratic methodology and analysis<sup>182</sup>. This alleges that virtually the entire landscape setting of the town and the vast majority of the District (over 75%) has a high or medium to high sensitivity to development.
110. However, this is perhaps not surprising, given that the assessment proceeds by considering each of the minutely defined "*land cover parcels*" on the basis that it is virgin countryside and then imagines the impacts of covering it with development. This exercise leaves little room for broader judgments to be made, nor scope for consideration of the mitigating effects of structural planting and carefully considered urban design strategies. It was notable that the Council's landscape expert had expressly not done this for the appeal site, nor reviewed the Design and Access Statement<sup>183</sup> on the basis that 'design' was not a reason for refusal he had been asked to consider<sup>184</sup>. By contrast, the appellants' landscape expert considered this to be a critical document in understanding how the proposed development would sit within the landscape and how the proposed mitigation strategy would operate to achieve a successful form of development<sup>185</sup>. The Council's landscape expert did not claim expertise as a master planner<sup>186</sup>.
111. It is acknowledged that different views have been expressed at different times about the landscape west of Shotton. However, the 1997 Inspector's Report on a 1994-5 inquiry on the Stratford-on-Avon District Local Plan<sup>187</sup> is very time-expired. In particular this is because it plainly proceeded (in the style of the times) on the basis of the now abandoned 'landscape quality' approach, which allowed subjective views of the 'attractiveness' of a landscape to prevail over a much subtler analysis of 'landscape character'<sup>188</sup>. Landscape character

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<sup>178</sup> CD/B/4, INQ/APP/3 paras 5.14-5.21

<sup>179</sup> CD/A/3 chapter 10

<sup>180</sup> INQ/APP/3

<sup>181</sup> CD/E/13

<sup>182</sup> INQ/APP/3 paras 5.34-5.43

<sup>183</sup> CD/A/9, CD/A/9a

<sup>184</sup> Evidence in chief and cross-examination of Mr White

<sup>185</sup> INQ/APP/3 paras 6.6-6.8, 6.27-6.29; evidence in chief of Mr Rech

<sup>186</sup> Cross-examination of Mr White

<sup>187</sup> CD/RASE/17

<sup>188</sup> Re-examination of Mr Rech

- assessment superseded the outmoded landscape quality approach shortly after that Report<sup>189</sup>.
112. For the last decade the Council has supported development on the land west of Shottery as outlined in proposal SUA.W of its development plan. An 'in principle' landscape objection cannot legitimately now materialise, simply on the basis of one consultant's report, which has been subject to no public consultation either as to its scope or content and has not been adopted by the Council as policy<sup>190</sup>.
113. The Council's landscape expert identifies saved policies of the development plan, with which the appeal proposals are alleged to conflict, including PR.1, DEV.1, SUA.1 and 2, and CTY.1<sup>191</sup>. However, the same development plan (the LPR) also contains saved proposal SUA.W, which he only briefly mentions<sup>192</sup>. He had to agree<sup>193</sup> that the Council in adopting the LPR must have anticipated that the land west of Shottery could be developed without conflict with the Plan's policies that he cites against it. He suggested that the LPR Inspector (and the Council) took a mistakenly optimistic view about the length of time that planting takes to mature<sup>194</sup>. This was refuted by the appellants' landscape expert<sup>195</sup>, who has shown conventional rates of growth in his photomontages<sup>196</sup>, which rely on actual experience in the field<sup>197</sup>.
114. The Council's landscape expert accepted that he had been mistaken in thinking that the Framework heralded or invited the return of SLAs and a qualitative approach to landscape assessment<sup>198</sup>. He also agreed that the materials to which he makes reference<sup>199</sup> dating from before 2006 (the Stratford-on-Avon District Design Guide<sup>200</sup> and the Stratford-upon-Avon Town Design Statement<sup>201</sup>) would have been available to the LPR Inspector and to the Council itself when the LPR was adopted in 2006.
115. The SWRR has been designed in a very sensitive fashion, reducing any adverse environmental harm to an acceptable level<sup>202</sup>. The vertical and horizontal alignment responds to the existing landform and landscape features. Gentle external ground contouring and the use of false cuttings would result in all traffic (including high sided HGVs) being completely hidden in views from the more sensitive vantage points at Anne Hathaway's Cottage and the Shottery Conservation Area. All car traffic would be immediately hidden from the majority of other vantage points, with planting further reducing visibility of moving traffic

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<sup>189</sup> When PPG7 was published in 1997

<sup>190</sup> INQ/APP/3 paras 5.34-5.43

<sup>191</sup> INQ/LPA/3 section 2

<sup>192</sup> INQ/LPA/3 para 2.13

<sup>193</sup> Cross-examination of Mr White

<sup>194</sup> Cross-examination of Mr White

<sup>195</sup> Evidence in chief of Mr Rech

<sup>196</sup> INQ/APP/5a

<sup>197</sup> Evidence in chief of Mr Rech

<sup>198</sup> Cross-examination of Mr White

<sup>199</sup> INQ/LPA/3 section 2

<sup>200</sup> INQ/LPA/5 Appendix SWA

<sup>201</sup> CD/C/6

<sup>202</sup> INQ/APP/3 6.21-6.22

- within 10-15 years<sup>203</sup>. The new junctions would provide the opportunity to deliver 'gateway' opportunities for the town<sup>204</sup>.
116. No departure from the Council's Land West of Shottery Development Principles document<sup>205</sup> is alleged in the reasons for refusal<sup>206</sup>, and this has been closely followed in the development of the scheme<sup>207</sup>. Indeed, the Council's landscape expert confirmed<sup>208</sup> that the two "*main points*" of departure which he now identified<sup>209</sup> involving structural planting areas could be addressed by conditions<sup>210</sup> if the Secretary of State so wished. The appellants' landscape expert confirmed<sup>211</sup> that the changes from the Principles had been agreed with officers of the Council at an early stage, but could easily be reversed if it was considered necessary to increase the areas of structural planting. He also expressed the opinion that the apparent concerns about the scope to establish a woodland planting type west of the existing Plantation were groundless<sup>212</sup>.
117. Even the assessment in the Landscape Sensitivity report<sup>213</sup> by the Council's expert falls some way short of providing unequivocal support for the Council's case. Indeed, the assessment expressly identifies the area proposed for housing off the Evesham Road (which is part of his LCP St21) as having potential for housing development. It suggests that this should be subject to advance planting and the access detail being resolved acceptably, but if those preconditions are not agreed to be inhibitions to development now, the Council's expert identified no other obstacles to the development of Area B from a landscape perspective<sup>214</sup>. His LCP St25 is identified as containing a "*bow*", which "*could be said to be hidden from the wider landscape*"<sup>215</sup>. This is precisely the topographical feature which has led the appellants to the design of the northern residential Area A<sup>216</sup>. The Council's expert is much more conservative in his assessment, but had to acknowledge that, even on his approach, some housing development would be acceptable at this location<sup>217</sup>. What is unexplained is how the positive identification (within the Landscape Sensitivity report) of land within the appeal site for housing development seemed to fade away in the analysis by the Council's expert for this appeal<sup>218</sup>.
118. The Council's expert was content on exchange of evidence that the proposals were properly and fully explained and supported by photomontages<sup>219</sup>. He found no additional viewpoints to those considered by the appellants' expert. No suggestion that the Environmental Statement is inadequate was pursued by the

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<sup>203</sup> INQ/APP/5a; INQ/APP/4&5 Figures 21-29, CD/A/23 section 5 & Appendix D

<sup>204</sup> INQ/APP/3 pars 6.23-6.26, INQ/APP/4&5 Appendix 2 Figure 29

<sup>205</sup> CD/B/5

<sup>206</sup> CD/A/22

<sup>207</sup> INQ/APP/3 p 16, section 6

<sup>208</sup> Cross-examination of Mr White

<sup>209</sup> INQ/LPA/5 para 2.27; cross-examination of Mr White confirmed that the first 2 bullet points are the main ones

<sup>210</sup> INQ/APP/43

<sup>211</sup> Evidence in chief of Mr Rech

<sup>212</sup> Evidence in chief of Mr Rech

<sup>213</sup> CD/E/13

<sup>214</sup> Cross-examination of Mr White

<sup>215</sup> INQ/LPA/5 p 120

<sup>216</sup> INQ/APP/3 para 4.10, 4.13-22

<sup>217</sup> Cross-examination of Mr White

<sup>218</sup> INQ/LPA/3

<sup>219</sup> INQ/LPA/3; cross-examination of Mr White

Council's landscape expert or any other Council witness. Such allegations have been confined to RASE<sup>220</sup>.

119. Particular emphasis has been placed on the allegedly "iconic" view from the B439 Evesham Road driving towards Stratford-upon-Avon<sup>221</sup>. The Council's landscape expert agreed<sup>222</sup> (by reference to his photographs<sup>223</sup>) that this view was obtainable for about 15 seconds whilst driving at 40 mph, and described it as "a pleasant view, probably in England, of a country town". By his own admission, this cannot convincingly be described as an "iconic" view: it is patently not immediately identifiable as Stratford-upon-Avon (or even England), as it has nothing within it to announce it as Stratford-upon-Avon<sup>224</sup>.
120. Notwithstanding the term of description, when properly analysed<sup>225</sup> there would be no material impact as a result of the southern development parcel on this panorama, which would be preserved intact with no narrowing due to the proposed development. The photomontages<sup>226</sup> show that the nearest part of the development would soon be lost behind a hedge and, in any event, is seen on the lower ground against the existing urban edge. Insofar as it is presently possible to pick out the spire of Holy Trinity Church, it would still be possible to do so unimpeded were the development to proceed.
121. In the view towards the site from the Royal Shakespeare Theatre Tower the development would be very difficult to perceive in the extensive panorama. The visual material submitted by RASE<sup>227</sup> is misleading in the relationship it suggests between the development and Bordon Hill, showing it higher up than it would be.<sup>228</sup>

### **The Impact on the Settings of Anne Hathaway's Cottage and its Registered Park and Garden and of Shottery Conservation Area**

122. Again, this cannot amount to an 'in principle' objection to the proposal, given that the Council has an adopted and saved development plan proposal SUA.W, which has a virtually identical relationship with Anne Hathaway's Cottage and Shottery Conservation Area. Moreover, the adopted proposal was subject to detailed scrutiny by the LPR inquiry Inspector. He found that:

*"...the proposals would have negligible direct visual impact on the immediate vicinity of the Cottage. This is as a result of the intention to put the SWRR in a false cutting in the section directly behind Anne Hathaway's Cottage and to regrade the field directly behind the Cottage. Although during the undertaking of these works there would be some inevitable disruption and harm including the reduction or loss of the very few remaining traces of ridge and furrow in this field, and although considerable care would be needed in its detailed design and execution, in particular replicating the effect of the hedge and trees that would be lost and in ensuring that the new mounding did not look*

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<sup>220</sup> INQ/RASE/15; INQ/APP/47

<sup>221</sup> INQ/APP/3 paras 4.28, 5.40

<sup>222</sup> Cross-examination of Mr White

<sup>223</sup> INQ/LPA/5 pp 13-14

<sup>224</sup> INQ/APP/6 paras 4.69-4.75

<sup>225</sup> INQ/APP/3 paras 4.23-4.31

<sup>226</sup> INQ/APP/5a Figure 33A

<sup>227</sup> INQ/RASE/3 Appendix 9

<sup>228</sup> Evidence in chief and cross-examination of Mr Rech

*unnatural, the scheme as a whole appears to be an ingenious method by which the benefits of the SWRR could be achieved without material long-term harm....I can see no reason to suppose that the existence of unbroken countryside flowing west from the Cottage is in itself a vital aspect of the settings of the Cottage or of the Conservation Area. What is of concern is the preservation of continuous views of open countryside from the orchard of the Cottage, and also of the open areas to the east of the Cottage, keeping a partial visual separation between Shottery and the main part of Stratford. I am satisfied that the latest version of the scheme incorporates a framework capable of ensuring the achievement of these objectives.* <sup>229</sup>

He concluded in respect of visual impact:

*"Once the new planting had become established there should be no perceptible change in views from the grounds of the Cottage...I am satisfied that provided that sufficient care was taken in detailed design and implementation the character and appearance of this part of the Conservation Area and setting of the Cottage would be preserved."*<sup>230</sup>

123. In respect of tranquillity, he concluded: *"I do not regard there as being likely to be a material overall harmful effect on the Conservation Area or on the setting of the Cottage."*<sup>231</sup> This is hardly a surprise, as the Cottage is on the edge of a large urban area, positioned with its gable end adjacent to a well-trafficked road and subject to very substantial numbers of visitors (many arriving by coach and parking immediately next door to the Cottage)<sup>232</sup>. There is nothing wild or remote about the setting of the Cottage at present.
124. There would need to be some substantially different new evidence to justify a departure now from the LPR Inspector's conclusions<sup>233</sup>.
125. In this regard, it is also important to note that his conclusions were reached on the basis of a shallower false cutting<sup>234</sup>, higher predicted noise levels<sup>235</sup> and the clear felling of the Shakespeare Birthplace Trust Plantation on the site of the old Rifle Range<sup>236</sup>.
126. English Heritage's position is also worthy of note. It is apparent from consideration of its various letters that it has never taken a position of objection in principle to development west of Shottery<sup>237</sup>. Its representative, appearing at the inquiry to support the refusal, had to accept that this was the case over the 9 years of its involvement in the proposals<sup>238</sup>. He agreed that English Heritage had sought certain safeguards (in respect of traffic management in Shottery and the appearance of the development to the rear), but had not opposed the development in principle, although it would have been open to it to have done so.

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<sup>229</sup> CD/B/3 para.744

<sup>230</sup> CD/B/3 para 745

<sup>231</sup> CD/B/3 para 749

<sup>232</sup> INQ/APP/6 paras 2.15-2.16, 4.37, 6.25

<sup>233</sup> INQ/APP/6 section 3

<sup>234</sup> INQ/APP/3 p 28

<sup>235</sup> INQ/APP/8 section 5.2, para 6.1.5

<sup>236</sup> INQ/APP/6 para 4.54; CD/B/3 para 747

<sup>237</sup> INQ/APP/19, INQ/LPA/2 Appendix 2

<sup>238</sup> Cross-examination and re-examination of Mr Molyneux



127. Even his view was expressed on the basis that the harm he alleges would “*probably be less than substantial*”<sup>239</sup>, which engages a less stringent set of policy requirements than substantial harm and allows harm to be balanced with development needs<sup>240</sup>. The view of the appellants’ expert is that there would be no harm from the proposals<sup>241</sup>.
128. English Heritage’s expert agreed<sup>242</sup> that no part of the significance of the Cottage that he identifies<sup>243</sup> would be affected: that there would be no impacts on the evidential, historic, aesthetic or communal significance of the asset, largely because of its ‘intimate’ nature and the fact that no part of that significance derives from the areas affected by the proposed development.
129. In respect of the Registered Park and Garden, he addressed this in two parts<sup>244</sup>. Firstly the flower garden, he agreed that this was a relatively modern creation (the second half of the 19th century and long post Shakespeare, with very few trees of any significant age) and that its nature is intimate and not dependent on the wider landscape or extensive panoramas. He also agreed that there would be no change to the historic, evidential or aesthetic significance of the Garden and that the ‘chocolate box’ views would be unaffected<sup>245</sup>.
130. As to the orchard, he agreed that there are no especially interesting trees or views. If one ventures up to the hedge at the western end of the orchard<sup>246</sup> (and there is nothing to entice this), one sees the telecommunications mast on Bordon Hill and the Leylandii trees at Hansel Farm (which are no more Shakespearean than the conifers in the Shakespeare Birthplace Trust Plantation). English Heritage’s expert agreed that the view is pleasant but nothing special in aesthetic terms<sup>247</sup>. The appellants’ heritage expert<sup>248</sup> and landscape expert<sup>249</sup> agree.
131. English Heritage’s expert also agreed that he was not suggesting that the Registered Park and Garden depended to any extent upon ‘tranquillity’ for its designation<sup>250</sup>. Given the tourist coaches and the crowds which they bring to Shottery to enter what is a diminutive Cottage and garden, the tourist trade would seem to be fundamentally incompatible with any sustained sense of tranquillity at the site. There are also the impacts of traffic on Cottage Lane, parking vehicles, and traffic on Evesham Road, which already bring the hum of road noise to the rear of the Cottage orchard, particularly when the wind is from the (prevailing) south west direction<sup>251</sup>. It is unclear whether the scene described by Arthur Mee in the 1930’s<sup>252</sup> would be recognised in that found today (particularly since the excavation of the coach park adjacent to the Cottage in the 1960s).

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<sup>239</sup> Inspector’s questions of Mr Molyneux

<sup>240</sup> CD/G/24 para 132

<sup>241</sup> Inspector’s questions of Dr Miele

<sup>242</sup> Cross-examination of Mr Molyneux

<sup>243</sup> INQ/LPA/1 section 4.2

<sup>244</sup> INQ/LPA/1 section 4.2; cross-examination of Mr Molyneux

<sup>245</sup> INQ/APP/6 paras 5.28-5.58

<sup>246</sup> INQ/APP/5a Figure 37

<sup>247</sup> Cross-examination of Mr Molyneux

<sup>248</sup> INQ/APP/6 paras 5.46-5.58, section 6

<sup>249</sup> INQ/APP/3 paras 4.32-4.41

<sup>250</sup> Cross-examination of Mr Molyneux

<sup>251</sup> INQ/APP/6; evidence in chief of Mr Zarebski

<sup>252</sup> INQ/LPA/1a para 4.3.6

132. English Heritage's expert further agreed<sup>253</sup> that the significance of the garden and orchard as assets is not in any way connected with the outward views at the rear, despite the reference to the view in the designation description of the Registered Park and Garden<sup>254</sup>.
133. The Council's Shottery Conservation Area Booklet<sup>255</sup> illustrates what are essentially 'internal' views and there is no reference to views to the rear of the Cottage being of any special significance. This accords with an extensive trawl through the available literature by the appellants' heritage expert<sup>256</sup>. English Heritage's expert agreed that the elements of the Conservation Area identified as having significance were unaffected by the proposed development<sup>257</sup>.
134. There is an error in the assessment by English Heritage's expert of the settings of the heritage assets<sup>258</sup>. He proceeds to analyse the settings of each asset as if they are, themselves, heritage assets. This is an approach which has no mandate in any published guidance, indeed English Heritage expressly cautions against it<sup>259</sup>. The nature of the error is clear in references such as the suggestion of "...a significant impact on the significance of the setting..."<sup>260</sup>, whereas the setting has no significance independently of the heritage asset.
135. In the light of this error of approach, the evidence and judgments of the appellants' heritage expert<sup>261</sup> should be preferred. He finds the assets in this case to derive very little, if any, significance from their broader settings. There is no clear historical or functional link between the Cottage and the land beyond the western boundary of the orchard and, although they adjoin, the two areas are not integrated in any way. There are no designed views in that direction<sup>262</sup>. The plot boundary for the Cottage may be medieval, but there is no evidence to support the contention<sup>263</sup> that the hedges bordering the registered landscape are very old<sup>264</sup>. The Cottage cannot be made out from higher positions to the west<sup>265</sup>.
136. The appellants' expert also makes the following points<sup>266</sup>. Distances between the proposed development and the Cottage and Garden would reduce the potential for any significant effect. The Shottery Conservation Landscape would provide further protection to the Cottage and its gardens and act as a landscape buffer between the heritage features and the built development further to the north west. The fields would continue in agricultural use. With the false cutting and landscaping, views to the west would continue uninterrupted and characterised by gently rising land and linear landscape features. The skyline

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<sup>253</sup> Cross-examination and re-examination of Mr Molyneux

<sup>254</sup> INQ/LPA/2 Appendix 3

<sup>255</sup> CD/F/18

<sup>256</sup> INQ/APP/6

<sup>257</sup> Cross-examination of Mr Molyneux

<sup>258</sup> INQ/LPA/1 section 4.3

<sup>259</sup> CD/F/6 p 19, p 7 para 2.4

<sup>260</sup> INQ/LPA/1 para.4.4.3.6

<sup>261</sup> INQ/APP/6 sections 5 & 6

<sup>262</sup> INQ/APP/3 para 7.11

<sup>263</sup> INQ/RASE/3 Appendix 4

<sup>264</sup> INQ/APP/6b

<sup>265</sup> INQ/APP/6 paras 4.54, 6.7

<sup>266</sup> INQ/APP/6 section 7

would remain as it is, as shown by the photomontages<sup>267</sup>. There would be no adverse impact on Conservation Area views, but views along Cottage Lane would be enhanced through a reduction in traffic. With the remaining significant area of open land west of the Cottage before the new road, there would be no harmful physical separation of the asset from its wider setting. There would be no visual impact from the new road, nor material visual impact from the proposed two blocks of housing. There would be no real impact on settings as seen from the west. The evidence indicates that there would be no perceptible increase in noise, and therefore no harm to tranquillity. There would be no impact from light spillage. Traffic conditions in Cottage Lane would be improved. A relocated coach/car park, were this to be implemented, would be a substantial benefit. The proposal would also have no impact on Burmans Farmhouse or other listed buildings in the vicinity. Relevant development plan policies on heritage are satisfied.

137. These views are strengthened by the fact that the judgments of the appellants' heritage expert accord with so many of those who have gone before him, including the parties to the LPR, the LPR Inspector, the Council itself<sup>268</sup> and its professional officers<sup>269</sup>. In addition, English Heritage has never registered an 'in principle' objection on the basis of unacceptable impacts to Anne Hathaway's Cottage<sup>270</sup>.
138. Although English Heritage's expert addressed tranquillity issues, he is not qualified in acoustics<sup>271</sup> and did not challenge the evidence of the appellants' acoustic expert<sup>272</sup>. RASE also did not call expert evidence<sup>273</sup>. The appellants' final noise analysis<sup>274</sup> reveals no perceptible adverse impacts (i.e. increases in noise) at the rear of the Cottage. The predicted worst case effect with the scheme as refused is that noise level change at 2023 at the western boundary of the Cottage grounds would be an increase of 1.7dB and at the Cottage façade facing Cottage Lane a fall by 1.3dB<sup>275</sup>. Such changes are not significant and would not be perceptible without the ability to directly compare the before and after scenario, which would not arise in this case. In addition, the road would not be visible to the listener, thus avoiding visual cues that can distort perception through psychological effects. By comparison, the LPR Inspector was presented with a change of 4 to 6 dB(A) increase in noise levels<sup>276</sup>. Further reductions could be obtained from additional landscape screening and the use of a low noise road surface<sup>277</sup> for the SWRR<sup>278</sup>. With a traffic management scheme for Shottery, there would be clearly perceptible improvements at the front of the Cottage, nearest to Cottage Lane, at the point from which the most celebrated views of the Cottage are obtained<sup>279</sup>. There is no evidence to support RASE's

<sup>267</sup> INQ/APP/5a Figure 37A

<sup>268</sup> CD/B/1

<sup>269</sup> CD/A/20

<sup>270</sup> INQ/APP/19, INQ/LPA/2 Appendix 2

<sup>271</sup> Cross-examination of Mr Molyneux

<sup>272</sup> INQ/APP/8-9

<sup>273</sup> Oral addition to closing submissions

<sup>274</sup> INQ/APP/8c; INQ/APP/8 section 6.1

<sup>275</sup> INQ/APP/8 para 6.1.2-6.1.6

<sup>276</sup> CD/B/3 para 749

<sup>277</sup> INQ/APP/34

<sup>278</sup> INQ/APP/8 paras 6.1.7-6.1.14, INQ/APP/34, CD/A/23 section 4 & Appendix C

<sup>279</sup> INQ/APP/8 paras 6.1.11-6.1.13; re-examination of Mr Zarebski

suggestion that noise reflection would arise from Bordon Hill<sup>280</sup>. It is also not appropriate to take account of the unlawful behaviour of drivers (speeding) in an acoustic model<sup>281</sup>.

139. In summary, the LPR Inspector and the Council were entirely correct to conclude that impacts on the Shottery assets would be negligible, with the exception of the material benefits which would accrue when traffic is diverted from the Conservation Area roads to the SWRR. Further potential benefits would arise were the Shakespeare Birthplace Trust to choose to relocate its parking. However, no such scheme is required to be submitted by proposal SUA.W, which has never been conditional upon such a proposal coming forward.
140. RASE has attempted to create confusion in its approach to the closure of Cottage Lane<sup>282</sup>. Its representative claimed that this should be regarded as a pre-condition of the development and encouraged English Heritage's expert towards this position<sup>283</sup>. This appeared to be to enable a claim that the appeal proposals required the implementation of a closure scheme which nobody in Shottery would support. However, the approach is mistaken: English Heritage's last substantive letter<sup>284</sup> (on this application) concludes with the "*Recommendation*" that it is "...not opposed in principle to the Western Relief Road" subject to it forming part of "*an integrated package of traffic management for the settlement of Shottery...*"; closure is thus not stipulated. The Council's position in proposal SUA.W accords with the LPR Inspector's, which is that the development proposals should be accompanied by "*associated traffic calming measures in the Shottery area*"<sup>285</sup>. That is precisely what the Appellants have covenanted to deliver in the section 106 Agreement with the County Council<sup>286</sup>.

### **The Effect on Tourism within the District**

141. This is an unproven objection based on an alleged, unresearched and unquantified risk of an adverse perception. No objections have been received from the tourist trade, coach operators or hoteliers.
142. Stratford-upon-Avon is an 'international brand'. According to the Council's tourism expert, it has a strong unique selling point and has maintained visitor numbers notwithstanding the global financial situation<sup>287</sup>. He agreed that its tourist economy is "*very resilient*"<sup>288</sup>.
143. The natural approaches to Anne Hathaway's Cottage from the town would not take the visitor as far as the termini of the SWRR and it very difficult to see how they would be aware of the proposed development<sup>289</sup>. The existing approaches, along West Green Drive or Evesham Road, involve the tourist passing by many examples of modern (post-Shakespearean) development. The Council's tourism expert was unable to suggest whether this has any effect on tourist behaviour.

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<sup>280</sup> INQ/APP/8 paras 7.2.16-7.2.19

<sup>281</sup> INQ/APP/8 para 7.2.24

<sup>282</sup> INQ/RASE/1

<sup>283</sup> Questions by Mr Ford to Mr Molyneux

<sup>284</sup> INQ/LPA/2 Appendix 2 Letter of 18<sup>th</sup> December 2009

<sup>285</sup> CD/B/1 proposal SUA.W part (c)

<sup>286</sup> INQ/APP/52

<sup>287</sup> INQ/LPA/6; CD/A/18

<sup>288</sup> Cross-examination of Mr Holmes

<sup>289</sup> INQ/APP/6 paras 2.17-2.44

Likewise, he has conducted no survey of any sort within the tourist sector<sup>290</sup>. Such survey material as exists reveals that many visitors to Stratford-upon-Avon do not visit the Shakespeare houses<sup>291</sup>. However, he acknowledged that those who set out to visit the Shakespeare 'tourist trail' sites were unlikely to be dissuaded by the proposed development<sup>292</sup>.

144. He also agreed that his case depended on two propositions: first, that the appeal proposals would have a material negative impact upon the setting of Anne Hathaway's Cottage (which was for other witnesses); second, that the negative impact (if it existed) would have to be perceived by visitors to Anne Hathaway's Cottage in such a way as to cause them not to make a visit to the Cottage and/or the District<sup>293</sup>.

145. The evidence does not even begin to make good the second proposition. There is no sensible basis for supposing that anybody on (or off) the Shakespeare tourist trail would decide not to come to the Cottage because of the appeal proposals. There is nothing more than one person's assertion of an unquantified risk that this 'might' happen and no convincing explanation from anyone as to why it would or of what processes would operate to cause it to happen.

### **The Effects on Highway Safety and the Free Flow of Traffic**

146. There is no objection to the appeal proposals from the local highway authority, the Highways Agency or the District's Engineers<sup>294</sup>. The appellants' highways expert was the only technically qualified witness to give evidence on these matters<sup>295</sup>. Development of the methodological approach to assessment of the scheme's impact was agreed with the Highways Agency and County Council, including use of the GEH statistical measure<sup>296</sup>. Traffic modelling was updated during the consultation process to reflect a dialogue with these bodies, with previous assessments superseded by that of February 2011<sup>297</sup>.

147. The design of the proposed SWRR is consistent with the scheme identified in the 2003 Scheme Assessment Study<sup>298</sup>. As shown by the Transport Assessment, it would draw traffic to use primary routes on the network including the A46 Stratford Northern Bypass and Evesham Road and reduce flows on routes into Shottery and the town centre. The A46, Evesham Road and Severn Meadows Road all form part of the continuous route that would be created by the SWRR. All these roads would show increases in trips which is consistent with the findings of the Scheme Assessment Study, but these impacts are not significant. The forecast flows are well within the capacity of the A46 and not considered to be an issue in terms of traffic flows, as accepted by the Highways Agency. The forecast flows are also well within the capacity of Evesham Road, and the overall reliability of journeys would not be affected significantly. The assertion that there would be

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<sup>290</sup> Cross-examination of Mr Holmes

<sup>291</sup> INQ/LPA/6 para 5.7

<sup>292</sup> Cross-examination of Mr Holmes

<sup>293</sup> Cross-examination of Mr Holmes

<sup>294</sup> CD/A/20; INQ/APP/10 para 6.33; INQ/APP/14

<sup>295</sup> INQ/APP/10, INQ/APP/22

<sup>296</sup> INQ/APP/10 p 8 & paras 8.45-8.60; INQ/APP/14

<sup>297</sup> INQ/APP/22 section 3; CD/A/18

<sup>298</sup> CD/D/1; INQ/APP/11 Appendix A

a significant worsening of congestion along Evesham Road and detriment to the safety and function of the highway network is without foundation.<sup>299</sup>

148. Peak hour traffic growth in Stratford-upon-Avon has been much lower than that modelled in the Scheme Assessment Study<sup>300</sup>. Overall traffic flows were expected to be far greater at 2023/2024 at the time of the LPR inquiry than now forecast, but flows with the development are also forecast to be lower than previously or similar. On Evesham Road the impact would be significantly less than accepted at the time of the LPR inquiry<sup>301</sup>. Whilst some of the benefits of the SWRR may not be as significant as those considered at the time of the LPR inquiry, neither are some of the negative impacts which the LPR Inspector expected<sup>302</sup>.
149. Safe pedestrian and cycle crossing points of the SWRR would be provided<sup>303</sup>. The design of the SWRR incorporates safety features, and junctions subject to detailed design would not be hazardous<sup>304</sup>. On-street parking in West Green Drive would not be significantly affected by the proposed new junctions along its length<sup>305</sup>. School trips and trips associated with the proposed local centre have been taken into account<sup>306</sup>.
150. No party has raised a matter under this head which could possibly amount to a reason for refusal of planning permission. The proposal complies with policy DEV.4 of the LPR<sup>307</sup>.

#### **The Effects of Noise on the Living Conditions of Residential Occupiers**

151. Again, the reason for refusal on this ground would appear to be fundamentally incompatible with the presence of proposal SUA.W as part of the statutory development plan.
152. With regard to the proposed occupiers of the development, this matter is now understood to have fallen away with the appellants' confirmation that a 'Good' standard of noise insulation would be provided within the new units<sup>308</sup>.
153. In respect of existing occupiers, it has always been acknowledged that there would be some who would experience a worsening of their living conditions, as is often the case when new infrastructure is provided<sup>309</sup>. However, there are statutory mechanisms in place to compensate for this and, in this case, the appellants have also undertaken to make payments to affected parties to allow them to improve sound insulation to their properties. This would apply to the 6 properties in Bordon Hill which would experience a major adverse impact as predicted in the revised noise assessment (which includes additional screening but excludes the use of a low noise surface for the road). This is now agreed as

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<sup>299</sup> INQ/APP/10 paras 6.29.3-6.33

<sup>300</sup> INQ/APP/10 paras 6.26-6.28

<sup>301</sup> INQ/APP/10 paras 6.21-6.33; INQ/APP/22 section 2

<sup>302</sup> INQ/APP/22 section 2

<sup>303</sup> INQ/APP/10 paras 8.18-8.21

<sup>304</sup> INQ/APP/10 paras 8.23-8.29, 8.39

<sup>305</sup> INQ/APP/10 para 8.25

<sup>306</sup> INQ/APP/10 para 8.54

<sup>307</sup> INQ/APP/10 section 7

<sup>308</sup> INQ/LPA/23 (agreed condition); INQ/APP/7 section 6.4

<sup>309</sup> INQ/APP/8 para 2.5.7, section 6.2, paras 7.2.8-7.2.10

part of the planning obligation to the Council<sup>310</sup>. There is no suggestion that any properties would experience unacceptable living conditions. It is also relevant to note that the evidence of a long term resident of Evesham Road was that it is necessary under current conditions, in any event, to keep windows closed due to road noise<sup>311</sup>. With regard to West Green Drive, the analysis shows that the noise effect of changes in traffic flow here would be minor adverse at worst<sup>312</sup>.

### Whether the Proposal is Sustainable Development

154. For the reasons given above and in the appellants' evidence<sup>313</sup>, the proposal is a sustainable form of development. The principles of sustainable development clearly and expressly underpin the LPR which identifies the SUA.W proposal<sup>314</sup>. They have not changed.
155. The Transport Assessment demonstrates that the transport networks in Stratford-upon-Avon currently provide good sustainable links to the site, thereby enabling the proposed development to benefit from existing pedestrian, cycle and public transport connection (bus/rail). This would ensure that attractive sustainable travel choices would be available to prospective residents<sup>315</sup>.
156. By contrast, the Council's present intentions for development in the District<sup>316</sup>, with development focused on rural areas with limited services and public transport infrastructure, together with environmental constraints, appear to be contemplating a wholesale departure from sustainable development principles.

### Mitigation of the Impacts of the Development on Infrastructure

157. The appellants have been able, with helpful cooperation from officers at District and County level, to conclude a series of planning obligations which provide appropriately in respect of all reasonable requirements<sup>317</sup>.
158. The Agreement with the County would also provide a sum of money to implement traffic management measures in Shottery Conservation Area, in accordance with the express requirements of proposal SUA.W (c). The policy requires that this be done (as did the LPR Inspector), the County Council support the initiative<sup>318</sup> and RASE's representative acknowledged that "*traffic calming can be beneficial*"<sup>319</sup>. Mr Brace of Burmans Farmhouse expressly drew attention to speeding traffic on Cottage Lane, which he described as well in excess of the 30mph limit<sup>320</sup>.
159. The details of traffic calming are to be addressed, but the policy requirement would not have been imposed unless it is possible to introduce a suitably sensitive scheme which achieves its ends without unnecessary physical intervention. A reduction in the speed limit though Shottery remains a possibility as part of the measures.

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<sup>310</sup> INQ/APP/53

<sup>311</sup> INQ/TP/4 para 5.4; cross-examination of Ms Griffiths

<sup>312</sup> INQ/APP/7 section 6.3

<sup>313</sup> INQ/APP/1b

<sup>314</sup> CD/B/1 Section 1

<sup>315</sup> INQ/APP/10 para 4.5.2

<sup>316</sup> CD/E/18, CD/E/19

<sup>317</sup> INQ/APP/52, INQ/APP/53

<sup>318</sup> INQ/APP/21; INQ/APP/33

<sup>319</sup> Cross-examination of Mr Ford

<sup>320</sup> Cross-examination of Mr Brace

160. The appellants' experts have addressed all the relevant highway and engineering requirements<sup>321</sup>. The Environment Agency, Natural England and Severn Trent Water all supported the proposals as outlined in the Flood Risk Assessment<sup>322</sup>. Storm water run-off from the development would be reduced to 20% below the existing baseline rate<sup>323</sup>. Adequate provision for future maintenance of the SUDS system would be provided, and the County Council would have statutory duties in this respect<sup>324</sup>. The circumstances are suitable for use of a SUDS system, and appropriate assumptions are made<sup>325</sup>. With proposal SUA.W as part of the LPR, the scope of policy PR.7 and the site specific flood risk were considered, including in relation to the sequential approach<sup>326</sup>. The Council continued to view the proposal as sequentially acceptable in the first 2 draft versions of the Core Strategy. There would be no built development in flood zones 2 and 3, with only part of the proposed highway access off Evesham Road in areas which is flood zone 3<sup>327</sup>. The access is essential infrastructure, being a strategic link road, and therefore acceptable in flood zone 3<sup>328</sup>. The exception test is passed by virtue of the sustainability benefits of the proposal<sup>329</sup>. An existing culvert on Shottery Brook at Evesham Road would be upgraded<sup>330</sup>. The proposal complies with Framework guidance on flood risk<sup>331</sup>.
161. Statutory consultees are satisfied that all ecological matters have been robustly addressed<sup>332</sup>. The creation of substantial areas of new habitat within the overall green infrastructure network would provide improved connectivity across the area, improving opportunities for all types of wildlife. Thorough surveys were undertaken following standard methodologies. All were in suitable conditions during optimal survey periods. On great crested newts, a full risk assessment has been produced<sup>333</sup>, which concluded that it is very unlikely that any newts present in Burmans Farmhouse pond would utilise working areas within the application site, but statutory compliance would be maintained.
162. The criticisms of the proposal by CABE<sup>334</sup> are not accepted<sup>335</sup>. There is more than enough supporting information for an outline application. There is no foundation for the suggestion that the proposed road would create severance between new communities to the north and south of the site. The existing rights of way network would be protected, maintained and enhanced by a comprehensive network of new interconnecting routes to ensure permeability through the development, and public transport provision is an integrated component of the proposal. The location of the local centre has been specifically selected in order to address the existing as well as the new community; an

<sup>321</sup> INQ/APP/10, INQ/APP/12

<sup>322</sup> INQ/APP/12 para 3.2; CD/A/12

<sup>323</sup> INQ/INQ/12 para 3.3

<sup>324</sup> INQ/APP/12 para 3.9

<sup>325</sup> INQ/APP/12 paras 3.33-3.41; INQ/APP/21

<sup>326</sup> INQ/APP/12 paras 3.16-3.25

<sup>327</sup> CD/A/12 para 4.24

<sup>328</sup> INQ/APP/21

<sup>329</sup> CD/A/12 para 4.76

<sup>330</sup> CD/A/12 para 3.8

<sup>331</sup> INQ/APP/21; INQ/APP/23 section 11

<sup>332</sup> INQ/APP/3 paras 8.15-8.17

<sup>333</sup> CD/A/16a

<sup>334</sup> CD/A/19

<sup>335</sup> INQ/APP/3 paras 6.36-6.43



alternative position off Alcester Road would be remote from the bulk of the community and instead cater for the less sustainable general passing trade. It has always been the intention to prepare a Design Code for the site once the outline permission is in place, and this is normal practice. The Design and Access Statement<sup>336</sup> provides a robust framework upon which this can build. Similarly, the Green Infrastructure Biodiversity Management Plan is not needed in advance on this site, and can be addressed by condition. Following CABE's review of the scheme it was agreed with the Council that the Statement of Development Principles<sup>337</sup> remained robust, and an Addendum to the Design and Access statement<sup>338</sup> was prepared which adds another layer of design detail ready to inform a subsequent Design Code exercise. CABE's criticisms have not been pursued by Council<sup>339</sup>.

163. The energy statement submitted with the application<sup>340</sup> outlines how the proposal would comply with the Council's Sustainable Low Carbon Buildings Supplementary Planning Document<sup>341</sup> and LPR policy DEV.8<sup>342</sup>. The proposal can be categorised as having a low geo-environmental risk and is entirely conventional<sup>343</sup>.

164. The local needs in respect of retail and community provision have also been addressed<sup>344</sup>.

### **Environmental Information**

165. The allegations made by RASE<sup>345</sup> that the environmental information provided is inaccurate, inadequate or incomplete and not capable of being properly regarded as an Environmental Statement for the purposes of the Regulations are all refuted<sup>346</sup>.

166. The use of the GEH statistic for the Transport Assessment has been addressed in the expert highways evidence, and was at the request of the local highway authority<sup>347</sup>.

167. The extent of the highway network that was required to be analysed and reported was also agreed with the local highway authority and the Highways Agency. No request was made for this to include West Green Drive. Notwithstanding this, the February 2012 additional information provided traffic flow information for West Green Drive, and demonstrated that as anticipated this would be well within the capacity of the road<sup>348</sup>.

168. The February 2011 Transport Assessment analysed the developments' impacts both at 2013 and 2023, and a condition on construction of the SWRR obviates the need for any additional assessment of the period between 2013 and 2023.

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<sup>336</sup> CD/A/9

<sup>337</sup> CD/B/5

<sup>338</sup> CD/A/9a

<sup>339</sup> Oral addition to closing submissions

<sup>340</sup> CD/A/13

<sup>341</sup> CD/C/9

<sup>342</sup> INQ/APP/12 section 5

<sup>343</sup> INQ/APP/12 section 4

<sup>344</sup> INQ/APP/1

<sup>345</sup> INQ/RASE/15

<sup>346</sup> INQ/APP/47

<sup>347</sup> INQ/APP/10 p 8 & paras 8.45-8.60; INQ/APP/14

<sup>348</sup> CD/A/23

169. The air quality assessment with the application found negligible effects. Based on predicted traffic flows<sup>349</sup>, this would not change with the proposed traffic management measures.
170. Other alleged flaws in the Transport Assessment have been responded to in the appellants' highways evidence<sup>350</sup>.
171. With respect to the suggested need for an invertebrate survey, the Environmental Statement identified that the site lies adjacent to the Bordon Hill Site of Importance for Nature Conservation which is noted for its beetle fauna. However, the habitat requirements for the relevant invertebrate species are either absent from the application site or are associated with habitats which are to be retained and would be unaffected by construction operations. Circular 06/2005 advises that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Furthermore, the proposal includes a buffer area within the Shottery Conservation Landscape between Bordon Hill and any construction areas. Landscape planting within the buffer area would provide substantially more habitat for invertebrate species than currently exists within the site. The County Council's Ecology Unit and Natural England agree with this approach.<sup>351</sup>
172. With regard to the flood risk assessment, although no soil infiltration tests have been undertaken, this point has been addressed<sup>352</sup>. Conservative assumptions have been made in the assessment, and the Environment Agency is satisfied with the approach.
173. It is entirely permissible for the environmental statement to comprise a series of documents to provide the necessary environmental information. The Regulations expressly provide for the submission of relevant additional material and for taking into account material submitted to a public inquiry on appeal. The submitted documents have been properly logged and referenced, and do not constitute a 'paper chase'.

#### **Residents Against Shottery Expansion**

174. RASE as a representative organisation needs to be treated carefully. It is a somewhat unorthodox grouping. Notwithstanding its apparent age, it has no constitution, elected officers, or membership<sup>353</sup>. It participated at the inquiry with one or two individuals and it is difficult to gauge the depth of support it has for its case, which has been entirely negative<sup>354</sup>. Whilst objections from residents living locally to a proposed development of this scale are always heard at an inquiry, that is not the case for expressions of support from those who keenly hope to see their housing needs met by such a development. These concerns are just as valid, but the inquiry process does not lend itself to their articulation.
175. All the matters raised by RASE have been addressed. Its representative pursued points in relation to the financial standing of the appellants and the rate

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<sup>349</sup> INQ/APP/47 Appendix 1

<sup>350</sup> INQ/APP/10

<sup>351</sup> INQ/APP/47 paras 22-30

<sup>352</sup> CD/A/15 section 8.4; INQ/APP/12 para 3.36

<sup>353</sup> INQ/RASE/1 section 1; cross-examination of Mr Ford

<sup>354</sup> INQ/RASE/7

of delivery of development on the site<sup>355</sup>, which have been dealt with<sup>356</sup>. Neither of these matters has been challenged by the Council.

### Shakespeare Birthplace Trust

176. It is clear that the Shakespeare Birthplace Trust has been subject to significant pressure from RASE (including a petition), seeking to use its influence to undermine the SUA.W allocation and the appeal proposals<sup>357</sup>. However, the Trust is plainly aware of its duties as Trustees and has not been persuaded by RASE to prejudge the outcome of this inquiry<sup>358</sup>.
177. From the outset, the Trust has indicated that it would wish to be satisfied on 6 or 7 criteria, which are set out and repeated in its various letters. The appellants' own correspondence with the Trust<sup>359</sup> confirms that the Trust's Executive has not considered the Further Environmental Information of February 2012<sup>360</sup>, which addresses matters which are of concern to the Trust.
178. The appellants' planning expert believes that all of the Trust's preconditions are now capable of being satisfied<sup>361</sup>. The Trust advises that it will await the outcome of the appeal and the conclusions reached about its interests<sup>362</sup>, and does not contradict the propositions set out by the appellants<sup>363</sup>. A recent letter from the Trust submitted by RASE<sup>364</sup> does not alter this carefully considered exchange. The Trust could, in theory, have said that it would under no circumstances participate in the west of Shottery development. It has not done so, and neither the Council nor RASE can contrive a contrary position. It can properly be inferred that the Trust's absence from the inquiry was not accidental. While some of the proposed green infrastructure would be on land owned by the Trust, the suggestion by the Council that this would be undeliverable is puzzling since to implement the scheme it would be necessary to have reached agreement with the Trust to acquire the land<sup>365</sup>.

### Conclusions

179. Paramount amongst the considerations which operate in this case must be the development plan status of the appeal site. However, this is not relied upon merely as a matter of form, but also on account of the substance of the analysis underpinning the allocation and the very extensive process which preceded it. It would be perverse to abandon or shelve such a soundly based proposal, which is fully supported by professional officers<sup>366</sup>, on the basis of claims of 'localism' and an unsustainable Core Strategy which is plainly not supported by a sound evidence base.
180. It is therefore requested that the appeal be allowed.

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<sup>355</sup> INQ/RASE/5, INQ/RASE/6

<sup>356</sup> INQ/APP/1 para 4.20, INQ/APP/25, INQ/APP/40

<sup>357</sup> INQ/RASE/1 para 12

<sup>358</sup> INQ/APP/16

<sup>359</sup> INQ/APP/15 & INQ/APP/16

<sup>360</sup> CD/A/23

<sup>361</sup> INQ/APP/1 paras 4.22-4.24; evidence in chief of Mr Jones

<sup>362</sup> INQ/APP/16

<sup>363</sup> INQ/APP/16

<sup>364</sup> INQ/RASE/17

<sup>365</sup> Oral addition to closing submissions

<sup>366</sup> CD/A/20

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## THE CASE FOR STRATFORD-ON-AVON DISTRICT COUNCIL

181. The main points are:

### Introduction

182. Stratford-upon-Avon is a special place. Its associations with Shakespeare have made a modest market town into a national heritage asset with an international reputation. The presence of its unique collection of assets, including Anne Hathaway's Cottage and Garden, make it a global tourist destination. Tourism is a main source of employment and its visitors have an essential role in sustaining the economy of the District. The surrounding landscape and setting to the heritage assets demand particular care in the consideration of the appeal proposals. The new planning environment comprising the Localism agenda and the National Planning Guidance Framework, along with other material changes since the Local Plan Review inquiry in 2006, require a fresh approach to be taken to development on the appeal site.<sup>367</sup>

### The Development Plan and Housing Land Supply

183. The Local Plan Review (LPR) does not exist in isolation but is part of a wider planning framework, as expressed in the LPR itself<sup>368</sup>. The LPR explains the context in which its strategies and policies were adopted in July 2006. At that time, the Regional Spatial Strategy (RPG11) was described as having required "a fundamental change in direction"<sup>369</sup> for development in the region and set out a number of principles and challenges to guide development plans. These included the need for an urban renaissance to counter the unsustainable outward movement of people and jobs that had been facilitated by previous strategies<sup>370</sup>. Stratford-upon-Avon was not identified as a Major Urban Area in the Regional Spatial Strategy (RSS) but as a market town that should not accommodate migration from the Major Urban Areas<sup>371</sup>.

184. The LPR strategy for new housing provision as set out in policy STR.2 was grounded in national policy guidance (particularly for housing) and the regional policy guidance of the RSS and the Warwickshire Structure Plan<sup>372</sup>. The regional strategy also dictated the housing requirements for the District to the end of the plan period (March 2011), which ultimately resulted in the Council's moratorium on housing as set out in its Managing Housing Supply Supplementary Planning Document (November 2006)<sup>373</sup>, which was not lifted until March 2011<sup>374</sup>.

185. The purpose of LPR policy STR.2A was to protect the 3 identified Strategic Reserve Sites from development during the plan period. It states that: "The release of sites for housing development will be regulated". Three factors are identified in the policy to regulate their release. The first is the District's progress towards the housing provision as provided in the RSS and set out in LPR policy STR.2. The second is concerned with the aims of LPR policy STR.4 on previously developed land. The third is any changes in strategic planning policy.

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<sup>367</sup> INQ/LPA/13

<sup>368</sup> CD/B/1 para 1.2.1

<sup>369</sup> CD/B/1 para 1.2.10

<sup>370</sup> CD/B/1 para 1.2.11(a)

<sup>371</sup> CD/B/7 policy CF2

<sup>372</sup> CD/B/1 para 2.4.2

<sup>373</sup> CD/C/3

<sup>374</sup> INQ/LPA/8 para 5.15

Policy STR.2A makes it clear that these sites were identified to help meet long term (post 2011) housing needs and that their development, in whole or in part, was not to be permitted before 31 March 2011 "unless there is a significant under provision of housing land identified through the monitoring process"<sup>375</sup>. The policy explanation indicates the potential role of these sites in meeting longer term housing requirements:

*'The housing provision identified in this Plan covers the period up to 2011. It is inappropriate to retain or identify the three greenfield sites supported by the Inquiry Inspector as allocations in the Plan as it is unlikely that they will need to be released in order to meet requirements prior to 2011...The identification of these three sites as Strategic Reserves recognises their potential role in meeting housing needs post 2011.'*<sup>376</sup>

Furthermore, at the time of adoption it was considered unlikely that their release would need to be addressed until after the Council had prepared its Core Strategy and Significant Allocations Development Plan Documents following the partial review of the RSS<sup>377</sup>.

186. Although proposal SUA.W (Land to the West of Shottery) has been saved<sup>378</sup>, the context in which it was identified in the LPR and how it should be read has materially changed<sup>379</sup>. Furthermore, there is no significant under provision of housing land in the District (as set out below). The explanation for proposal SUA.W records that the appeal site was identified following a comprehensive assessment of a range of sites on the edge of Stratford-upon-Avon during the LPR inquiry<sup>380</sup>. The inquiry Inspector expressly noted the specific benefits that justified his recommendation that the site was more suitable for development than others being assessed. Those benefits were the Stratford Western Relief Road (SWRR) and the associated improvements to the setting of Anne Hathaway's Cottage and the Shottery Conservation Area. He concluded that: "without them, it might be that neither of the two constituent housing areas would be regarded as being superior to other potential development sites..."<sup>381</sup>. Irrespective of the changed national planning policy framework since then, dealt with below, there have been other major changes specific to the proposal since it was promoted at the LPR inquiry. Their importance cannot be overstated because they go to the heart of the reasoning behind the LPR Inspector's conclusions and the subsequent identification of the appeal site as a Strategic Reserve Site. In essence, there are now fundamental differences between the scheme that was assessed by the LPR Inspector and the appeal proposals.

187. The first material change is to the benefits that were expected to accrue from the SWRR. At the time of the LPR inquiry and the adoption of the LPR, the SWRR was identified as providing a very substantial benefit. This was because of specific opportunities it provided to make environmental improvements to Stratford-upon-Avon town centre, to relocate the car and coach parks for Anne

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<sup>375</sup> CD/B/1 policy STR.2A

<sup>376</sup> CD/B/1 para 2.4.12

<sup>377</sup> CD/B/1 para 2.4.16

<sup>378</sup> CD/B/2

<sup>379</sup> CD/B/2 last two paragraphs

<sup>380</sup> CD/B/1 para 7.15.43

<sup>381</sup> CD/B/3 para 778

Hathaway's Cottage, and to prevent through traffic in Shottery<sup>382</sup>. Those anticipated benefits have either gone or changed significantly:

- a) The Inspector had considered benefits of the SWRR to Stratford-upon-Avon as a whole by reference to the 2003 Scheme Assessment Study<sup>383</sup>. This emphasised that the SWRR was "*a fundamental component*" of the Stratford Major Transport Scheme Bid that "*provides positive benefits that enhance the case for other elements of the bid.*"<sup>384</sup> The Bid comprised the following elements<sup>385</sup>:
  - The pedestrianisation of three key town centre streets (Bridge Street, High Street and Waterside)
  - Demand reduction elements (including a Park and Ride at Shipston Road and a bus/rail interchange at Stratford Station)
  - Congestion reduction schemes (including the SWRR).
- b) The Scheme Assessment Study anticipated considerable improvements in predicted two way traffic flows on various links, including Alcester Road, Birmingham Road and Church Lane, Shottery<sup>386</sup>. Those figures were all premised upon the development of the appeal site with 700 houses and the pedestrianisation of the town centre streets, as confirmed by the appellants' highways expert<sup>387</sup>. The forecast flows on those links can be compared<sup>388</sup> with the figures contained within the 2011 revised Transport Assessment for the appeal scheme (conducted on the basis of 800 houses)<sup>389</sup>. These figures demonstrate that the appeal proposals will not now significantly impact traffic flows on those links<sup>390</sup>.
- c) The benefits of the SWRR as considered by the LPR Inspector have fallen away. The benefits now espoused by the appellants are simply not those that were considered at the LPR inquiry. The Transport Assessment indicates traffic flows that differ significantly from the previous predictions. In particular, the base traffic flows presented to the LPR inquiry were much higher for both the AM and PM peak hours<sup>391</sup>. Such reductions in traffic flows as are now claimed are minimal. The adding together of traffic flows on links through Shottery is a meaningless exercise because it would result in double counting<sup>392</sup>. Moreover, the predicted reductions in AM and PM peak hour traffic flows around Shottery must be viewed in the context that the base flows are not themselves particularly heavy and the reductions are all only in double digits<sup>393</sup>. The claimed reductions in delay at congested junctions in Stratford-upon-Avon as a whole are similarly minimal when

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<sup>382</sup> CD/B/3 paras 778 & 781

<sup>383</sup> CD/D/1

<sup>384</sup> CD/D/1 p 5

<sup>385</sup> CD/D/1 p 5

<sup>386</sup> CD/D/1 Table 1.1

<sup>387</sup> Cross-examination of Mr Ojeil

<sup>388</sup> INQ/LPA/10 Appendix 10; INQ/LPA/8 paras 7.32-7.59

<sup>389</sup> CD/A/18 Tables 35-36

<sup>390</sup> Cross-examination of Mr Ojeil; INQ/APP/22 paras 2.12 & 2.13

<sup>391</sup> INQ/APP/10 paras 6.23-6.25, tables JO6 & JO7

<sup>392</sup> Evidence in chief of Mr Brown; INQ/APP/10 paras 6.14-6.20

<sup>393</sup> INQ/APP/10 table JO4 and JO5

considered in the context of individual drivers and journey times<sup>394</sup>. Furthermore, the appellants' highways expert was unable to produce any evidence as to the level of extraneous local traffic that might be deterred<sup>395</sup>.

- d) Consequently, the proposed SWRR is not a relief road. Its primary purpose would no longer be the relief of town centre congestion deriving from the pedestrianisation measures but simply to serve the proposed development (as appears to have been acknowledged in the latest iteration of the Warwickshire Local Transport Plan<sup>396</sup>).

188. The second material change is that both the Shakespeare Birthplace Trust (SBT) and English Heritage now object to the appeal proposals. The same applies for the Council. The in-principle objection of the SBT has been explained in clear terms in its statement dated 15 March 2012<sup>397</sup>. In a recent exchange with the appellants, SBT expressly reserved its present position, namely objection<sup>398</sup>. It would be wrong to suggest that the SBT objection should somehow be given less weight because SBT may or may not change its position in the future. That would be contrary to its clear representation and undermine SBT's effective participation in the consultation process by introducing an element of unfounded speculation or conjecture. The objection of SBT also means that the relocation of the car and coach parks for Anne Hathaway's Cottage is no longer a benefit that weighs in favour of the appeal proposals (as it was considered to be at the LPR Inquiry and the adoption of the LPR).

189. The third material change is to the proposed traffic calming measures considered at the time of the LPR inquiry. It was then contemplated that the SWRR presented the "*opportunity to remove all vehicular traffic other than emergency or service vehicles*" from Cottage Lane<sup>399</sup>. That is not what is proposed now. The appeal proposal does not include any action outside the appeal site. There appears to be little or no local support for the belated offer of funding for traffic calming (which is not necessary to enable the development). There is no definitive proposal on traffic calming measures because that necessarily requires agreement with the local highway authority. Furthermore, any Traffic Regulation Order would have to undergo the statutory consultation process and there can be no certainty as to the outcome.

190. In addition, the Government has introduced fundamental changes to the planning environment through the Localism Act 2011 and the National Planning Policy Framework. These are constituent parts of the shift away from a top down imposition of housing requirements and spatial strategy to a bottom up approach to planning. The saved policies of the development plan must now also be considered against the implementation provisions of the Framework<sup>400</sup>. Whilst decision-makers may continue to give full weight to relevant policies adopted since 2004<sup>401</sup>, they may also give weight to relevant policies in emerging plans

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<sup>394</sup> INQ/APP/10 paras 6.1-6.13, tables JO1 & JO2

<sup>395</sup> Cross-examination of Mr Ojeil

<sup>396</sup> CD/D/2 p 105

<sup>397</sup> INSP1; earlier letters dated 17 December 2009 & 26 November 2010 at INQ/LPA/2 Appendix 2

<sup>398</sup> INQ/APP/15, INQ/APP/16

<sup>399</sup> CD/B/3 paras 748 & 781

<sup>400</sup> CD/G/24 Annex 1

<sup>401</sup> CD/G/24 para 214

according to a number of criteria, including their degree of consistency with the policies of the Framework<sup>402</sup>. Moreover, the Framework's policy presumption in favour of sustainable development<sup>403</sup> militates against the appeal proposals. Whilst the adopted development plan is now out of date and silent on housing requirements, the adverse environmental and economic impacts of allowing the appeal (dealt with below) significantly and demonstrably outweigh its benefits. It is recognised that there would be some social benefits in the form of market and affordable housing (although these would not be peculiar to this development), but the proposals would no longer deliver the benefits that had originally been envisaged.

### **The housing land position**

191. Paragraph 47 of the Framework addresses housing requirements, with an obligation to ensure that the full objectively assessed needs for both market and affordable housing are met as far as is consistent with the other policies in the Framework. The Council's case on the 5 year housing land supply is simple, straightforward and robust:

- a) The Council commissioned GL Hearn to provide a Housing Options Study as part of its evidence base to inform and support policies for housing provision in the latest draft Core Strategy<sup>404</sup>. The Study considered a total of 10 possible projections but recommended 3 options for the plan period 2008-2028 based upon the following projections:
  - Option 1: Main Trend-Based projection. This produced a housing requirement of 10,300 units. GL Hearn considered the impact of this option on the environment to be hard to judge but potentially greater than Option 3<sup>405</sup>.
  - Option 2: Economic-led projection. This produced a housing requirement of 13,000. Whilst GL Hearn considered this option to be strongly positive in social and economic terms, the environmental impact was expected to be higher<sup>406</sup>.
  - Option 3: 25% reduction in Net In-Migration. This produced a housing requirement of 8,200. This option was considered to have the least environmental impact and would do most to preserve the character of the District. GL Hearn indicated that this option would potentially have a higher cost in economic and social terms<sup>407</sup>.
- b) In producing these options GL Hearn indicated that their analysis had identified various trade-offs that needed to be considered. They concluded that: *"It would be possible to conclude that any of the above options were the most advantageous based on ascribing different weight to the environmental, economic and social considerations. This is a matter for the District Council to consider."*<sup>408</sup> Whilst GL Hearn were of the view that the Council should plan on the basis of a housing

<sup>402</sup> CD/G/24 para 216

<sup>403</sup> CD/G/24 para 14

<sup>404</sup> CD/E/12

<sup>405</sup> CD/E/12 para 9.44

<sup>406</sup> CD/E/12 para 9.49

<sup>407</sup> CD/E/12 para 9.54

<sup>408</sup> CD/E/12 para 9.61



requirement in the 11,000 - 12,000 range, the Council was not obliged to follow that recommendation. The Members' view was that the GL Hearn analysis and trade-offs did not properly reflect the particular economic value represented by tourism and the character of the District<sup>409</sup>. Stratford-upon-Avon is a tourist destination of global significance. Consequently, the environmental impacts arising from the housing requirement could potentially overlap the economic impacts on the tourist economy of the District. In effectively opting for Option 3 and a housing requirement of 8,000 the Council properly considered the need to preserve the special character of the District and recognised the key role played by that character in the District's tourism economy.

- c) The appellants now contend that the Council's housing requirement should be nearer the 12,000 upper figure suggested by GL Hearn<sup>410</sup>. There is no justification for their approach. The view of GL Hearn is not a substitute for the Local Plan. Neither is the current inquiry an examination of the draft Local Plan.
- d) The housing land supply position has improved dramatically over the last year. It is agreed that in March 2011 the supply was 3.4 years when measured against a requirement of 8,000 dwellings during the period 2008-2028<sup>411</sup>. The Council's assessment now demonstrates a housing land supply of 5.26 years when measured against that housing requirement and including a 5% buffer as required by the Framework<sup>412</sup>.
- e) An allowance which equates to an average of 99 dwellings per annum has been made for windfalls, as allowed by the Framework where there is compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. The figure is based on an average historical windfall delivery rate in the 5 years to 2008, which was 2 years into the moratorium (a higher figure would result if a 21 year period was used). This figure has then been reduced by 17% to reflect garden land development. The Council's officer who previously collated the housing permissions database had been doing so since 1987. Baker Associates, who used this data to compile the District's Strategic Housing Land Availability Assessments (SHLAAs)<sup>413</sup>, had no cause to query his figures. Simply because the officer, due to sad circumstances, was unable to assist the appellants' interrogation of his extensive database is no reason to reject any windfall allowance whatsoever. Historically windfalls have made a significant contribution to the District's housing land supply, as confirmed in the SHLAAs for 2008<sup>414</sup> and 2009<sup>415</sup>. The contribution from windfall sites was also recognised in the LPR<sup>416</sup>. For the

<sup>409</sup> CD/E/16a, CD/E/16b

<sup>410</sup> INQ/APP/36

<sup>411</sup> CD/H/1 para 10.1

<sup>412</sup> INQ/LPA/17. The 5.26 years equates to 5.01 years with the 5% buffer included in the 5 year target requirement (rather than effectively increasing the 5 year requirement to 5.25 years) – the calculations are included in INQ/APP/40.

<sup>413</sup> CD/F/1a, CD/F/1b

<sup>414</sup> CD/F/1a paras 7.1.2, 7.1.4 & 7.1.6

<sup>415</sup> CD/F/1b paras 7.1.1-7.2.1 & 7.2.22 (Table 7.2)

<sup>416</sup> CD/B/1 para 2.4.5 & Table 2

appellants to contend for a nil windfall allowance undermines the credibility and robustness of their response to the Council's figures<sup>417</sup>.

- f) The attempt by the appellants to remove 43 dwellings from the Tiddington Fields and 179 dwellings from the Maudslay Park developments because they fall within use class C2 is also misconceived<sup>418</sup>. Both these developments provide extra care units that comply with the definition of dwellings as required by relevant National Indicators<sup>419</sup> i.e. a self-contained unit of accommodation. The Tiddington Fields dwellings (Margaret Court) are sold individually on leaseholds<sup>420</sup>. At Maudslay Park, each of the units would have its own kitchen, living room, bathroom and bedroom accommodation and its own front door<sup>421</sup>. The C2 Use Class restriction through the section 106 obligations does not remove these individual dwellings from the housing land supply. They remain to be counted as part of the District's dwelling stock.
- g) The appellants also seek to delete the Former Cattle Market site (197 dwellings) and Chestnut Street (7 dwellings) permissions on the basis of a current lack of demand for flats<sup>422</sup>. There is no reason to believe that these developments will not go ahead as soon as the market recovers and within the next 5 years. The demand for flats is not dependent solely upon the general state of the market but is also affected by the desirability of the location<sup>423</sup>. From any objective view Stratford-upon-Avon is a desirable location (further evidenced by the need for a moratorium and the volume of applications/permissions since it was lifted<sup>424</sup>). To simply remove all permissions for flatted development from the housing land supply is unrealistic.
- h) The credibility of the appellants' approach to the Council's housing land supply is further undermined by their insistence on a 20% buffer, as required by the Framework where there has been a record of persistent under delivery of housing. It is wholly unjustified for the appellants' planning witness to contend that the Council has such a record<sup>425</sup>. The very reason for the moratorium and the number of permissions granted in the limited 12 month period since it was lifted confirm the contrary to be true.
- i) There is a sense of desperation in the appellants' attempts to reduce the Council's housing land supply figures. The Council's evidence confirms that the key criterion in policy STR.2A for the release of this strategic reserve site is not met because there is no significant under provision of housing land in the District.

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<sup>417</sup> INQ/APP/36

<sup>418</sup> INQ/APP/36

<sup>419</sup> INQ/LPA/19

<sup>420</sup> INQ/LPA/21

<sup>421</sup> INQ/APP/30 (first paragraph under the heading 'Use Class')

<sup>422</sup> INQ/APP/36

<sup>423</sup> Cross-examination of Mr Jones

<sup>424</sup> INQ/LPA/8 para 9.21; INQ/LPA/17

<sup>425</sup> Cross-examination of Mr Jones

192. Irrespective of the above, the SBT's in-principle objection means that limited (if any) weight can now be given to the contribution that the appeal proposals could make to the supply of housing land in the District.

### **Prematurity**

193. The Localism Act 2011 and the Framework have made fundamental changes to the planning system designed to ensure that decisions about development are taken locally. The 2005 ODPM guidance note (General Principles) has not been replaced by the Framework. This indicates that a refusal on the grounds of prematurity may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development. It is for the Council to demonstrate how the grant of permission would prejudice the development plan process<sup>426</sup>.

194. Prematurity is not a concept derived from the 2005 guidance note. It reflects the UK's obligations to ensure proper public participation in the preparation of plans and programmes relating to the environment. In particular, provision must be made for early and effective public participation where all options are open. Furthermore, due account must be taken of the outcome of such public participation<sup>427</sup>. The Framework confirms that "*Planning policies and decisions must reflect and where appropriate promote relevant EU obligations and statutory requirements*"<sup>428</sup>. The EU is a signatory to the Aarhus Convention 1998 and consequently the obligations are engaged in the consideration of the appeal proposals, a point which the appellants do not disagree with<sup>429</sup>.

195. That the Council has consulted on a third version of its proposed Core Strategy<sup>430</sup> adds weight to the prematurity issue for a number of reasons:

- a) As explained in its introduction<sup>431</sup>, the previous drafts were premised upon the need to conform to the regional strategy. The latest version properly reflects the changes to the planning framework. In particular, it presented the first opportunity for the Council to consult upon, among other things, a new housing figure for the District and a new spatial approach for the distribution of development. This is of particular importance for Stratford-on-Avon, which over the last 30 years has seen the number of dwellings increase by 40% in the District and 50% in the town, far outstripping the national average growth<sup>432</sup>.
- b) The latest version responds to the results of the previous public consultations which indicated a 'more local' approach should be taken to policy making<sup>433</sup>. This means it is more likely to be adopted by the community<sup>434</sup>.

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<sup>426</sup> CD/G/23 paras 17-19

<sup>427</sup> CD/SDC/7 Article 7 (and Articles 6(3), 6(4) and 6(8))

<sup>428</sup> CD/G/24 para 2

<sup>429</sup> Cross-examination of Mr Jones

<sup>430</sup> CD/E/18

<sup>431</sup> CD/E/18 paras 1.1.1-1.1.8

<sup>432</sup> INQ/LPA/8 para 9.30

<sup>433</sup> CD/E/18 para 1.1.8

<sup>434</sup> INQ/LPA/8 para 9.16

- c) The new spatial vision is to provide for 8,000 dwellings over the plan period of 2008-2028. The rationale for the figure is clearly stated and robust<sup>435</sup>. It includes the aim for lower net in-migration (itself consistent with the previous regional strategy), the Council's concerns that the GL Hearn Study did not assess the contribution of tourism to the economy, and the need to preserve the special nature of the District. The reasoning for the 8,000 requirement is entirely consistent with the Government's core planning principles in the Framework<sup>436</sup>.
- d) The proposed dispersal strategy provides for between 560-840 dwellings in Stratford-upon-Avon over the plan period<sup>437</sup>. To allow the appeal proposals now would prejudice this strategy because it would necessarily predetermine the scale and location of housing in Stratford-upon-Avon.
- e) To allow the proposal would wholly undermine the consultation process. The consultation responses need to be properly processed and assessed to ensure that the public participation is effective. It is only after all the consultation responses have been properly processed can due account be taken of them. To select individual responses to the consultation document<sup>438</sup> will necessarily show a partial picture and they should therefore be given no weight.

196. Consequently, to permit the appeal proposal would seriously prejudice the DPD process. It would predetermine the immediate allocation of a large unallocated greenfield site in a sensitive countryside location, undermine the preferred strategy and preclude effective public participation in the plan-making process.

#### **The Effect on the Character and Appearance of the Area**

197. Another consequence of the Localism agenda and the revocation of the regional strategies is the greater freedom afforded to the Council in determining the location of development through its spatial strategy. This represents a further material change since the LPR inquiry and the adoption of the LPR.
198. When assessing the changed circumstances in which the appeal proposals now fall to be determined it is important to consider the evolution of LPR proposal SUA.W. The potential for development on land to the west of Shottery was considered during the 1994-5 District Local Plan inquiry. An omission site comprising mixed uses and including some 450 dwellings was promoted, which included a Western Relief Road as a major feature<sup>439</sup>. There are significant differences between that omission site and the present appeal proposals but the landscape and its relationship with Shottery and Stratford-upon-Avon was essentially the same as it is now<sup>440</sup>. At that time the land to the west of Shottery was designated in the District Local Plan as a Special Landscape Area (SLA). The inquiry Inspector considered that with any development of such a scale in that location there were three broad landscape matters that needed to be addressed:

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<sup>435</sup> CD/E/18 para 9.03

<sup>436</sup> CD/G/24 para 17

<sup>437</sup> CD/E/18 Table 1 p 80

<sup>438</sup> INQ/APP/27, INQ/APP/38

<sup>439</sup> CD/RASE/17; INQ/LPA/20

<sup>440</sup> Cross-examination of Mr Rech

landscape quality, landscape form and the nature of the settlement edge<sup>441</sup>. The appellants' landscape expert agreed with that approach<sup>442</sup>. When making his assessment of the quality of the landscape the Inspector concluded that the area was rightly included within the SLA and described it in the following terms:

*"...an area of very attractive and gently undulating landscape...the rising nature of the land makes the countryside to the west very important to the setting of the town; an importance which is heightened by the quality of the landscape itself....While the SLA designation is one which sets this landscape apart, it is not an absolute bar to development. Nevertheless it seems to me that the quality of the landscape must weigh heavily in the balance and the proposal would have to demonstrate clear and overriding benefits and advantages over other locations."*<sup>443</sup>

199. He then addressed the landscape form between Alcester Road and Evesham Road and agreed with the Council that the topography of the landscape defines the settlement edge. Before recommending that the omission site should not be allocated for development he concluded that:

*"...the landscape is of a quality which rightly suggests its inclusion within the SLA. In principle, this quality should be protected for its own sake. The gently undulating and rising landform provides an attractive landscape setting for the town and very satisfactorily contains the urban area, especially where the town edge is weakest. To the south the town edge is strong and attractive, and in the vicinity of Shottery the openness of the countryside is taken into the urban area through the spaciousness and loose-knit form of the village. All in all I believe these factors add up to a periphery of the town which performs very well in terms of the relationship between town and country, and one which has a quality which should be safeguarded."*<sup>444</sup>

200. A restrictive approach was thereafter taken towards development to the west of Shottery<sup>445</sup>. This is evidenced in the Stratford-upon-Avon Town Design Statement (2002) which recommended, among other things, that the fields on either side of Bordon Hill should be protected in perpetuity and the panoramic view preserved<sup>446</sup>. However, that strategic planning context had changed by the time of the LPR inquiry following the publication of RPG11, which varied the previous spatial strategy for the region. Furthermore, the Council and the SBT were then promoting the site. This change in context was acknowledged by the LPR inquiry Inspector<sup>447</sup>. He endorsed the general approach to landscape impact that had been taken by the previous Inspector (Mr Golder) at the District Local Plan inquiry<sup>448</sup>, and concluded:

*"Clearly there would be a substantial change to the western side of Stratford. Nonetheless...the harmful effects of the proposals would be, perhaps surprisingly, limited. At the same time the various benefits, above all the opportunities provided by the SWRR...are very substantial. Mr Golder in*

<sup>441</sup> CD/RASE/17 para 9.43.17

<sup>442</sup> Cross-examination of Mr Rech

<sup>443</sup> CD/RASE/17 para 9.43.18

<sup>444</sup> CD/RASE/17 para 9.43.24

<sup>445</sup> INQ/LPA/3, INQ/LPA/5

<sup>446</sup> CD/C/6 p 32

<sup>447</sup> CD/B/3 para 736

<sup>448</sup> CD/B/3 paras 753-754

*considering earlier proposals in this area said that there would have to be a very sound case for the existing settlement boundary to be breached. I consider that...such a case does exist with the present proposals, and that this case more than outweighs any harm that would be caused.*"<sup>449</sup>

201. A current assessment will need to be made of the visual impact of the appeal proposals. However, the need for a very sound case before breaching the existing settlement boundary to the west of Stratford-upon-Avon has now been confirmed on two occasions. Both Inspectors recognised that large scale proposals to the west of Shottery would cause landscape harm. It was only because of the "very substantial benefits" that were then perceived to arise from the SWRR that the appeal site was recommended by the LPR Inspector and subsequently adopted by the Council. However, those expected benefits and the weight to be attached to them have now evaporated.
202. An essential element of the Council's case is the scale of the development in this location. The 2005 Stratford Urban Edge Pilot Study<sup>450</sup> evaluated the land around the settlement boundary. The County Landscape Description Units (LDUs) were subdivided into smaller Land Cover Parcels (LCPs) to assess their condition, visual sensitivity and suitability for new development. The LCPs that roughly equate to the appeal site are numbered 10, 12 and 15. The Summary Table in the Study simply does not support the scale of development that is now proposed in those areas. Specifically, component A (the northern parcel) of the appeal proposals is within LCP10, which was assessed as being suitable for small-large scale development (more than 50 dwellings) with mitigation planting. 605 houses are proposed here. Component B (the southern parcel) encompasses LCP12 and part of LCP15, which were assessed as suitable for no more than 54 dwellings in total. 195 houses are proposed in this area.
203. White Consultants were appointed by the Council in April 2011 to undertake a landscape sensitivity assessment for the main settlements within the District in order to determine the "most appropriate locations for development to be identified in the Local Development Framework"<sup>451</sup>. It was completed in July 2011 and addressed both residential and commercial development. The assessments adopt an LCP/Zone approach similar to that used in the 2005 Pilot Study. Component A of the appeal proposals is located in LCP/Zone St25, which is considered to be of medium sensitivity to housing. Component B is located in LCP/Zone St21, considered to be of high/medium sensitivity. The proposed SWRR would pass through LCP/Zone St24, considered to be of high sensitivity. These zones would be significantly adversely affected by the proposal's expected landscape effects, which are unacceptable<sup>452</sup>.
204. The sensitivity assessments were made using a clear and transparent methodology<sup>453</sup>. Moreover, the definition of sensitivity and its calibration are clearly explained<sup>454</sup> and applied<sup>455</sup>. The appellants' landscape expert argues that

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<sup>449</sup> CD/B/3 para 781

<sup>450</sup> CD/F/12

<sup>451</sup> CD/E/13 para 1.2

<sup>452</sup> INQ/LPA/3 section 5, para 5.15

<sup>453</sup> CD/E/13 para 2.1 & Box 1

<sup>454</sup> CD/E/13 paras 2.2-2.6

<sup>455</sup> INQ/LPA/5 Appendix SWJ p 113 onwards

the work by White Consultants is “*fundamentally flawed*”<sup>456</sup>. His reasons do not bear scrutiny:

- a) He complained that no attempt was made to address the quantum of development, but that was not part of the brief.
- b) He complained that no account has been taken of potential mitigation measures. That is wrong, since the need for mitigation planting is specifically considered.
- c) He complained that the study is “*intrinsically negative*” and exaggerates the true sensitivity of the landscape. His own case on this is undermined by insisting that only designated quality landscapes such as national parks and Areas of Outstanding Natural Beauty would have high sensitivity. Furthermore, the Core Planning Principles of the Framework require that account is taken of the different roles and character of different areas and that recognition should be given to the intrinsic character and beauty of the countryside<sup>457</sup>. The appeal proposals lie within attractive countryside that provides an important setting for Anne Hathaway’s Cottage, Shottery and Stratford-upon-Avon.
- d) He tried to argue that “*the study was not subject to any public consultation process, which further undermines its value. In my experience it is essential to involve the community in any strategic, district wide landscape character assessment process*”<sup>458</sup>. The Assessment is part of the evidence base for the emerging Core Strategy upon which the wider community is being consulted. Prior consultation on a Landscape Assessment that is used to inform an emerging plan which is itself then subject to consultation is a novel concept.
- e) Criticism is made of the opinion of the Council’s landscape expert that the view of Stratford-upon-Avon from Bordon Hill is “*iconic*”<sup>459</sup>. Semantics will not determine the appeal, but the view of Southwell used by the appellants’ landscape expert to illustrate an iconic view<sup>460</sup> is not a reasonable comparator to the expectations of visitors arriving at Stratford-upon-Avon.

205. The differing assessments made by the landscape experts as to the visual impact of the appeal proposals are clearly set out in the Comparative Visual Effects Schedule provided to the inquiry<sup>461</sup>. The following should be noted<sup>462</sup>:

- a) The development in Component B would be visible through the SBT Plantation from the southern orchard associated with Anne Hathaway’s Cottage, thereby detracting from the rural nature of this view<sup>463</sup>. The sensitivity of visitors to the Cottage is clearly high. The removal of a

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<sup>456</sup> INQ/APP/3 para 5.35

<sup>457</sup> CD/G/24 para 17

<sup>458</sup> INQ/APP/3 para 5.35

<sup>459</sup> INQ/APP/3 paras 4.28, 5.40

<sup>460</sup> INQ/APP/3 para 4.28; INQ/APP/ 4&5 Appendix 2 Figure 14

<sup>461</sup> INQ/APP/20

<sup>462</sup> INQ/LPA/3 sections 6 & 7; INQ/LPA/5 Appendix SWP

<sup>463</sup> INQ/LPA/5 Viewpoint SWiii

- significant part of the plantation to accommodate a roundabout and parking would reduce its qualities and effectiveness as a screen<sup>464</sup>.
- b) In the absence of advance planting, visitors arriving on the B439 Evesham Road would be immediately aware of the development in Component B when descending Bordon Hill, with a clutter of lighting and signage on the approach to the proposed roundabout<sup>465</sup> and views to the raw edge of housing.
  - c) Component A would extend development to the prominent ridge whilst the SWRR would result in a visible 'notch'.
  - d) The SWRR would physically cut off Anne Hathaway's Cottage and grounds from the countryside and would be highly visible from footpaths to the west of the appeal site. The sensitivity of footpath users is high.
  - e) The extensive re-grading works and disruption of field boundaries would also be visible from the orchard<sup>466</sup>. Furthermore, some of the proposed green infrastructure intended to screen the SWRR from the orchard (retained hedgerow and woodland planting) is on SBT land and consequently undeliverable<sup>467</sup>. The LPR Inspector's confidence in the design to ensure no perceptible change in views from the grounds of the Cottage was misplaced<sup>468</sup>.
  - f) There are harmful departures from the Statement of Development Principles<sup>469</sup>.

206. The proposal does not comply with policies PR.1, DEV.1, SUA.1 and SUA.2 of the LPR<sup>470</sup>. The scale of the appeal proposals in this location and the construction of the SWRR would cause significant harm to the landscape character of the area and important views from locations that are of national importance. The material changes that have occurred since the LPR inquiry and the adoption of proposal SUA.W indicate that the adverse visual impact of the proposals is no longer acceptable in planning terms.

### **The Impact on Heritage Assets**

207. The Framework emphasises the need to recognise that heritage assets are an irreplaceable resource and consequently any harm or loss should require clear and convincing justification<sup>471</sup>. Whilst PPS5 has been replaced its associated Practice Guide<sup>472</sup> has not. The Framework requires identification and assessment of the particular significance of heritage assets and their setting that may be affected by the proposals<sup>473</sup>. Key definitions include those of *setting* and *significance*.

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<sup>464</sup> INQ/LPA/3 paras 7.11-7.13

<sup>465</sup> INQ/LPA/5 Appendix SWQ

<sup>466</sup> INQ/APP/5a Figure 37

<sup>467</sup> CD/A/15b

<sup>468</sup> INQ/LPA/3 para 7.9

<sup>469</sup> INQ/LPA/3 paras 2.27, 7.2, 7.19

<sup>470</sup> INQ/LPA/3 section 2; paras 7.31-7.37

<sup>471</sup> CD/G/24 section 12

<sup>472</sup> CD/G/4b

<sup>473</sup> CD/G/24 para 129



*"Setting of a heritage asset: The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of the setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."*

*"Significance (for heritage policy): The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting."*<sup>474</sup>

208. Shottery is rich in heritage assets, with one Grade 1, one Grade II\* and twenty Grade II listed Buildings<sup>475</sup>. The centre of the village is a Conservation Area, and the grounds of Anne Hathaway's Cottage are a Grade 2 Registered Park and Garden. A material change since the LPR inquiry and the adoption of the LPR is that now both English Heritage and the SBT object to the proposals. English Heritage's expert representative has provided a comprehensive and transparent assessment of the impact of the proposed development on Anne Hathaway's Cottage, the Garden (including the orchard), the Conservation Area and their respective settings<sup>476</sup>. He has meticulously followed the step-by-step assessment process recommended in the English Heritage guidance on settings<sup>477</sup>, as follows.
209. Step 1: In identifying the heritage assets affected and their settings there is no issue that the most significant is the Grade I Listed Anne Hathaway's Cottage. English Heritage's expert describes it as *"unquestionably of international significance."*<sup>478</sup> He also identifies the Garden and orchard as being highly significant<sup>479</sup>. He observes: *"as with the house it provides an area for reflection upon the genius of Shakespeare. Quiet contemplation is not always possible in the immediate garden due to the pressure of visitors, but in the orchard reflection is possible"*, whilst also noting that *"the tranquillity is currently disturbed to a small extent by distant road noise, depending on the direction of the wind."*<sup>480</sup>
210. Step 2: When assessing the settings and their contribution to the significance of the identified heritage assets, he places particular importance on the tranquillity of the garden setting to the Cottage<sup>481</sup>. Furthermore, the significance of this tranquillity extends to the setting of the garden and orchard themselves. In particular, the connection to the landscape and views provides *"a considerable degree of tranquillity within the immediate garden and the wider area managed as the visitor attraction."*<sup>482</sup> He also notes *"a strong connection with the rural and agricultural qualities of the setting"* which is appreciated by the very large visitor population<sup>483</sup>. In the context of the Conservation Area, the significant

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<sup>474</sup> CD/G/24 p 56

<sup>475</sup> CD/F/18; INQ/LPA/2 Appendix 3

<sup>476</sup> INQ/LPA/1

<sup>477</sup> CD/SDC/12

<sup>478</sup> INQ/LPA/1 para 4.2.8.6

<sup>479</sup> INQ/LPA/1 para 4.2.10.6

<sup>480</sup> INQ/LPA/1 para 4.2.10.4

<sup>481</sup> INQ/LPA/1 para 4.3.2.3

<sup>482</sup> INQ/LPA/1 paras 4.3.4.4

<sup>483</sup> INQ/LPA/1 paras 4.3.4.4, 4.3.4.5

elements of its setting also encompass the tranquillity of the area along with its visual relationship with Stratford-upon-Avon, particularly in views from Bordon Hill<sup>484</sup>. When making his assessment English Heritage's expert has properly commented on those matters that detract from the significance of the settings such as the noise of traffic. His assessment is consistent with that of the LPR inquiry Inspector, who shared the Council's view "*that the area around Anne Hathaway's Cottage can be described as being generally tranquil, quiet and peaceful although it is subject for much of the time to a noticeable amount of traffic noise.*"<sup>485</sup>

211. Step 3: English Heritage's expert has no doubt that the appeal proposals would have an adverse impact on the setting of the Cottage, Garden and Conservation Area to the detriment of visitors experiencing these heritage assets<sup>486</sup>. The proximity of the housing to the Cottage and Garden would disturb the tranquillity that is currently enjoyed by visitors. The housing would also affect the visual experience in terms of views into the Conservation Area from the west. The housing in Component B would also be visible from the orchard (certainly during the winter). Of greater impact would be the proposed SWRR. It would cut off the Cottage, garden, orchard and settlement of Shottery from part of its historic agricultural hinterland both physically and visually (in views from the west). Furthermore, the noise and light from the road would have a considerable impact on the tranquillity that is presently experienced in the garden and orchard, "*providing, effectively, an acoustic enclosure, where road noise will be noticeable irrespective of the wind direction.*"<sup>487</sup> English Heritage's expert considers the impact on the settings of these assets to be serious albeit not substantial<sup>488</sup>.
212. Step 4: This step is consistent with paragraph 134 of the Framework which requires the harm to be weighed against the public benefits of the proposal. When assessing those elements of the appeal proposals that might maximise the enhancement of the visitor experience and those that would minimise the harm caused, English Heritage consider the situation to have materially changed since the LPR inquiry. The benefits that were then perceived to flow from the SWRR to the enhancement of the heritage assets were the new car and coach parks, the opportunity to remove traffic from Cottage Lane (described by the Inspector as being of "*especial value*" and by the SBT as a "*major benefit*"<sup>489</sup>) and the introduction of other limited traffic improvement measures within Shottery<sup>490</sup>. The SBT now objects to the appeal proposals and those benefits that were previously perceived to outweigh the harm can no longer be placed into the planning balance. There would be no car and coach park, there is no proposal to remove traffic from Cottage Lane and the suggested traffic calming measures are not guaranteed<sup>491</sup>. Consequently, English Heritage concludes that the harm

<sup>484</sup> INQ/LPA/1 paras 4.3.6.1-4.3.6.5

<sup>485</sup> CD/B/3 para 749

<sup>486</sup> INQ/LPA/1 section 4

<sup>487</sup> INQ/LPA/1 para 6.4

<sup>488</sup> INQ/LPA/1 paras 4.5.1 & 6.5; evidence in chief

<sup>489</sup> CD/B/3 para 748

<sup>490</sup> CD/B/3 para 765

<sup>491</sup> Cross-examination of Mr Jones

caused to the heritage assets is not outweighed by the claimed benefits or proposed mitigation of the appeal scheme<sup>492</sup>.

213. Furthermore, the approach taken by English Heritage has been consistent since the LPR inquiry, as shown by the relevant correspondence<sup>493</sup>. This demonstrates that English Heritage's support for the scheme was subject to the proviso that it would bring "*major benefits to Shottery conservation area and the immediate vicinity of Anne Hathaway's Cottage by removing tourist and through traffic provided it was clearly linked to road closure of Cottage Lane*" and "*very much contingent on the relief road forming part of a wider package of traffic management and road closures for Shottery*"<sup>494</sup>. This position was confirmed in subsequent correspondence at that time<sup>495</sup>. When responding to the appeal application English Heritage noted the absence of these benefits. Its response was consequently that "*the scheme has not yet been justified in terms of bringing substantial benefits to Shottery, or to Anne Hathaway's Cottage, and their settings*"<sup>496</sup>. Its view has not changed.
214. The heritage experts agree that the setting of a heritage asset includes the manner in which it is experienced<sup>497</sup>. This requires an assessment of the tranquillity of that experience in the context of the Cottage, garden and orchard. Whatever that may be, the SWRR would introduce a new source of noise into that environment<sup>498</sup>. The impact and perception of that noise will depend upon a number of factors. These include matters such as wind direction and intensity of traffic but also the expectation of the receptors - in this case visitors to a heritage asset of international significance. The WHO guidance on noise<sup>499</sup> is not necessarily appropriate for a location of notable tranquillity. As the appellants' noise expert fairly agreed, if visitors expect tranquillity then they will be disappointed with noise intrusion irrespective of whether they are able to compare it to previous noise levels<sup>500</sup>. Furthermore, he accepted that visitors would be able to perceive the location of the new source, namely the SWRR to the west<sup>501</sup>. This tends to confirm that visitors to the garden and orchard would perceive the "*acoustic enclosure*" that English Heritage expects to adversely affect the tranquillity of their experience. The predictions in the increase in noise levels from points that surround the Cottage, garden and orchard<sup>502</sup> lend weight to this concern. It is also important to note that the predictions<sup>503</sup> take into account the proposed mitigation in the form of landscaping alongside the SWRR<sup>504</sup>. However, some of this landscaping is proposed on SBT land and therefore its delivery cannot be guaranteed.

<sup>492</sup> INQ/LPA/1 paras 4.5.1-4.5.5; 6.6

<sup>493</sup> INQ/LPA/2 Appendix 2

<sup>494</sup> INQ/LPA/2 Appendix 2 letter dated 7 August 2003

<sup>495</sup> INQ/LPA/2 Appendix 2 letter dated 10 November 2003

<sup>496</sup> INQ/LPA/2 Appendix 2 letter dated 18 December 2009

<sup>497</sup> INQ/APP/6 para 4.28; cross-examination of Dr Miele

<sup>498</sup> Cross-examination of Mr Zarebski

<sup>499</sup> CD/B/3 para 749; INQ/APP/8 para 5.1.11

<sup>500</sup> Cross-examination of Mr Zarebski

<sup>501</sup> Cross-examination of Mr Zarebski

<sup>502</sup> INQ/APP/9 p 64-66 Schedule 09/2250/SCH/B, ref points AP18-AP34 (of which increased noise levels above 1dB are considered minor, above 3dB are considered moderate and above 5dB are considered major according to p 17 Table 14.1)

<sup>503</sup> INQ/APP/9 p 22 Table 14.3

<sup>504</sup> INQ/APP/9 p 22 para 14.6.12

215. The assessment that accompanied the application<sup>505</sup> wholly failed to include any description of the settings to which it related<sup>506</sup>. Its conclusions that there would be no significant impacts were therefore not surprising<sup>507</sup>. Specifically, English Heritage's expert takes issue with the contention that the settings of the Cottage, garden and orchard do not extend to the relief road. The description provided in the Historic Parks and Gardens Register specifically refers to the western boundary and its connection to the agricultural land which rises gently to the south west towards Bordon Wood and the "*significant views west across the adjacent farmland from the orchard...*"<sup>508</sup>. The SWRR would fall within those views, and be clearly visible in views from the west.
216. The appellants' heritage expert agreed that most visitors to Anne Hathaway's Cottage are not concerned with the historical accuracy of the assets or their links to Shakespeare but their known association<sup>509</sup>. His evidence provides some interesting popular images and descriptions of the experience to be expected by visitors to the Cottage, Garden and Shottery, including references to "*an oasis of calm*"<sup>510</sup>; "*...the tranquillity of ...the Cottage Garden*"<sup>511</sup>; "*views across fields...escape into a peaceful oasis*"<sup>512</sup>; and "*...perhaps the most intimate place that remains in Shakespeare's world, unspoiled and full of the things he saw...*"<sup>513</sup>. The susceptibility of heritage assets to harm from change relates to their sensitivity rather than just their designation status. There can be doubt that Anne Hathaway's Cottage, its garden and orchard are particularly sensitive to adverse impacts arising from the proposed development and particular care must therefore be taken. The planning balance weighs heavily against the proposals. The impact on the heritage assets was previously justified by the benefits that were expected to accrue. That is no longer the case as confirmed by the objections from both English Heritage and the SBT.

### **The Effect on Tourism within the District**

217. The Framework provides that sustainable economic development is one of the core land-use planning principles that underpin both plan-making and decision-taking<sup>514</sup>. The Government is committed to securing sustainable economic growth and advises that this policy should be given significant weight<sup>515</sup>. The theme of sustainable economic development is also an essential element of the Government's Tourism Policy (2011)<sup>516</sup> and the Council's Corporate Strategy<sup>517</sup>, and is carried forward in the Council's draft Core Strategy<sup>518</sup>.

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<sup>505</sup> CD/A/3 Chapter 9; CD/A/3a

<sup>506</sup> CD/A/3 Table 9.6 (p 97)

<sup>507</sup> INQ/LPA/1 Section 5

<sup>508</sup> INQ/LPA/2 Appendix 3

<sup>509</sup> Cross-examination of Dr Miele

<sup>510</sup> INQ/APP/7 Appendix 4.3

<sup>511</sup> INQ/APP/7 Appendix 4.4

<sup>512</sup> INQ/APP/7 Appendix 4.5

<sup>513</sup> INQ/APP/7 Appendix 4.10

<sup>514</sup> CD/G/24 para 17

<sup>515</sup> CD/G/24 paras 18 & 19

<sup>516</sup> CD/SDC/17

<sup>517</sup> CD/SDC/5; CD/SDC/16

<sup>518</sup> CD/E/18

218. The Council's tourism expert, with considerable experience, highlighted the vital part that tourism plays as a key economic driver in the District<sup>519</sup>. The Shakespeare connection with Stratford-on-Avon was estimated to produce some 4.9m trips to Stratford in 2009, generating a business turnover related to tourism of over £421m and some 8,000 jobs<sup>520</sup>. Despite the downturn in the economy generally, the visitor numbers to the Shakespeare houses (including Anne Hathaway's Cottage) have risen consistently since 2007<sup>521</sup>. Significantly, almost two thirds of overseas visitors and one third of staying visitors have cited the Shakespeare houses as the main attraction for their visit<sup>522</sup>. Stratford-upon-Avon's unique collection of cultural and heritage assets associated with Shakespeare has enabled it to sustain a thriving economy that belies its relatively small size, as the cultural facilities, retail diversity and size of outlets demonstrate<sup>523</sup>. Furthermore, it is an essential component of the UK's international cultural appeal to overseas visitors as one of the 'Attract Brands' identified by Visit England<sup>524</sup>, and plays a key role in maintaining the existing UK tourism market as well as securing future growth in emerging markets<sup>525</sup>.
219. Consequently, this core economic resource should be treated with utmost care and a precautionary approach taken to ensure that there is no harm to it<sup>526</sup>. The intangible nature of the tourism attraction and the perishable nature of the product mean that proposals with the potential to have an adverse impact should be comprehensively consulted upon. This is best done through the development plan process<sup>527</sup>. Modern communication methods such as internet reviews can result in negative perceptions being spread very quickly<sup>528</sup>.
220. The potential risk to this key economic driver from the proposals should be contrasted with the potential economic benefits as described by the appellants. A report from Nathaniel Lichfield & Partners<sup>529</sup> predicts, among other things, 95 full time jobs and £2.7m expenditure from the new residents (the New Home Bonus and Council Tax would accrue to all development in the District). The report concludes that the development would consequently benefit the local economy. If, as the Council's experts predict, the appeal proposal would adversely impact on the visitor experience, then the potential harm to the District's principal economic driver would be irrecoverable and permanent. As such, this would be the opposite of sustainable economic development.

### Highways Impact

221. It is no longer part of the Council's case that the appeal proposals would have an unacceptable impact on highway and pedestrian safety<sup>530</sup>. However, for the reasons already explained, the adverse visual and aural impacts of the SWRR are no longer outweighed by the benefits that were previously anticipated.

<sup>519</sup> INQ/LPA/6

<sup>520</sup> INQ/LPA/6 para 4.4

<sup>521</sup> INQ/LPA/6 Appendix B

<sup>522</sup> INQ/LPA/6 para 5.7

<sup>523</sup> INQ/LPA/6 para 5.1-5; evidence in chief of Mr Holmes

<sup>524</sup> INQ/LPA/6 Appendix D

<sup>525</sup> INQ/LPA/6 para 5.8

<sup>526</sup> Evidence in chief of Mr Holmes

<sup>527</sup> INQ/LPA/6 section 6

<sup>528</sup> Evidence in chief of Mr Holmes

<sup>529</sup> INQ/APP/2 Appendix 9

<sup>530</sup> INQ/LPA/13

## Impact on Residential Amenity

222. The living conditions of existing residents would be adversely affected by the proposal<sup>531</sup>. Residents in Evesham Road would be subjected to major noise impacts i.e. an increase of more than 5dB in noise levels<sup>532</sup>. The impact would be exacerbated by the new roundabout, meaning that the pattern of noise generation would be constantly changing. These impacts cannot be dismissed lightly. There are appeal decisions which demonstrate situations where noise and disturbance generated by development traffic was considered to have an unacceptable impact on existing residents<sup>533</sup>. Small scale developments in those locations (with significant noise barriers) have subsequently been permitted<sup>534</sup>. However, they are very different in scale to the appeal proposal.
223. Although the appellants have agreed to purchase no. 2 Bordon Hill they do not own nos. 10 and 12<sup>535</sup>. The appellants' evidence indicates that a significant number of existing residences (7) in the vicinity would be subjected to major adverse noise impacts from the SWRR (especially in their gardens)<sup>536</sup>. The revised role of the SWRR means these adverse impacts should now weigh more heavily against the appeal proposals.

## Sustainability

224. The appeal site is in a reasonably accessible location for the purposes of services, employment, public transport, cycleways and public footpaths. This is simply because it is located on the edge of the urban area. However, for the reasons given above the appeal proposals do not represent sustainable development in environmental and economic terms when assessed against the core planning principles of the Framework<sup>537</sup>.

## Mitigation

225. There are concerns about the planning obligations<sup>538</sup>. In particular, SBT is not a party to the section 106, as set out below. Whilst the delivery of the SWRR could be addressed through the proposed Grampian condition, there is no such mechanism to ensure the delivery of the landscaping mitigation that is proposed on SBT land<sup>539</sup>. The importance of this mitigation is not only visual but was also assumed in the appellants' noise assessments<sup>540</sup>.

## Conclusion

226. There is no justification for the appeal proposals. There is no under provision of housing land in the District. Even if there was, this site would not make a contribution because the SBT objects to the development. The SWRR would not now deliver the benefits that justified the identification of the appeal site as a strategic reserve in the LPR. The impacts on the environment and the internationally significant assets are unacceptable. Those impacts have the

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<sup>531</sup> INQ/LPA/8 section 8

<sup>532</sup> INQ/APP/8 para 6.2.8

<sup>533</sup> INQ/LPA/10 Appendix 8

<sup>534</sup> INQ/APP/8b

<sup>535</sup> INQ/APP/31; CD/A/4a

<sup>536</sup> INQ/APP/9 Appendix APP/9/A p 27 Table 14.4

<sup>537</sup> INQ/LPA/9a

<sup>538</sup> INQ/LPA/22; INQ/LPA/24

<sup>539</sup> CD/A/15b

<sup>540</sup> INQ/APP/9 Appendix APP/9A para 14.6.12

potential to inflict permanent damage on the tourist experience. Consequently the proposals do not represent sustainable development in environmental and economic terms. These negative impacts demand that a precautionary approach is taken. The new planning environment requires a fresh approach to development on the appeal site. The Council is responding to the new Localism agenda but to allow the appeal proposal now would be premature and completely undermine the emerging DPD process. For these reasons the appeal should be dismissed.

## THE CASE FOR RESIDENTS AGAINST SHOTTERY EXPANSION

227. The main points are:

### Introduction

228. Residents Against Shottery Expansion is an informal residents' group. Its activities are co-ordinated by a steering group, and in addition there are around 40 participants who assist with communications. It has a database of 150 supporters' details. Of the 1,000 plus objections made to the planning application on submission, 453 were made in a format supplied by RASE but completed and sent independently, and another 275 objections to further consultation material were made in the same way<sup>541</sup>.

### The Development Plan

229. There is no significant extant local development plan policy support for the proposal. There are four reasons for this.

230. Firstly, policy STR.2A of the Local Plan Review 2006 (LPR) did not allocate the site, instead it was identified as a Strategic Reserve Site in case there was a shortfall in housing supply until the end of 2011. The appellants' planning expert was unable to dispute the reluctance of the Council in placing the site in strategic reserve<sup>542</sup>, as is evident in the history behind the inclusion of the proposal in the LPR<sup>543</sup>. His suggestion that distinguishing between 'identification' and 'allocation' is a "*distinction with no difference*" is clearly wrong. A site is 'allocated' if it is considered necessary and 'identified' if it is considered 'potentially' necessary, which is an important distinction. The supporting justification for policy STR.2A generally confirms that, whilst the LPR Inspector supported the "*allocation*" of the site in the Plan, the Council merely "*identified*" it as having a "*potential role*" in meeting housing needs post 2011<sup>544</sup>.

231. There was no housing shortfall during the Plan period. Housing targets were delivered well ahead of schedule, leading to a moratorium so that the site was not 'needed'. In relation to the Strategic Reserve Site policy also being to identify sites which have a "*potential role*" in meeting housing needs post 2011, that should be read in the context of the policy assumption that the Core Strategy process would review this need and the need for any Strategic Reserve Site to form part of the solution to meeting this need<sup>545</sup>. In this respect, the Third Draft Core Strategy<sup>546</sup> is clearly not envisaging that this site comes forward

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<sup>541</sup> INQ/RASE/1 section 1

<sup>542</sup> Cross-examination of Mr Jones

<sup>543</sup> INQ/RASE/1 para 1.7-1.8, INQ/RASE/3 Appendix 16

<sup>544</sup> CD/B/1 para 2.4.12

<sup>545</sup> CD/B/1 para 2.4.16

<sup>546</sup> CD/E/18

in the form proposed given the 560 unit cap it sets out for Stratford-upon-Avon. The Core Strategy process is thus on track to decide that the site is not actually needed, a process envisaged by policy STR.2A. No extant policy support can thus be claimed for the proposal on a careful analysis of policy STR.2A, as the reality is that the policy supports the Core Strategy process as being determinative of whether or not the site is needed post 2011.

232. The second reason is that the LPR is, in practice, significantly out of date. It is not a Development Plan Document pursuant to the 2004 Planning and Compulsory Purchase Act and contains policies that were clearly adopted with the intent of expiry at the end of the 2011 plan period. It is recognised that the Framework states that local plans "*should not be considered out-of-date simply because they were adopted prior to the publication of this Framework*"<sup>547</sup>. However, it is also clear that only "*due weight*" rather than "*full weight*" should be given to relevant policies in existing plans which are not post 2004 Act DPDs, and that such "*due weight*" should be "*according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*"<sup>548</sup>. The extent of incompatibility of the development proposals with a significant number of Framework policies is such that the "*due weight*" to be given to the LPR should be limited<sup>549</sup>. The appellants have set out the extent of compatibility with other Framework policies<sup>550</sup>. However, the incompatibility outweighs the compatibility, and the adverse impacts of the development proposals would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole in accordance with its provisions<sup>551</sup>.
233. Thirdly, there have been clear material changes of circumstance since the LPR inquiry such that the development proposals do not meet the strategic reserve policy in any event. These include:
- a) that the so-called "Stratford Western Relief Road" (which is a complete misnomer) would not provide the benefits previously claimed;
  - b) there are no proposals for a rear coach park to Anne Hathaway's Cottage;
  - c) there are no proposals for the closure of Cottage Lane.
234. All of these were considered by the LPR Inspector to be a fundamental pre-requisite to any potential development. However:
- a) the LPR Inspector's report highlighted that the Stratford Western Relief Road (SWRR) was supposed to be part of a package of town centre transport improvements which are not now being proposed<sup>552</sup>;
  - b) The LPR Inspector was clearly envisaging closure of Cottage Lane as part of the development proposals. The "*associated traffic calming measures in the Shottery area*" in his recommendation for proposal

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<sup>547</sup> CD/G/24 para 211

<sup>548</sup> CD/G/24 para 215

<sup>549</sup> INQ/RASE/7

<sup>550</sup> INQ/APP/1b

<sup>551</sup> CD/G/24 para 14

<sup>552</sup> CD/B/3 para 762



SUA.W must be read as including closure of Cottage Lane<sup>553</sup>, not just traffic calming of Cottage Lane which the appellants now assume will happen (though with no certainty that it would). This is consistent with the fact that the 2003 Scheme Assessment Study<sup>554</sup> did not include any assessment of the impact of the development on Cottage Lane in traffic terms as it was assumed to be closed;

- c) The Local Plan Inspector was clear that if these "*benefits*" were not being provided, alongside a road that provided genuine relief to Stratford-upon-Avon, the site was no better than any other housing site being promoted, as follows:
- "*The inherent nature of the Shottery package of proposals would lead to considerable improvements to the Conservation Area and in particular to the setting of Anne Hathaway's Cottage, a Listed Building of international importance.*"<sup>555</sup>
  - "*The new car and coach parks would have vehicular access from a roundabout on the SWRR. This would mean that vehicles for visitors to the Cottage would no longer have to use Cottage Lane, which would in turn provide an opportunity to remove all vehicular traffic other than emergency or service vehicles. This would very greatly enhance the character of the Conservation Area and setting of the Cottage as the noise and visual intrusion of vehicles on Cottage Lane is considerable, and the width and featureless environment of the road causes serious harm to the character of the area. I regard the opportunity for such enhancement as being of especial value, far outweighing any temporary harm caused during the execution of works and the maturing of new planting.*"<sup>556</sup>
  - "*... That would ensure that the most beneficial elements of the package – the SWRR and the associated improvements to the settings of Anne Hathaway's Cottage and the Shottery Conservation Area - would be implemented. Without them, it might be that neither of the two constituent housing areas would be regarded as being superior to other potential development sites, although, of the two, that to the south would be likely to be the less harmful.*"<sup>557</sup>

The potential for traffic calming (rather than road closures) in Shottery via a TRO process cannot be regarded as a substitute for "*removing all vehicular traffic other than emergency or service vehicles*" which underpinned the Inspector's judgment. In any event, what benefit the measures would have is questionable, and traffic calming may well be opposed<sup>558</sup>. Any TRO process would

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<sup>553</sup> CD/B/3 paras 748, 765,781 & 784

<sup>554</sup> CD/D/1

<sup>555</sup> CD/B/3 para 659

<sup>556</sup> CD/B/3 para 748

<sup>557</sup> CD/B/3 para 778

<sup>558</sup> INQ/RASE/1 paras 2.1.5-2.1.6, 3.7.2

need to undergo thorough public consultation, so cannot be assumed. No material weight can be given to this postulation.

- d) the County Council in July 2008 was opposed to closure of Cottage Lane<sup>559</sup>, and the response of the Conservation Officer of the District Council to the planning application also suggests opposition to it<sup>560</sup>.
- e) the LPR is clear<sup>561</sup> that traffic calming measures (which inherently would need the closure of Cottage Lane as envisaged by the LPR Inspector) were needed to "ensure" the effectiveness of the new link road and such closure is not now being proposed;
- f) the appellants could have, but did not, progress a traffic calming proposal as part of the planning application or in parallel with the planning application proposal<sup>562</sup>. This is because the appellants did not consider traffic calming was technically necessary as evidenced in the original 2009 Transport Assessment<sup>563</sup>. Traffic calming is belatedly being supported by the appellants on the basis of seeking to comply with policy SUA.W. However, the uncertainty as to the nature and extent of any traffic calming, that it would need to include closure of Cottage Lane to accord with what was envisaged by the LPR Inspector but does not, and the uncertainty on whether any traffic calming would be approved, means that policy compliance cannot credibly be established.

235. Fourthly, the previous Local Plan Inspector (Mr Golder) in his 1997 inquiry into the Stratford District Local Plan<sup>564</sup> expressed particular concerns about the benefits of the so-called "Western Relief Road" and the harm to the landscape setting which would occur, which it turns out were right. The Inspector said:

*He was "not persuaded that ... the traffic benefits which might arise from the WRR, both in terms of timescale and overall effect, are sufficient to justify the considerable detriment to the town of the construction of the SWSS along a greater part of the western periphery".<sup>565</sup>*

*"I am not convinced that in practice the WRR is required to achieve a satisfactory level of relief in the town or that the level of benefits with the WRR, would be such as to lead to substantially better highway conditions. Furthermore, I see no sound reason why traffic management measures could not help to alleviate some of the difficulties in Shottery village".<sup>566</sup>*

*"Taken overall I consider that the western periphery of the town has many important features. The landscape is of a quality which rightly suggests its inclusion within the SLA. In principle, this quality should be protected for its own sake. The gently undulating and rising landform provides an attractive landscape for the town and very satisfactorily contains the urban area, especially where the town edge is weakest. To the south, the town edge is*

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<sup>559</sup> INQ/RASE/11 p 3

<sup>560</sup> CD/A/20 p 58

<sup>561</sup> CD/B/1 para 7.15.47

<sup>562</sup> Cross-examination of Mr Jones

<sup>563</sup> CD/A/10

<sup>564</sup> CD/RASE/17

<sup>565</sup> CD/RASE/17 para 9.43.28

<sup>566</sup> CD/RASE/17 para 9.43.27

*strong and attractive, and in the vicinity of Shottery the openness of the countryside is taken into the urban area through the spaciousness and loose-knit form of the village. All in all I believe these features add up to a periphery of the town which performs very well in terms of the relationship between town and country, and one which has a quality which should be safeguarded".*<sup>567</sup>

These remain key reasons why the development proposals should be refused<sup>568</sup>. The appellants' landscape expert agreed that there have been no significant landscape alterations to the site since the 1997 District Local Plan inquiry<sup>569</sup>. The views of Local Plan Inspectors on landscape matters can be influenced by the context in which they are being asked to consider the proposals<sup>570</sup>.

### **Housing Provision in the District**

236. The adequacy of the provision target for dwellings in the District against which to calculate a 5 year housing supply is clearly a matter for the Local Plan examination process. The Third Draft Core Strategy sets out a housing provision of 8,000 new homes<sup>571</sup>. This is compatible with Option 3 set out in the GL Hearn report<sup>572</sup>. It is also compatible with the RSS Panel's report which set a dwelling provision of 7,500 new homes for the Stratford-on-Avon District Core Strategy and recommended that the Core Strategy review process "*consider the options available*" to the extent further provision is needed<sup>573</sup>. The appellants' planning expert was unable to dispute that the Local Plan review process is able to deal with any necessary increase (if any) in the housing provision over 7,500 or 8,000 new homes as recommended by the RSS Panel report<sup>574</sup>.

237. The appellants have not produced any of their own evidence as to the housing provision needed for the District, rather relying on other options set out in the GL Hearn<sup>575</sup> report and the Chelmer projections provided by the appellant in an appeal relating to a proposal at Kipling Road<sup>576</sup>. The reality is that the extent of differences in terms of assessments as to the housing provision needed for the District largely rests on the extent of in-migration into the District. The unchallenged evidence of RASE<sup>577</sup> is that:

- a) The Chelmer projections in the Kipling Road inquiry vary considerably depending on the amount of in-migration and out-migration assumed, for example one scenario showed a net in-migration of 500 per annum (p.a.) in 2010 and subsequent years, leading only to a need for 7,587 dwellings from 2008 to 2028<sup>578</sup>. That level of net in-migration is realistic for a prolonged 'coming out recession' period, as is evidenced by the average net in-migration

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<sup>567</sup> CD/RASE/17 para 9.43.24

<sup>568</sup> INQ/LPA/3

<sup>569</sup> Cross-examination of Mr Rech

<sup>570</sup> Evidence in chief of Mr Brown and Mr White

<sup>571</sup> CD/E/18

<sup>572</sup> CD/E/12

<sup>573</sup> CD/E/2

<sup>574</sup> Cross-examination of Mr Jones

<sup>575</sup> CD/E/12

<sup>576</sup> CD/F/13

<sup>577</sup> INQ/RASE/1

<sup>578</sup> INQ/RASE/3 Appendix 1

between 1994-99 when coming out of the last recession where in-migration averaged 520 p.a.<sup>579</sup>. It is clear that the UK economy is in a 'double dip' recession and recovery will be significantly slower than with previous recoveries from recession. A level of net in-migration of 500 p.a. is not unrealistic, particularly when it is evident that net in-migration decreases in economically difficult times<sup>580</sup>. These matters are best examined as part of the forthcoming Core Strategy process.

- b) The Chelmer projections were also based on 2008 household data (reported in 2010) and thus do not take into account the prolonged recession since. This, as above, is likely to have led to a reduction in net inward-migration, which may well be below the average assumed and potentially lower than the net in-migration scenario of 500 p.a. as evidenced by the 2008-09 period when only 200 p.a of net in-migration was experienced.
- c) In any event, the Chelmer projections are purely trend based and do not take into account the future implications of local policy. One of the specific aims of the Council's Cabinet decision on 5 September 2011 to adopt a housing target of 8,000 for 2008 to 2028 is to reduce net inward-migration<sup>581</sup>.
- d) The Inspector in the Kipling Road decision<sup>582</sup> did not say that the projection of 12,000 new dwellings was reliable and robust, rather that the Chelmer projections methodology was reliable and robust. This is an important distinction as the reliability and robustness of the Chelmer projection itself depends on the assumptions input into it, as illustrated above. Given that the Council did not seek to deal at all with the appellant's evidence at the Kipling Road inquiry, the Inspector's decision in that case was not founded on properly tested evidence. These matters will need to be properly examined as part of the Local Plan process.

238. In relation to the wider conclusions of the GL Hearn report, it can be observed that:

- a) there was a lack of critical infrastructure constraint information provided to GL Hearn<sup>583</sup>;
- b) there was acknowledgement of further assessment being needed in relation to the deliverability of the scale of development contemplated<sup>584</sup>;
- c) there was acknowledgement that a reduction of in-migration in a policy driven scenario would lead to a much reduced housing requirement, e.g. 8,200 dwellings being needed from 2008 to 2028 as shown in Option 3, which could be justified as part of a sub-

<sup>579</sup> CD/E/12 Figure 4.9 p 39

<sup>580</sup> CD/E/12 significant reductions in 2007-8 and 2008-9 in Figure 4.9 p 39

<sup>581</sup> CD/E/16b

<sup>582</sup> CD/F/13

<sup>583</sup> CD/E/12 para 8.19 p 82

<sup>584</sup> CD/E/12 e.g. para 9.7 p 84

regional strategy to support regeneration of the Metropolitan areas<sup>585</sup> (and would also respond to the infrastructure constraints, which are acute in Stratford-upon-Avon);

- d) the "*displaced demand*" which the report cites as a concern is likely to be depressed by the ongoing difficult economic climate. The appellants have produced no evidence as to the effect that the recession and the anticipated slow rate of recovery will have on demand. However, it is reasonable to assume that demand will be depressed due to the lack of availability of mortgage finance and tough economic conditions. Where demand exists, householders will be looking for areas of lower house prices than in Stratford-on-Avon District (and particularly in Stratford-upon-Avon itself). The appellants also presented no evidence that adjoining authorities in Warwick District, Coventry, Redditch and Worcestershire do not all benefit from lower and more affordable house prices than in Stratford-upon-Avon. It is reasonable to conclude that such areas would be well placed to help accommodate any unexpected demand if 8,000 dwellings proved an under-provision in Stratford-on-Avon District. All authorities are able to review housing provision requirements during their Local Plan reviews, as envisaged by the RSS Panel, so any need to cater for any 'displacement effect' would only be short term;
- e) the assumption that ageing population means less economic activity is overly simplistic, ignoring the extensions to retirement age and the job creation generated by ageing population.

239. There is not sufficient evidence at this time to increase the target from the RSS Panel recommendation of 7,500 new homes for the District. These issues, amongst others, including the variety of alternative sites for housing allocations in the District<sup>586</sup>, will be examined on a District-wide basis as part of the Local Plan process. They should not be pre-determined by any premature grant of planning permission for the appeal scheme.

#### ***Adequacy of 5 year housing supply***

240. It is clear that, now the District's housing moratorium<sup>587</sup> has been lifted, the housing supply for the District is being rapidly replenished.

241. On the basis of a 7,500 target (the RSS Panel recommendation) or an 8,000 target (the draft Core Strategy recommendation), the Council's evidence is that there is a 5 year housing supply (plus 5% to be brought forward from later in the plan-period) as required by the Framework<sup>588</sup>. RASE supports this evidence.

242. A windfall allowance should be included in the 5 year housing supply assessment in line with the Framework<sup>589</sup>. There is clearly "*compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply*". The Council's assessment has

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<sup>585</sup> CD/E/12 e.g. para 9.14 p 85

<sup>586</sup> INQ/RASE/1 sections 1.28-1.30

<sup>587</sup> CD/C/3

<sup>588</sup> INQ/LPA/17

<sup>589</sup> CD/G/24 para 48

complied with the Framework's advice. The appellants' planning expert could point to no reason why expected future trends would be likely to differ from previous windfall delivery rates<sup>590</sup>, and the Council has had regard to the SHLAA<sup>591</sup>.

243. There has clearly been no "*record of persistent under delivery of housing*" in Stratford-on-Avon District<sup>592</sup>. The appellants' planning expert's attempt to claim that the lower delivery of housing during the moratorium period amounted to such a record is without foundation. The moratorium was put in place due to the over-provision of housing and there was bound to be lower housing delivery during that period. Since the moratorium has been lifted, there has been a strong flow of housing sites coming forward. The SHLAA reservoir of sites is also extensive and is being reviewed again. There can be no credible suggestion that there is likely to be a shortage of deliverable development sites within the District coming forward within the next five years without the appeal site. On the contrary, sites are coming forward very rapidly and the Council has a very strong track record in helping deliver new homes. This is not a "*persistent under delivery of housing*" case.
244. In terms of the further 'discounts' which the appellants sought to apply to the Council's figures by excluding certain sites<sup>593</sup>, the following points are made:
- a) The Council has provided strong evidence that the Tiddington Road and Maudslay Park developments consist of individual units with their own entrances and that a finely balanced technical 'use class' C2/C3 distinction<sup>594</sup> does not alter the position that these units provide 'dwellings' for residents in terms of the housing supply. Case law reinforces the position that a C2 use satisfies a residential use local plan policy classification<sup>595</sup>.
  - b) Although there has been a decline in the flatted market since 2007, the promoters of the Cattle Market site on Alcester Road, which has planning permission, are continuing to actively discuss with the Council how the site can best be brought forward in terms of housing mix<sup>596</sup>. The site has clearly not been 'abandoned', and in reality is likely to receive an amended planning permission shortly and deliver within the 5 year period. There is no credible evidence presented to the contrary by the appellants.
  - c) If the Chestnut Street development is to be excluded on the basis of being a flatted scheme, similarly 25% of the affordable housing units in the appeal scheme ought to be discounted on the basis that the section 106 obligation<sup>597</sup> indicates that they would be flats. It is simply not credible to say that there is not a market for 7 flats in Stratford-upon-Avon in the next 5 years.

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<sup>590</sup> Cross-examination of Mr Jones

<sup>591</sup> CD/F/1b

<sup>592</sup> CD/G/24 para 47

<sup>593</sup> INQ/APP/36

<sup>594</sup> INQ/APP/30; INQ/LPA/21

<sup>595</sup> INQ/RASE/16

<sup>596</sup> INQ/APP/51

<sup>597</sup> INQ/APP/53

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***Contribution of the appeal development to the housing supply***

245. The appellants' claim that the appeal site would deliver 400 homes within the first 5 years<sup>598</sup> is not agreed. No evidence has been presented as to how these are realistic delivery rates in terms of construction programme and market absorption of sales. No breakdown of how many homes would be built in the northern parcel and the southern parcel has been provided.
246. Neither Bloor Homes nor Hallam Land currently has the financial standing to develop the scheme. Bloor Homes Limited made a £2.1million loss in 2010 on a turnover of £54.916million, and £876,000 loss in 2011 on a turnover of £301.372million<sup>599</sup>. Bloor Homes Limited is the housing division of the Bloor Homes group and the appellant is just a shelf company with no significant assets. Hallam Land Management Limited made a loss of £2.636 million in 2009 on a turnover of £10.181 million and a profit of only £88,066 on a turnover of £33.893 million in 2010<sup>600</sup>. The depreciation in land values and poor trading conditions have clearly eroded both appellants' ability to deliver schemes or sell on schemes profitably. No viability evidence has been presented to the contrary by the appellants. The appellants' response to these points<sup>601</sup> does not provide any indication of the rate of delivery of schemes. It illustrates that no scheme has delivered 400 new homes in a single location in a 5 year period and fails to provide any information where that has been achieved.
247. Hallam Land is not a house-builder itself and needs to sell its land-holding to a variety of house-builders (at least 3 according to the 'multiple starts' approach proposed by the appellants) which would take a significant amount of time. The oral evidence of the appellants' planning expert<sup>602</sup> was that between Bloor Homes and Hallam Land only one sub-housebuilder has agreed a sale or development agreement with them to date. A variety of RSL Partners would need to be sourced and there remains considerable uncertainty over housing grant at present. Neither appellant would be likely to progress the discharge of over 30 pre-commencement Grampian conditions<sup>603</sup> without having secured sub-developers and RSL Partners first, since the financial outlay would be at risk and also potentially incompatible with the designs preferred by the sub-developers and the RSL Partners.
248. The SBT land, which is needed for the scheme, is not under the appellants' control, and the SBT objects to the scheme<sup>604</sup>. The SBT makes it clear that this is not an objection on 'development control' matters:

*"As you know, the Trust is objecting to the Scheme and has made no deals with anyone. In our statement we clearly affirm that, despite all the mitigation, the Trust believes that this Scheme will have a harmful impact on the setting of the Cottage and that was confirmed by English Heritage at the Inquiry. It is not up to the Trust to decide where housing should be built in*

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<sup>598</sup> INQ/APP/1 para 4.19

<sup>599</sup> INQ/RASE/5

<sup>600</sup> INQ/RASE/6

<sup>601</sup> INQ/APP/40

<sup>602</sup> Evidence in chief of Mr Jones

<sup>603</sup> INQ/LPA/23

<sup>604</sup> INSP/1 statement of 15 March 2012, INQ/APP/15, INQ/APP/16, INQ/RASE/17

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*Stratford District. However, we are doing our utmost to defend the interests of the Cottage at all times.*" <sup>605</sup>

The SBT clearly considers that the development would adversely impact on the setting of Anne Hathaway's Cottage. Given the Trustees' duties to preserve the SBT's historic houses and gardens, there can be no reasonable degree of confidence that the SBT would sell its land to the promoters and thus no reasonable degree of confidence in any delivery, let alone early delivery, of the development. The SBT is not in practice susceptible to compulsory purchase as no 'compelling case' in the public interest could credibly be established given the protective purposes for which the Trustees originally purchased the land and the availability of alternative sites.

249. The appellants seek to rely on a planning condition<sup>606</sup> requiring a highways agreement to be signed with the County Council, together with (it is assumed but not confirmed) a financial bond, for delivery of the road prior to commencement as comfort that the road would be developed. However, as drafted there is no requirement in the condition that the SBT would need to be a party to the highways agreement as landowner. There is clearly a risk that, in the absence of a Grampian condition requiring the SBT's land to be bound into the section 106 agreement (which is not proposed), then the development could be commenced but the road never fully constructed. This amounts to an unlawful approach to EIA mitigation in that there is not a sufficient degree of confidence that mitigation would be secured.

250. In any event, the lack of SBT's agreement to sell its land is an impediment to delivery of the proposal which militates against it in terms of deliverability by comparison with alternatives to be considered in the Local Plan process. The appellants also notably do not have any agreement with SBT regarding management and maintenance of the field between Anne Hathaway's Cottage rear orchard and sculpture garden and the proposed link road.

### **Prematurity**

251. How many homes and where they should be sited in the District are clearly matters for the Local Plan process and the Neighbourhood Plan process.

### ***Weight to be given to the Third Draft Core Strategy***

252. The Local Plan process has reached the Third Draft Core Strategy<sup>607</sup> stage. It should be given significant weight as:

- a) it is the final draft pre-submission of the Local Plan for public examination and adoption;
- b) it is founded on a suite of evidence base studies produced since the second Draft Core Strategy<sup>608</sup> stage and on two rounds of public consultation;
- c) it is a progression of the First Draft Core Strategy and Second Draft Core Strategy, which both contained dispersal policies<sup>609</sup> that have received majority consultee support;

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<sup>605</sup> INQ/RASE/17

<sup>606</sup> INQ/LPA/23 draft condition 10

<sup>607</sup> CD/E/18

<sup>608</sup> CD/E/9



- d) it has not been "*rushed out*" to deliberately frustrate the appeal proposals as suggested by the appellants' planning expert<sup>610</sup>, but has been published in response to the evidence base studies and the public consultation process and taking into account the Localism Act 2011. It gives greater weight to the need to guard against excessive and inappropriate development in Stratford-upon-Avon itself than the previous versions, but that is in response to the weight of consultation and evidence produced since they were published.

253. The Appellants have objected to several elements of the Third Draft Core Strategy<sup>611</sup>. These objections need to be tested, alongside all other representations, during the Local Plan examination process. It is clearly premature and inappropriate to pre-determine the outcome of that process at this stage, but due to the stage the Core Strategy has reached it should be given significant weight. The proposals can be considered to be "*so substantial that granting permission would prejudice the DPD by predetermining decisions about the scale, location, or phasing of new development which are being addressed in the policy in the DPD*"<sup>612</sup>.

#### ***Weight to be given to the Neighbourhood Plan process***

254. The Neighbourhood Plan process for Stratford-upon-Avon has made significant progress<sup>613</sup>:

- a) The Neighbourhood Plan Steering Group has been operational since summer 2011 and making good progress for several months;
- b) The Neighbourhood Plan consultation has been undertaken and the consultation report published. 1,568 valid responses were received and the consultation supported either no new housing in Stratford-upon-Avon or a limit on development size to 100 or 50 homes. There was a clear recognition of the infrastructure constraints in Stratford-upon-Avon and the detrimental effect further development would have on its historic character and landscape setting;
- c) The chairman of the Neighbourhood Plan Steering Group has confirmed that:
  - i. The current timetable is to have a draft Neighbourhood Plan towards the end of 2012, then verify the draft through further consultation before putting it to independent review and a referendum in late spring 2013;
  - ii. The Steering Group is large (approximately 40 people) and is made up of representatives from existing organisations and societies as well as interested residents. The actual drafting of the plan is largely delegated to Working Parties which are looking at:
    - Housing and Planning

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<sup>609</sup> CD/E/8 p 13 & CD/E/9 p 25 respectively

<sup>610</sup> Evidence in chief of Mr Jones

<sup>611</sup> INQ/APP/17

<sup>612</sup> CD/G/23 para 17

<sup>613</sup> INQ/RASE/14

- Infrastructure
  - Mature Stratford
  - Young People and families
  - Business and Tourism
- iii. There are also functional Working parties covering:
- Consultation and Communication
  - Statistics and data collection
  - Finance
- iv. The Steering group meets monthly and there are further monthly meetings for each of the working parties and the Management Group which is made up of the Working Party Chairs. Most of the Working parties have now drafted and presented documents setting out their initial ideas. This process has identified areas of common ground and also issues which will need further consideration and detailed consultation.
- v. The general view of most people who are involved in this process is that overdevelopment of Stratford-upon-Avon and associated loss of character should be resisted.
255. Experience with the Dawlish Neighbourhood Plan confirms that it is realistic for a Neighbourhood Plan to be promoted to examination in the timescales envisaged above.
256. Over 1,000 objections have been made to the appeal development proposals<sup>614</sup>, and residents have shown repeated opposition to further large housing developments in Stratford-upon-Avon (for example, the Town Poll referred to by Stratford Voice's representation to the inquiry<sup>615</sup>, previous responses to the First and Second Draft Core Strategy documents, as well as the Neighbourhood Plan survey<sup>616</sup>).
257. In contrast to the Government's objectives in terms of local engagement and neighbourhood planning, the appellants:
- a) have undertaken only one single consultation event in 2009 (which is surprising given the extent of the local concerns raised);
  - b) not fully reported the outcome of that event (the Statement of Community Involvement<sup>617</sup> gives no indication of the results of the consultation in terms of numbers supporting, objecting or commenting);
  - c) not engaged with RASE or with any significant number of local residents;

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<sup>614</sup> CD/A/20 p 19

<sup>615</sup> INQ/TP/5

<sup>616</sup> INQ/RASE/14

<sup>617</sup> CD/A/14

- d) belatedly attempted to undertake a misleading and skewed 'doorstep' survey;
- e) not presented their case or been available to answer questions at the planning committee<sup>618</sup>;
- f) sought to influence the consultation process on the Core Strategy by a mass distribution of a mail-shot<sup>619</sup> containing a host of errors (not denied by the appellants) which the Council could only correct late in the process<sup>620</sup>.

These are not the actions of promoters acting in accordance with the Localism and Neighbourhood Planning agenda.

258. The proposal represents approximately a 10% increase in housing in the town and 10% of the overall District housing target of 8,000 new homes in the plan period. It has strategic implications and carries clear housing 'delivery' risks given the housing supply in the town would be largely reliant on just one site to come forward. To grant permission for this would fly in the face of the purpose of the Neighbourhood Plan process, which is for local communities to help shape development in their area. It would be manifestly premature and prejudicial to the Neighbourhood Plan process.

259. It is noted that the Secretary of State has recently issued several decisions refusing planning permission for major housing schemes as being premature with respect to the Local Plan and Neighbourhood Plan process<sup>621</sup>.

### **Landscape Impact**

260. The Framework reiterates the need to recognise the "*intrinsic character and beauty of the countryside*"<sup>622</sup>. That was carefully considered for inclusion following consultation on the draft Framework and its importance should not be under-estimated.

261. A host of landscape experts have now confirmed that the proposals would have an unacceptable impact on the important landscape surrounding the site. These are:

- a) the experts presenting evidence to the 1997 District Local Plan inquiry and the Inspector's report<sup>623</sup>;
- b) the White Consultants Landscape Sensitivity Study for the District of July 2011<sup>624</sup>;
- c) the Council's witness on landscape matters for this inquiry<sup>625</sup>.

262. The Stratford-Upon-Avon Town Design Statement, adopted by the Council as supplementary planning guidance in 2002, states that:

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<sup>618</sup> INQ/APP/1 para 5.60

<sup>619</sup> INQ/LPA/11

<sup>620</sup> INQ/LPA/12

<sup>621</sup> CD/RASE/4-7a

<sup>622</sup> CD/G/24 para 17

<sup>623</sup> CD/RASE/17

<sup>624</sup> CD/E/13

<sup>625</sup> Mr White; INQ/LPA/3

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*"the fields on either side of Bordon Hill should be protected in perpetuity and the panoramic view preserved".<sup>626</sup>*

263. The SBT objects to the impact on the landscape setting of Anne Hathaway's Cottage and Garden<sup>627</sup>.
264. The 'iconic' view down Bordon Hill would be marred by housing and a roundabout, with its attendant direction signage<sup>628</sup> and possibly safety signage<sup>629</sup> as well as lighting columns. The view from the Royal Shakespeare Theatre Tower and elsewhere in and around the town would include urbanisation creeping up the Bordon Hill section of the town's backdrop<sup>630</sup>.
265. The Landscape Sensitivity Study highlights that out of the 141 sites in the District assessed:
- 5 are in the 'medium to low' sensitivity category (3.6%)
  - 29 are in the 'medium' sensitivity category (20.5%)
  - 64 are in the 'medium to high' sensitivity category (45.4%)
  - 43 are in the 'high' sensitivity category (30.5%)<sup>631</sup>
- This illustrates that 69.5% of the sites assessed have less than 'high' landscape sensitivity, whereas part of the appeal scheme is in a 'high' sensitivity category. In terms of alternatives, therefore, there are 69.5% of sites in the District which are less sensitive in landscape impact terms than a key part of the appeal site. This illustrates why the Local Plan process should not be pre-determined at this stage.
266. In relation to the claimed benefit for the undergrounding of powerlines, there is a risk that the suggested condition requiring this<sup>632</sup> would be varied by way of a future section 73 application as the appellants have been careful to avoid including these works in the description of development. Were the undergrounding part of the description of development as well, there would be the added protection of the appellants being unable to deviate from that without breaching the 'Wheatcroft' principle. Given the history of the promoters of the scheme arguing for flexibility in respect of the undergrounding at the LPR inquiry, the repeated lack of commitment to it within the application documents and its continuing omission from the description of development, the weight to be given to this claimed benefit needs to be put into context. In addition, the landscape assessment does not take into account the new powerlines to be installed where any undergrounding 're-emerges'.
267. Those familiar with the historic landscape of the appeal site include the Council, Parish Councils, local residents and the SBT. All object to the harm to the landscape. The assessment of the appellants' landscape expert concentrated on the experience of the visitor (for example arriving into Stratford-upon-Avon at the top of Bordon Hill) but ignored local residents and those who travel into work

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<sup>626</sup> CD/C/6 p 32

<sup>627</sup> INSP/1 statement of 15 March 2012, INQ/APP/15, INQ/APP/16, INQ/RASE/17

<sup>628</sup> INQ/LPA/5 Appendix SWQ

<sup>629</sup> Cross-examination of Mr Boileau

<sup>630</sup> INQ/RASE/3 Appendix 9

<sup>631</sup> CD/E/13 Table 1

<sup>632</sup> INQ/LPA/23 condition 41

in the town, and he conceded that weight needed to be given to their experience as well<sup>633</sup>.

268. He also agreed that the aerial visualisations<sup>634</sup> are not accurate. They do not accurately show the density and typologies of the development nor other features such as lighting and street signs<sup>635</sup>. A number of his viewpoint photographs<sup>636</sup> do not contain a full view, rather a partial view in one direction.

269. The appellants' landscape expert conceded that the proposals effectively represent the edge of acceptability, agreeing that no more development ought to be permitted any higher up Bordon Hill<sup>637</sup>. Although the LPR Inspector felt that mitigation may be possible, the Council's landscape expert considered that he was being over optimistic<sup>638</sup>. Significant weight should be given to the views of local communities in respect of landscape impact. This was acknowledged by the appellants' landscape expert who felt that public consultation was an important part of the landscape impact assessment process<sup>639</sup>. The public, English Heritage, the SBT and the Council all consider that there would be a harmful landscape impact from the development and that the proposals should be refused.

### **Heritage Setting Impact on Anne Hathaway's Cottage and Registered Garden and the Character of Shottery Village**

270. The proposals would have an unacceptable heritage impact on the setting of Anne Hathaway's Cottage, which is a Grade 1 Listed Building and has a Grade II Registered Garden. The world famous tourism importance, as well as heritage importance, of Anne Hathaway's Cottage and Registered Garden means a strongly precautionary approach should be taken to impact<sup>640</sup>.

271. Taking heritage, landscape or tourism risks with Anne Hathaway's Cottage and Registered Garden is not acceptable, particularly given that the Local Plan and Neighbourhood Plan process should consider alternatives. It is not credible that there are not better alternative housing sites than one which risks damaging these heritage assets and their settings in any way.

272. The SBT objects to the proposal<sup>641</sup>. It has not made available the land it owns to the rear of the Cottage for mitigation purposes, and is understood to be satisfied with access to the Cottage without the proposed rear access provided by the link road. It would be odd, and likely to be a breach of the Trustees' duties, for the SBT to sell the land which the SBT specifically purchased to protect the Cottage and its gardens. It clearly does not wish this development to proceed.

273. In visual impact terms:

- a) The list entry for the Registered Garden highlights that "*...the western boundary of the orchard adjoins agricultural land which rises gently to the south-west towards Bordon Wood, and west towards*

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<sup>633</sup> Cross-examination of Mr Rech

<sup>634</sup> INQ/APP/4&5 Figures 31 & 32

<sup>635</sup> Cross-examination of Mr Rech

<sup>636</sup> INQ/APP/5a

<sup>637</sup> Cross-examination of Mr Rech

<sup>638</sup> Cross-examination of Mr White

<sup>639</sup> INQ/APP/3 para 5.35

<sup>640</sup> Cross-examination of Mr Molyneux and Mr Holmes

<sup>641</sup> INSP/1 statement of 15 March 2012, INQ/APP/15, INQ/APP/16, INQ/RASE/17

*Hansel Farm and Gretel House. The site slopes gradually west up from the roadside boundary to the west boundary of the orchard, and there are significant views west across the adjacent farmland from the orchard...*"<sup>642</sup>. The importance of the views is significant.

- b) the rear view across the field up to the top of Bordon Hill is clearly visible from, and visually connected to, the Garden. It is not (as suggested by the appellants) only visible if peering through the hedge. This was plainly evident on the accompanied site visit;
  - c) the raised bund for the link road, with planting on top or adjacent, would bring the distant horizon at the top of the hill into the near distance, significantly foreshortening the view from the Garden;
  - d) the field retains medieval features that would be damaged by the bunding<sup>643</sup>;
  - e) attractive mature trees and hedges would be lost as a result of the cutting and bunding;
  - f) the Woodland Walk, an important tourist attraction as indicated by the SBT advertising leaflets<sup>644</sup>, would be damaged by the roundabout to the rear of the Cottage and there would be an inevitable sense of the nearness of the road and the acoustic screening. The southern development would be visible from parts of the Woodland Walk, creating an impression of being within a housing development rather than having rural vistas through the trees;
  - g) mitigation through planting would take many years to mature, during which time there would be further harm to the visitor experience.
274. An expert heritage report<sup>645</sup> concludes that the orchard, garden and landscaping deserve particular protection and would be damaged by the development proposals. The appellants' heritage expert is not a qualified archaeologist<sup>646</sup>, and this needs to be taken into account when assessing his criticisms of this evidence<sup>647</sup> given the author's credentials and experience in this area.
275. In noise impact terms:
- a) The appellants' noise expert conceded that noise impact during construction will last for many years<sup>648</sup>. He also agreed that:
    - by the time development is completed, traffic levels would have grown<sup>649</sup>. More traffic would mean more noise at Anne Hathaway's Cottage and its Registered Garden. The existence of the new link road would, as it becomes more congested over time, inexorably increase noise levels;

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<sup>642</sup> INQ/LPA/2 Appendix 3

<sup>643</sup> INQ/RASE/3 Appendix 4

<sup>644</sup> INQ/APP/7 Appendix 4.5

<sup>645</sup> INQ/RASE/3 Appendix 4

<sup>646</sup> Cross-examination of Dr Miele

<sup>647</sup> INQ/APP/6b

<sup>648</sup> Cross-examination of Mr Zarebski

<sup>649</sup> INQ/APP/10 para 6.27

- no account is taken of maximum noise levels in the noise assessment, only average noise levels. Maximum noise levels may well be greater (such as acceleration of HGVs from the roundabout access to the rear of the Cottage).
- b) With respect to the proposed 'low noise surface' for the road, it is apparent that<sup>650</sup>:
- the type of thin road surfacing material relied upon by the appellants is unspecified and different types produce different results;
  - the actual benefits (or otherwise) of low-noise surfaces will vary depending on location and scheme specific factors. Some of the relationships used (such as between surface condition and noise) have not been formally investigated; more research would be required before the modelling can be considered comprehensive and robust;
  - for thin surfacings, results for light vehicles and medium speed roads show an estimated increase in noise of 0.5dBA per year (i.e. a loss of 0.5dBA effectiveness per year). There are no results available for other speed roads or for heavy vehicles. The noise benefits are therefore only very temporary;
  - all local authorities reported problems with the durability of Thin Stone Mastic Asphalt (TSMA), casting doubt as to whether it would be chosen by the local highway authority in any event. Indeed, the research highlighted that most authorities report that traditional Hot Rolled Asphalt (HRA) is the most cost-effective surface material. Although the initial costs are higher there is a longer life expectancy than the TSMA which means less maintenance and therefore reduced costs in the longer term;
  - in heavier rain, the texture on some types of low noise surfacing can be rapidly flooded; this might have implications for an increased risk of aquaplaning (if adequate surface levels are not designed), which is relatively rare on other older types of surfacing;
  - it has also been speculated that low-noise surfaces could lead to increased risks because of the way in which drivers might respond. For example, the quiet, smooth ride that these surfaces could offer could lead some drivers to increase speed. This could negate any advantages of improved skid resistance (such as might be offered by smaller aggregates) or exacerbate the effects that are already known, thus increasing accident rates;
  - the principal observed fault of thin surfacing systems is fretting, with it being evident on nearly 90% of all sites

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<sup>650</sup> INQ/RASE/13

visited by the time they were 12 years old. This was followed by cracking, with a significant proportion (18%) of sites showing signs of this after three years in service.

All this evidence from research cited by the appellants<sup>651</sup> illustrates the dangers of relying on any noise assessment dependent on a thin road surfacing material being applied to the link road. Any low road surfacing (if chosen) would clearly deteriorate and may not be replaced in the future by the local highway authority.

- c) No account is taken in the noise modelling of speeding on the link road<sup>652</sup>, and speeding would create significant noise increases<sup>653</sup>. Whilst it might not be usual for speeding to be considered in noise assessments, the impact on Grade I listed Anne Hathaway's Cottage and its Registered Garden demands a precautionary approach be taken to the assessment.

276. In flood risk terms, it is evident that Anne Hathaway's Cottage is vulnerable to flooding<sup>654</sup>. The scheme's flood risk assessment and drainage proposals are unsatisfactory, as set out below.

277. In terms of impact on Shottery Village and the Shottery Conservation Area, it was agreed by the Council's heritage and landscape experts and by the appellants' landscape expert that Shottery has a 'semi-rural' character<sup>655</sup>. This is also confirmed by the original Environmental Statement ("*it can now be better described as semi-rural*"<sup>656</sup>) and the Council's Shottery Conservation Area document<sup>657</sup>. The appellants' heritage expert is in the minority in describing Shottery as "*urban-suburban*"<sup>658</sup>, which casts doubt on the credibility of his assessments generally.

278. The development proposals are not in keeping with the character of Shottery Village and Shottery Conservation Area. Nowhere in Shottery are there houses of more than 2 storeys, nor is there a density of over 36 dwellings per hectare or anything approaching that. Shottery would in essence be encircled by development completely out of keeping with the type and density of the village.

### Traffic Impacts and Benefits

279. The evidence and even the developers' own Transport Assessment material<sup>659</sup> show that the link road to serve the development would not in reality be a 'Western Relief Road' for Stratford-upon-Avon as it has been previously portrayed. This is as the Inspector in the 1997 inquiry into the District Local Plan correctly predicted<sup>660</sup>. The link road would present no significant (and in many cases no) relief to town centre traffic. In a number of cases there would be actual traffic and congestion increases in the town centre. There are also some

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<sup>651</sup> CD/A/23

<sup>652</sup> Cross-examination of Mr Zarebski

<sup>653</sup> INQ/RASE/3 Appendix 14

<sup>654</sup> INQ/TP/19

<sup>655</sup> Cross-examination of Mr Molyneux, Mr White and Mr Rech

<sup>656</sup> CD/A/3 Table 9.4 p 92

<sup>657</sup> CD/F/18 p 9

<sup>658</sup> INQ/APP/6 para 4.37

<sup>659</sup> CD/A/18

<sup>660</sup> CD/RASE/17 section 9.43



very significant increases predicted in traffic elsewhere in and around the town, for example:

- a) the A46 Northern Bypass experiences a 10% increase in the am and pm peak (on average), with a 19% increase in the am peak and 24% increase in the pm peak in the most congested part of the A46 between Birmingham Road and Wildmoor roundabout;
- b) the B439 Evesham Road experiences a 5.6% increase in the am peak and 0.9% increase in the pm peak (on average), with a 10% increase in the am peak and 15% increase in the pm peak on the most congested part of the Evesham Road east of Luddington Road;
- c) the A3490 Severn Meadows Road experiences a 6% increase in the am peak and 17% increase in the pm peak in what is already a very congested road at peak hour;
- d) the A4390 Trinity Way experiences a 4% increase in the am peak and 5% increase in the pm peak in an area which is also to host the new Waitrose supermarket currently being built;
- e) the A3400 Shipston Road experiences a 4% increase in the am peak and 8% increase in the pm peak;
- f) the B4632 Clifford Lane experiences a 2% increase in the am peak and 3% increase in the pm peak.<sup>661</sup>

280. There would also, contrary to strenuous assertions from the appellants, be no significant relief to Shottery rat running (including along Shottery Road) as a result of the proposals. The predictions are an average of just 10% decrease in the am peak traffic flows throughout Shottery (Church Lane, Hathaway Lane, Cottage Lane, Shottery Road – 1,603 to 1,454 vehicles) and a 8.7% decrease in the pm peak (1,692 to 1,556 vehicles)<sup>662</sup>.

281. The appellants' last minute attempts to rely on traffic calming measures in Shottery<sup>663</sup> (which were not proposed as part of the application) to produce a greater benefit cannot be given any material weight as there can be no certainty that any measures would proceed and the nature and extent of any traffic calming is unknown. As the Inspector in the 1997 inquiry into the District Local Plan noted<sup>664</sup>, if any traffic calming measures were needed these could be applied for, consulted upon and implemented without the link road, and without all the harm and risk associated with the link road and the development.

282. In any event, traffic calming measures in Shottery would lead to displacement of traffic to other areas of the town centre, as shown in the appellants' own material<sup>665</sup>:

- Alcester Road (near Arden Street signals) – 380 Annual Average Daily Traffic (AADT) increase;
- Evesham Road (east of Luddington Road) - 337 AADT increase;

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<sup>661</sup> INQ/RASE/9

<sup>662</sup> INQ/RASE/9

<sup>663</sup> CD/A/23

<sup>664</sup> CD/RASE/17 para 9.43.27

<sup>665</sup> INQ/APP/47

- Evesham Road (west of Luddington Road) – 120 AADT increase;
- Birmingham Road (between Worths Way and Bishopton Roundabout) – 122 AADT increase;
- Clopton Bridge – 379 AADT increase;
- Greenhill Street – 332 AADT increase;
- Bridge Street – 161 AADT increase;
- High Street – 219 AADT increase;
- Rother Street – 202 AADT increase;
- Guild Street – 311 AADT increase;
- Bishopton Lane (north near the Park & Ride) – 88 AADT increase;
- Bishopton Lane (south near Heron Lane) – 177 AADT increase;
- Banbury Rd (south of Trinity Way) - 266 AADT increase.

Whilst some traffic is also modelled as being displaced onto the SWRR, and there would be some decreases as well, Shottery traffic calming displacement would increase town centre traffic in a number of locations.

283. The Transport Assessment<sup>666</sup> also contains serious flaws. The Highways Agency highlighted that: "*Statistical significance... is not represented clearly through the use of the GEH statistic*"<sup>667</sup>. The evidence of an expert transport consultant<sup>668</sup> on the shortcomings of using this statistic has not been responded to from a technical perspective, rather the appellants seek to rely on the agreement of the Highways Authority to its use. The use is flawed because:

- a) The GEH statistic is normally used for variability of traffic counts versus traffic counts, not model runs versus model runs. The guideline numbers (GEH of 5 for counts, 4 for screenlines) are specifically geared to reflect count variability, and hence entirely meaningless for journey time figures;
- b) The GEH statistic is only relevant where there is an inherent statistical variability in one or both measures being compared. Traffic counts are inherently variable whereas models should not be. Each traffic count day is different from every other and each counter will give a slightly different answer depending on method of 'counting'. Most obviously, a particular issue arises where the model is trying to match counts at different points along a road and those counts are inherently inconsistent because of random, statistical variation. The model cannot match them all and hence the GEH statistic is used to test count reliability. However, if the model is given the same input assumptions then it should give the same answer, so that if a model is run for a different set of assumptions then the different results should be a consequence of those different assumptions rather than model statistical variability – or 'unreliability'.

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<sup>666</sup> CD/A/18

<sup>667</sup> CD/A/19(i) Highways Agency response of 5 April 2011 p 1

<sup>668</sup> INQ/RASE/3 Appendix 7

- c) Using a GEH statistic comparing a 'base data model' run against a 'model with scheme data' run risks confusing oscillation effects within the model with differences in the results. Acceptability guidelines are needed to reflect the particular nature of the variability and strict convergence criteria within the model are needed to ensure the model does not have much oscillation. That is not evident in the Transport Assessment work undertaken by the appellants.

284. Use of the GEH statistic is a fundamental issue because, if it cannot be relied upon, the whole Transport Assessment is flawed, as is the Environmental Statement, as set out below.

285. It is also clear that:

- a) the appellants claim a traffic benefit based on queues at selected junctions<sup>669</sup>, but queuing at other junctions would be worse. In reality, traffic is simply being moved from one point on the network to another. It is the overall impact on the network that matters;
- b) the overall measures of impact on the transport network are the charts of average journey time and average speed<sup>670</sup>. These show 9 seconds saving on journey times and under 1 mph improvement in average speeds. These would both be imperceptible to road users, so that no overall benefit is being produced and the SWRR would not be a 'relief road';
- c) the limitations of traffic projections are obvious, for example as illustrated by the differences between those at the time of the LPR inquiry and the present ones<sup>671</sup>;
- d) the prediction of no traffic queues on the Evesham Road eastbound arm of the proposed roundabout<sup>672</sup> is not credible to local residents; numerous third parties at the inquiry and in written objections have testified to traffic backing up to the top of Bordon Hill, even without the roundabout. The Transport Assessment is clearly not a 'real world' assessment;
- e) the impact on West Green Drive of two access roads and the proximity of the school and local centre has not been properly assessed. The traffic increase on West Green Drive would be very significant, and assertions that the road would have sufficient capacity to cope are without evidence<sup>673</sup>. There is no information about school drop off and parking, which often create major difficulties;
- f) there is considerable concern about highway safety, including a lack of safe pedestrian and cycling crossings and an increased crash risk leading up Bordon Hill<sup>674</sup>, as reflected by the concerns of third parties at the inquiry;

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<sup>669</sup> INQ/APP/10 Tables JO1, JO2, JO3

<sup>670</sup> CD/A/18 p20

<sup>671</sup> INQ/APP/10 para 6.23

<sup>672</sup> CD/A/18 section 6.6.1

<sup>673</sup> Cross-examination of Mr Ojeil

<sup>674</sup> INQ/RASE/3 Appendix 8

- g) there is also concern that the proposed houses might be built but the road never completed. No financial bonds to secure the delivery of the road before any housing is built are expressly required by draft condition 10<sup>675</sup>.

286. By comparison with alternative potential development sites, because of the expenditure on the 'link road' the appeal proposal would not make any contribution to strategic transport improvements as required by the Council's Supplementary Planning Document<sup>676</sup>. This is a clear disbenefit.

### **Flood Risk Assessment and Flood Alleviation**

287. Shotton has experienced severe flooding in the last 10 years<sup>677</sup>. In fact, it is evident that two severe flood events in less than 10 years have occurred which were predicted to have just a 1 in 75 and 1 in 50 year chance of happening<sup>678</sup>. It is also clear that the Environment Agency does not have any accurate assessment of flood risk in Shotton, and the appellants' flooding expert acknowledged the limitations of the Environment Agency's understanding<sup>679</sup>. In such circumstances, the detail and robustness of the flood risk assessment and drainage strategy need particular care and attention and a high degree of thoroughness. However, that has not been the case.

288. The Framework requires local planning authorities only to allow development in areas at risk of flooding in exceptional circumstances where it can be demonstrated that there are no reasonably available sites in areas of lower risk, and the benefits of that development outweigh the risks from flooding<sup>680</sup>. However, that has not been done, as acknowledged in the officer's report to committee<sup>681</sup>. The sequential test cannot properly be met until that is undertaken as part of the Local Plan process.

289. There are significant expert concerns<sup>682</sup> over the submitted Flood Risk Assessment<sup>683</sup> in relation to:

- a) Flood Zone designation, including over the siting of the link road access in Flood Zone 3 (3A or 3B);
- b) Lack of assessment of flooding considerations;
- c) Lack of detail in relation to flood compensation works;
- d) Deficiency of the surface water drainage (SUDS) strategy;
- e) the need for adoption, management and maintenance regimes for SUDS systems to be clearly worked through, including the funding position, which has not happened in this case.

290. Regarding the reliability of SUDS systems, the appellants' flooding expert accepted that a blockage could form and a pool overflow but said that "*there*

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<sup>675</sup> INQ/LPA/23

<sup>676</sup> CD/C/2

<sup>677</sup> INQ/RASE/1 para 9

<sup>678</sup> INQ/RASE/1 paras 7.3-7.4; INQ/RASE/3 Appendix 10 photos

<sup>679</sup> Cross-examination of Mr Boileau

<sup>680</sup> CD/G/24 paras 101-102

<sup>681</sup> CD/A/20 p 101

<sup>682</sup> INQ/RASE/3 Appendix 11

<sup>683</sup> CD/A/12

would be a failsafe design"<sup>684</sup>. His description of this was that it would direct the resulting overflow into Shottery Brook. This is the very water course that it is supposed to retain the water from and which, when it overflows, causes flooding to the front of Anne Hathaway's Cottage.

291. The appellants' flooding expert also conceded<sup>685</sup> that there is no scheme design to protect against surface run off from the raised embankment behind Anne Hathaway's Cottage, which he said would be provided in a detailed design. That is unsatisfactory given the importance of protecting the Cottage, the Registered Garden and their settings.
292. If the development is permitted to proceed and leads to consequent flooding of existing properties, the creation of a nuisance and infringement of Article 8 European Convention of Human Rights could occur<sup>686</sup>.

### Noise and Tranquillity Impacts

293. The proposal would have an unacceptable noise impact on existing residential properties, in particular those on Bordon Hill (4 with a severe adverse effect, 16 with a substantial adverse effect, 8 with a moderate adverse effect and 253 with a slight adverse effect)<sup>687</sup>. This is a very significant worsening of the noise environment due to the development. It is also a clear disbenefit of the scheme by comparison with alternatives.
294. The impact on Evesham Road noise levels caused by the new roundabout slowing traffic at the foot of the hill has not been recognised<sup>688</sup>.

### Design Quality of the Scheme

295. The Framework seeks to raise standards of design<sup>689</sup>. It attaches great importance to the design of the built environment, and indicates that:  
*"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."*<sup>690</sup>
296. The illustrative designs and key principles set out in the design code for this development<sup>691</sup> are mediocre.
297. The design has been heavily criticised by CABE<sup>692</sup>, including objections about:
- a) the poor estate link road design and severance;
  - b) the poor design and location of the local centre;
  - c) lack of clear standards or principles for design or character (the Design and Access Statement being deficient in detail);
  - d) unambitious sustainable design;
  - e) a lack of phasing information.

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<sup>684</sup> Cross-examination of Mr Boileau

<sup>685</sup> Cross-examination of Mr Boileau

<sup>686</sup> INQ/RASE/1 paras 7.12-7.14

<sup>687</sup> CD/A/20 pp 71 & 128

<sup>688</sup> Cross-examination of Mr Zarebski

<sup>689</sup> CD/G /24 Ministerial foreword

<sup>690</sup> CD/G/24 paras 56 & 64

<sup>691</sup> CD/A/9, CD/A/9a

<sup>692</sup> INQ/RASE/12

298. It was clear at the inquiry that the appellants have ignored the CABE objection and made no effort to engage with CABE in respect of its concerns<sup>693</sup>.
299. There are no real commitments in the Design and Access statement at the outline stage as to what quality design would actually mean. This is contrary to CABE guidance which states that it is a matter of good practice that the fundamental design principles of a scheme should not be relegated for later consideration<sup>694</sup>.
300. The illustrative designs and key principles in the design code<sup>695</sup> in reality represent minor variations of an 'anywhere town'. They are designs which Bloor Homes and Hallam Land use anywhere in the country. There has been experience of bland design elsewhere in Stratford-upon-Avon, for example with the housing estates built in the last 15 years south of the river at Trinity Mead, and along Birmingham Road and Alcester Road. It is time to require good design, which the Local Plan and Neighbourhood Plan are seeking to ensure, as is the Stratford Society. Granting permission for the appeal scheme would prejudice attempts to deliver the good design policies which the Framework is encouraging in the Local Plan and decision making process.
301. Other design and scheme content flaws include a failure to provide the 8.2 acres of playing fields which should be provided; no provision of money to build or operate a new health centre so the land may never be used for that purpose; failure to explain how secondary school provision (a shortfall of 57 places in Stratford-upon-Avon<sup>696</sup>) would be accommodated; and the fact that the existing primary school would close when the new one opens, which is therefore not a net benefit.

### Ecological Impacts

302. The Framework sets out measures by which the planning system should contribute to and enhance the natural and local environment<sup>697</sup>.
303. However, the Environmental Statement identifies the following negative impacts:
- a) potential habitat fragmentation and isolation through loss of hedgerows;
  - b) loss of semi-mature and mature trees;
  - c) loss of bat flight lines through removal of hedgerow sections;
  - d) loss of foraging/nesting habitat for skylarks which is significant and cannot be mitigated;
  - e) potential disturbance of bats;
  - f) potential disturbance of great crested newts;
  - g) potential degradation of Racecourse Meadow Site of Special Scientific Interest (SSSI) through increased siltation or accidental pollution incidents.<sup>698</sup>

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<sup>693</sup> Cross-examination of Mr Rech

<sup>694</sup> 'By Design' p 68 [not a listed inquiry document]

<sup>695</sup> CD/A/9a

<sup>696</sup> CD/A/3 Table 7.7 p 55

<sup>697</sup> CD/G/24 para 109

304. There is also a lack of invertebrate surveys and of a great crested newt survey in Burmans Farmhouse Pond, where great crested newts have been sighted<sup>699</sup>.
305. Although the appellants seek to put forward a set of mitigation and 'compensation' measures<sup>700</sup>, the significant harm to ecological flora and fauna that would result from the development cannot be disguised. This harm makes no sense when alternatives could be considered which are not located near to an SSSI and areas where protected species have been located, particularly in the context of the cumulative negative impacts of the development proposals.

### **Other Impacts of the Development**

306. There is a significant risk of an adverse impact on tourism to Anne Hathaway's Cottage and Garden, both during construction works and following these. Traffic increases would also affect tourism in the town generally, which is already known for its heavy traffic congestion. No risks ought to be taken with the Cottage and Garden given their importance to the District's tourism industry<sup>701</sup>.
307. The proposal does not include an adequate delivery plan for provision of on-site renewable energy and overall achievement of carbon reduction, rather envisaging this can be dealt with at the approval of reserved matters stage<sup>702</sup>. Given the size and scale of the development proposal, there should be a clear commitment to a particular delivery method to achieve adequate provision.
308. The proposal would lead to an air quality deterioration for nitrogen dioxide at the Birmingham Road/Clopton Road junction, Greenhill St, Guild St, Old Town Mews and on site properties; and PM10 (Fine Particulate Matter) increases at Guild St and Bridgefoot/Guild St junction<sup>703</sup>. Stratford-upon-Avon is designated an Air Quality Management Area and no decrease in air quality should be permitted. The extent to which alternative development options in the District would not result in air quality deterioration in an Air Quality Management Area should be assessed as part of the Local Plan process.
309. There would be loss of an area of grade 3a agricultural land<sup>704</sup>.

### **Environmental Statement Evidence**

310. Relevant legal principles on Environmental Statements are set in a number of cases<sup>705</sup>.
311. RASE requested in two objection letters on the application<sup>706</sup> that the Local Planning Authority require further environmental information pursuant to Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. In the event the Council required some of the information sought but not all.
312. There are a number of areas of the environmental information provided which are inaccurate, inadequate or incomplete to the extent that planning permission

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<sup>698</sup> CD/A/3 para 11.7.1 p169

<sup>699</sup> INQ/TP/11b

<sup>700</sup> CD/A/3 chapter 11

<sup>701</sup> INQ/LPA/6

<sup>702</sup> CD/A/13

<sup>703</sup> CD/A/3 pp 220-221

<sup>704</sup> INQ/RASE/1 para 5.4.8, INQ/RASE/3 Appendix 18

<sup>705</sup> INQ/RASE/15 section 3

<sup>706</sup> INQ/RASE/15 attachments

should not be granted. In combination, these inaccuracies, inadequacies or omissions are of such significance that the environmental information provided is not capable of being properly regarded as an Environmental Statement for the purposes of adequately assessing the environmental effects of the development as is reasonably required, as set out by the Regulations.

313. For example, if it is agreed that the use of the 'GEH statistic' is flawed in respect of the Transport Assessment, then the Transport Assessment is so inadequate that the assessment provided cannot properly be regarded as information upon which the Environmental Statement can rely and therefore the Environmental Statement cannot properly be regarded as an Environmental Statement. There are other areas in which the same principle applies, for example:

- a lack of assessment of the transport impacts on West Green Drive;
- a lack of adequate assessment of the traffic impacts between 2013 and 2023 (simply road junctions assessed);
- a lack of assessment of air quality in the 'with traffic management measures in Shottery' scenario;
- other flaws in the Transport Assessment as highlighted by RASE in its objection letters<sup>707</sup>;
- no invertebrate survey carried out;
- no soil infiltration tests carried out for the flood risk assessment.

314. The environmental information itself is also a 'paper chase' which makes it very difficult to ascertain the assessment of the environmental effects of the development as required by the Regulations.

315. Judgment on adequacy of the environmental information is properly a matter for the decision-maker, but such judgment will be liable to judicial review scrutiny.

### **Overall**

316. For the above reasons the adverse impacts of the development proposals would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole as required by the NPPF<sup>708</sup>. The proposal does not comply with many of the requirements of the Framework<sup>709</sup>. The appeal scheme is also manifestly premature in relation to the Local Plan and Neighbourhood Plan process. For these reasons, the appeal should be dismissed.

## **THE CASES FOR OTHER PARTIES WHO GAVE EVIDENCE AT THE INQUIRY**

### **Debbie Griffiths**<sup>710</sup>

317. Ms Griffiths is a local resident. She gave a visual presentation to the inquiry.

318. The proposal does not adhere to sustainable development principles. Any development that seeks to destroy greenfield sites before all available brownfield

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<sup>707</sup> INQ/RASE/15 attachment – para 2.3 of RASE objection dated 31 March 2011

<sup>708</sup> CD/G/24 para 14

<sup>709</sup> INQ/RASE/7

<sup>710</sup> INQ/TP/4



sites have been used is opposed. This site is of conservation importance. Stratford Racecourse has been subject to repeated flooding and the proposal would increase the risk of flooding. The proposed link is not a relief road and would increase traffic on Evesham Road. This is already extremely busy and dangerous. The output of carbon emissions would be increased. Traffic already speeds, and there are serious safety issues with the proposal. There is also existing noise pollution which would increase.

319. The proposal for a new health centre is not guaranteed. No plans have been made for the 11+ education of young people.
320. The developers are more interested in short-term gain than the long-term sustainability and social cohesion of the town. There has been experience of their approach elsewhere in the country<sup>711</sup>. The proposal is environmentally, socially and economically unsustainable.

**John Condés**<sup>712</sup>

321. Mr Condés is a local resident. He gave a visual presentation to the inquiry.
322. Shottery Brook, a tributary of the River Avon, forms the natural western boundary to Stratford-upon-Avon. The proposal includes a significant amount of new hardstanding and remodelling of land. Properties at the foot of Bordon Hill are flooded on a regular basis, as shown by photographs, and further development would make the problem worse. It would increase discharge into Shottery Brook which is not capable of dealing with surface runoff today.
323. It is questioned whether sequential and exception testing have been fully carried out, and a comprehensive flood risk assessment provided.
324. There is local evidence of SUDS systems that have failed. Maintenance and landscape impact are concerns. It is questioned whether the proposed systems are fit for purpose. Measures are needed to ensure sewage systems in the area are not affected by flooding.
325. The development is not in the spirit of localism and should be considered democratically.

**James Philpotts**<sup>713</sup>

326. Mr Philpotts is a local resident.
327. Stratford-upon-Avon is the centre of Shakespeare country, and tourism the lifeblood of the town. Anne Hathaway's Cottage is the gemstone of the property portfolio. Its tranquillity and rural setting are of key importance. There is a current scheme to improve the quality of the land at the rear of the Cottage. Anything that undermines these factors would degrade the number of visitors and put tourism at risk. The proposal would ruin the Cottage's setting permanently and intrude on peace and tranquillity, including by way of its long term construction impact.
328. The Draft Core Strategy and Neighbourhood Plan will form a blueprint for Stratford-upon-Avon of the future, intended to be the embodiment of Localism. The local policy of restricting house building in the town and spreading

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<sup>711</sup> INQ/TP/4a

<sup>712</sup> INQ/TP/6

<sup>713</sup> INQ/TP/7

development more widely could not be fulfilled if the proposal were allowed, at the expense of consultation and localism.

**Bill Dowling**<sup>714</sup>

329. Mr Dowling is a Town Councillor and Mayor of Stratford-upon-Avon.

330. Many residents are concerned about the proposed huge development in a highly sensitive area of the town. Traffic would become more intense, and the proposed island at the bottom of Bordon Hill would be a danger. The capacity of secondary schools is of concern. There would be risks of flooding and damage to the tourism industry. The site is not needed to meet the District's house building target.

**Nicholas Butler**<sup>715</sup>

331. Mr Butler is the planning representative of the Warwickshire Branch of the Campaign to Protect Rural England.

332. Anne Hathaway's Cottage is a world renowned iconic building and a prime tourist attraction. Tourism is an important part of the town's economy, which is supported by the Draft Core Strategy. The proposal would change the ambience of the Cottage, creating continuous road noise, visible houses and street lighting. The proposal would also detract from the character of Shottery Village as a Conservation Area. Stratford-upon-Avon is still a country town, and this should be preserved for future generations.

333. Traffic levels would be increased substantially. The proposed link road would not reduce traffic but be likely to redistribute it, with harmful effects.

334. The level of housing to be proposed in the District is yet to be determined and is the subject of consultation on the Core Strategy. The locational strategy is in contention. Approving this proposal would prejudice these decisions. The appeal should be dismissed.

**James & Kirstin Greygoose**<sup>716</sup>

335. Mr & Mrs Greygoose are local residents.

336. As primary school teachers, great pride is taken in fostering a community atmosphere. The sense of community and friendliness of Stratford-upon-Avon are impressive. Smaller developments on existing sites would protect the aesthetic and historical nature of the town while providing the houses needed for population and economic growth. This ought to be examined as part of the Core Strategy process. The Trinity Mead estate to the south of the town demonstrates the folly of such large estates. Stratford-upon-Avon should not be allowed to become a monotonous copy of other towns.

337. There is local pressure on school places.

338. The views reached in a project by school children are illustrative of the negative effects that the proposal would have. It is opposed by residents all over the town, and would damage the tourism industry.

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<sup>714</sup> INQ/TP/9

<sup>715</sup> INQ/TP/1

<sup>716</sup> INQ/TP/10

**Gordon Brace**<sup>717</sup>

339. Mr Brace is a local resident, living in Burmans Farmhouse which is next to the tree garden of Anne Hathaway's Cottage<sup>718</sup>.
340. There are concerns about the identities of the appellants and their fitness to deliver the scheme and keep promises.
341. The proposal would add to traffic. Noise would be created, and the survey assessment assumes that traffic would obey speed limits. There is already flash flooding of local houses and the road in front of the Cottage. An increase in gradient of the site is a potentially disastrous option, and the proposed control systems could fail.
342. Great crested newts breed in the garden pond of Burmans Farmhouse. No ameliorating measures are proposed.
343. The Core Strategy should not be undermined.

**Milan Turšner**<sup>719</sup>

344. Mr Turšner is a local resident.
345. There was flooding of the field at the bottom of Bordon Hill from Shottery Brook in 1998. Hard runoff areas have been increased since then. The proposal would add to this. The proposed flood compensation area is the same field and this does not appear to have been properly considered.
346. The proposed roundabout at the bottom of a hill would cause problems for vehicles. Traffic would be increased on Alcester Road and Evesham Road. Further congestion would be created.

**Roy Massey**<sup>720</sup>

347. Mr Massey and his wife are local residents.
348. Traffic increases are of concern, particularly in West Green Drive where residential parking effectively reduces the road to a single lane. Two new outlets are proposed on this road, but there is no scope for increased traffic flow along it. The only vehicle access from the development should be to the new road.

**Robert Harding**<sup>721</sup>

349. Mr Harding is a local resident.
350. There is an imbalance in that the appellants are represented by a QC but the residents cannot afford such an advocate.
351. The flood assessment refers to a 1:100 event, but Stratford-upon-Avon floods approximately every 3 years. No actual field study has been carried out. The flood assessment does not have satisfactory supporting evidence on the effects the development would place on the higher ground above Shottery Brook and sewers. The assessment is out of date due to climate change. Prolonged rain raises the water table significantly. Urbanisation increases runoff. Existing

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<sup>717</sup> INQ/TP/11b

<sup>718</sup> Photographs at INQ/TP/11a

<sup>719</sup> INQ/TP/2

<sup>720</sup> INQ/TP/13

<sup>721</sup> INQ/TP/12

residents would suffer increased flood risk. There should be an independent assessment of the effects the development could have on flooding. There has been significant growth of the town in at least the last 15 years.

352. The benefits of the proposal to the town and the existence of jobs to support the new population are questioned. There would be more congestion. There is doubt about the financial status of the appellants.

**Donald Cowan**<sup>722</sup>

353. Mr Cowan is a local resident.

354. Stratford-upon-Avon in the past was a delightful, small county town of great beauty and character, surrounded by countryside, as well as being Shakespeare's town. Its over-rapid expansion in recent years has changed much of that, with ever extending suburban sprawl of indifferent and mundane dwellings. It is now necessary to pass through housing estates to reach the countryside. This has saddened residents and had a marked effect on visitors, with many no longer coming to it. First impressions from the approaches to the town are important. The town needed and still needs more housing, but the expansion has been too rapid, bringing a new population with little or no interest in the town.

355. The Core Strategy aims to spread development more evenly, but the proposal would drive a hole through this. Shottery and the icon of Anne Hathaway's Cottage depend on a rural location with countryside adjacent. This should be protected but would change radically with the proposal.

356. There are vacant houses and flats in the town. The proposed houses could not be afforded by those on the waiting list.

357. The new road would be of no value as other routes would be easier, and it would mainly be to serve the proposed development.

358. New education provision and infrastructure would be needed. Existing provision would be overburdened.

359. The appellants have no long-term commitment to the town. If localism is to mean anything the proposal should be rejected.

**Jenny Fradgley**<sup>723</sup>

360. Ms Fradgley is a District Councillor for Guild and Hathaway Ward.

361. Policy EF.13 of the Local Plan Review seeks to protect Conservation Areas<sup>724</sup>. Concerns about despoiling the setting of Anne Hathaway's Cottage are enhanced by the Council's Landscape Sensitivity Assessment<sup>725</sup>, which identifies how sensitive this area is. The area is of importance to the whole town and the tourism economy. This is supported by the Core Strategy and the National Planning Policy Framework.

362. Stratford-upon-Avon sits in a bowl and the landscape fringes of the town can be glimpsed from many points. The views are characteristic and should be protected. Once lost they are gone for ever. The development would detrimentally impact on the Cottage and its setting.

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<sup>722</sup> INQ/TP/14

<sup>723</sup> INQ/TP/3

<sup>724</sup> CD/B/1

<sup>725</sup> CD/E/13 land parcel St21xc

363. The accumulation of traffic pressure on key points in the town from recent and proposed developments needs to be appreciated. The experience of residents is one of increasing traffic pressure, traffic jams and poor air quality. The proposal would be out of scale, intrusive and detrimental to the town.

**Peter Moorse**<sup>726</sup>

364. Mr Moorse is a District Councillor for Mount Pleasant Ward. He also spoke for his fellow ward member Joyce Taylor.

365. Traffic impact on Alcester Road is of particular concern. At peak times the road is extremely busy. The proposal would be likely to add significantly to traffic volume and delays.

366. There is considerable local opposition to the proposal. It was always envisaged that the site would only be used as a last resort if there was a shortfall in housing numbers. That is not at present the case. The proposal conflicts with the draft Core Strategy.

367. There are also concerns about the impact on Anne Hathaway's Cottage and its garden and setting; the character of Stratford-upon-Avon as an historic market town; the tourist industry; infrastructure and in particular secondary school provision; and the surrounding landscape setting.

**Bob Malloy**<sup>727</sup>

368. Mr Malloy is a local resident.

369. Experience indicates that the vast majority of residents oppose the development. It would have a negative impact on Anne Hathaway's Cottage and its gardens, and on Shottery and the local landscape.

370. The development would bring an increase in traffic, and congestion is already occurring at all times of the day. Concerns would be magnified if this proposal is just the start of a much larger development.

371. There have been four significant floods in recent years. There are concerns about the construction period, the reliability of the proposed flood measures and what would happen were they to fail. There appear to be no management or compensation commitments.

372. There is a lack of secondary school places. Travelling to school further afield would increase traffic and have other negative implications.

373. The proposal would breach the current largely natural boundary on the west side of the town, especially Shottery Brook. The iconic view from Bordon Hill would be damaged and there would be harm both during and after construction to the surroundings of Anne Hathaway's Cottage, as concluded by the Shakespeare Birthplace Trust.

374. The dispersal approach of the Core Strategy to housing development is supported. The proposal is not required.

**Valerie Hobbs**<sup>728</sup>

375. Ms Hobbs is a District Councillor for Old Stratford & Drayton Ward.

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<sup>726</sup> INQ/TP/17

<sup>727</sup> INQ/TP/15

<sup>728</sup> INQ/TP/16

376. The ward is rural and has great historic importance to the town.
377. Under the Warwickshire Structure Plan there is a requirement for priority to be given to development within the existing urban area of Stratford-upon-Avon and for brownfield sites to come forward in advance of greenfield. The proposal does not comply with the saved Local Plan Review, emerging policy or the National Planning Policy Framework.
378. The development would have a visual and environmental impact on open countryside. Anne Hathaway's Cottage is of vital importance to the Shakespeare experience and tourism. The atmosphere and ethos of the house and garden could be jeopardised from noise and light pollution. The tourism policies of the District seek to raise awareness of the world class destination<sup>729</sup>. Visitors should be encouraged to keep coming and the character of the Shakespeare houses retained.

**Jean Chollerton**<sup>730</sup>

379. Ms Chollerton formerly worked at Anne Hathaway's Cottage.
380. The Cottage is a precious monument to Stratford-upon-Avon's historic past. The town is an international tourist destination and Shakespeare's history helps to retain the town as a desirable place to live. Alongside the Birthplace, the Cottage records the highest visitor numbers in the Shakespeare Birthplace Trust portfolio, and is an iconic image. The landscape to the rear has potential historic importance<sup>731</sup>.
381. Many different events throughout the year are held in the house and grounds, for example the Cottage landscape was turned into a midsummer nights dream theme. These events are not currently disturbed by traffic. It is questioned how such an event could have taken place with noise intrusion spreading from the west. The orchard is currently a place of peace and tranquillity. No amount of landscaping would protect the area. Occasional disturbance from motor bike scrambling west of Bordon Hill illustrates how sound cannot be blocked out.
382. The rural character of the western view is under threat. Sunsets would be obstructed, and the perspective permanently changed.
383. The Cottage has previously been affected by flash flooding, with water flowing through the site. More flooding can be expected with climate change.
384. Skylarks cannot be relocated just anywhere. The woodland walk would be affected. Historic heritage should be protected.

**Paul Stanton**<sup>732</sup>

385. Mr Stanton is a local resident.
386. The gradient of Bordon Hill is 1 in 10. Traffic already backs up. An island at the bottom of the hill would be highly dangerous. Winter conditions would be particularly difficult.
387. There have been severe floods in the past. These close Luddington Road and Luddington village is cut off, affecting emergency access. The proposal with

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<sup>729</sup> INQ/TP/16 attachment

<sup>730</sup> INQ/TP/19

<sup>731</sup> INQ/TP/19 attachment

<sup>732</sup> INQ/TP/20

significant amounts of storm water runoff would create major flooding, no matter how many balancing ponds may be installed.

**David Bowie**<sup>733</sup>

388. Mr Bowie is a local resident and representative of Stratford Voice. This is a residents association for Stratford-upon-Avon with 700 members.
389. When launched in 2005 a town poll on the need for further housing development in the town produced a 98% 'no' vote to more large developments. Recent surveys for the Neighbourhood Plan support this. The character and appearance of the town and its heritage are extremely important to residents. There is continuing opposition to substantial housing development and the additional traffic it would bring.
390. The decision on the suitability of a development of this scale and impact should be determined through the Core Strategy and Neighbourhood Plan process. The draft Core Strategy seeks a limit on housing and estate size in the town, which is strongly supported by members.
391. Policies to protect heritage assets of the town are fundamental to its international reputation and economic health. Visitors come to see a town which in many ways retains the character of a medieval market town, containing many buildings which Shakespeare would have known surrounded by a landscape across which he would have wandered. The town is in a basin, and it is extremely important that development is not allowed to creep up the surrounding hills. The new observation tower at the Royal Shakespeare Theatre creates an important viewpoint from where the development would be highly visible and the vista would be seriously harmed. Success with this proposal would lead to further applications resulting in the building line being continued up the hill.
392. The development would degrade the setting of the Shottery Conservation Area. The importance of this was clearly expressed in the Stratford-upon-Avon Town Design Statement<sup>734</sup> and the Landscape Sensitivity Assessment Report<sup>735</sup>. Serious damage to the setting of Anne Hathaway's Cottage is threatened. The idyllic countryside setting would be gone forever and the peace of its gardens would be ruined by noise and visual intrusion. There is an absolute requirement to protect this setting from harm.
393. A great deal of new housing has been built in Stratford-upon-Avon in recent years and the infrastructure has failed to keep up. The development would result in many secondary school children being bussed or driven to schools in surrounding towns.
394. Traffic congestion has become worse, and the proposed link road would add to congestion on Evesham Road, which is residential. This could lead to more rat running through Shottery.
395. There is little employment on offer for the new occupiers. The development would be a dormitory settlement for commuters to other urban areas. Public transport would be very limited, and transport would be car dependent and therefore highly unsustainable.

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<sup>733</sup> INQ/TP/5

<sup>734</sup> CD/C/6

<sup>735</sup> CD/E/13

396. In the spirit of the Localism agenda the appeal should be dismissed.

**Yvonne Wiggins**<sup>736</sup>

397. Ms Wiggins is a local resident.

398. An overwhelming majority of the population of the District support the decision to reject the application.

399. The connection of Anne Hathaway's Cottage to the farmland to the west is essential to its credibility as a farm cottage. Many visitors walk the footpaths around the farmland. Accessible footpaths are important for recreation and health. Photographs show the original layout of the farmland before recent alterations<sup>737</sup>. Some views would disappear with the new development.

400. There has been a lack of transparency with the application. Traffic in Shotton does not require the construction of the link road. Streets in the town are already closed at certain times and this does not cause a traffic problem. The road would be opposed even if not linked to the housing development. It would create a traffic hazard for those using the footpaths and be detrimental to recreation and views.

401. There was considerable opposition to the land becoming a strategic reserve site and it was only ever intended to be considered as a last resort.

402. The appellants' information has been misleading. Most of the new occupiers would need to commute elsewhere to work. The proposed recreation space would be on the wrong side of a busy road at the expense of green fields. The proposed attenuation ponds would be a hazard. There would be enormous pressure on local schools and health facilities. The density of the housing would not be in keeping with neighbouring areas. The new development would be isolated.

403. The population of the town has doubled since 1950 and there has been a very good record of providing housing. A lot of demand for new housing has dried up. The town has a very vibrant and caring community.

**Peter Emmerson**<sup>738</sup>

404. Mr Emmerson is Chairman of Old Stratford and Drayton Parish Council.

405. The Council opposes the proposal for the same reasons as the District Council. There is overwhelming opposition to the scheme.

406. The Parish consists largely of open countryside. The whole northern housing area would lie within it. The Council covers the northern and western approaches to the town and is vigilant to protect its landscape setting. The proposal would seriously harm the setting and the iconic view of the town from the top of Bordon Hill. The Hill provides a natural visual boundary and would be breached. There would also be unacceptable urbanisation of the rural landscape to the south of Alcester Road. The country setting of the whole town would be degraded, diluting the experience of visitors and making it a less attractive place to live in.

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<sup>736</sup> INQ/TP/21

<sup>737</sup> INQ/TP/21 attachment

<sup>738</sup> INQ/TP/18



407. Traffic congestion, already serious, would be increased. The new road would not be a relief road but create a rat run. Flood risk would be increased, and there is concern about the effect on properties further downstream where there has been previous flooding.
408. The District Council's emerging policy of dispersing housing across the District, using brown field sites in preference to green field, and limiting the size of new estates is supported. The development would be premature.
409. The infrastructure of the town is inadequate to support a development of this size. There would be insufficient secondary school places and local employment opportunities. The growth of the town as a dormitory to the West Midlands cities would be further encouraged.
410. There is concern about the adequacy of the existing foul water treatment facilities to cope. There is local knowledge about previous problems with smell nuisance.

## **WRITTEN REPRESENTATIONS**

### **Representations Made at Appeal Stage<sup>739</sup>**

#### ***Nadhim Zahawi MP***

411. Mr Zahawi is Member of Parliament for Stratford-on-Avon.
412. The local planning authority has taken up the Government's Localism agenda and developed its own 20 year housing supply figures as well as pursuing a policy of dispersing new housing around the District. There is concern about how recovery of the appeal by the Secretary of State could be interpreted, and clarity sought as to why this decision was taken.

#### ***Highways Agency***

413. The Agency had extensive discussions with the relevant parties in relation to the proposal and its concerns have been satisfactorily addressed. Conditions were directed to be attached to any grant of planning permission in the final response to the application.

#### ***Shottery Village Association***

414. Shottery is a very pleasant Conservation Area. This is valued by its residents and enjoyed by the large number of visitors, making it a major tourist attraction of importance to the local economy.
415. The Town Design Statement<sup>740</sup> recommends that the fields either side of Bordon Hill be protected in perpetuity and the panoramic view preserved, and the Landscape Sensitivity Assessment<sup>741</sup> reinforces this. The site was included in the Local Plan Review as a reserve site with a caveat making it clear that it should only be released if no other site could be found. Local residents have consistently objected to the proposal and never supported the construction of the proposed link road. This would not reduce congestion and Evesham Road is totally unsuitable for the extra traffic which would be re-routed.

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<sup>739</sup> INSP1

<sup>740</sup> CD/C/6

<sup>741</sup> CD/E/13

416. The traffic island, new entrance and associated signage would be extremely damaging visually.

417. There is concern about the high risk of increased runoff.

***The Shakespeare Birthplace Trust***

418. The planning application includes land in the ownership of the Trust and materially affects the setting of Anne Hathaway's Cottage. Officers of the Trust and its professional advisers have had discussions with the applicants to seek to meet the concerns of the Trustees with regard to the effect such development might have on the Cottage and its associated Registered Park and Garden.

419. The Trust is a charity established by Act of Parliament in 1891. One of its defined objectives is "*to maintain and preserve the Shakespeare birthplace properties for the benefit of the nation*". This guides the Trustees' consideration of the proposal. Except insofar as it may directly affect the Cottage and its setting, the Trust does not have a view on the amount of housing to be provided in or around Stratford-upon-Avon or its location.

420. The Trust objected to the application in December 2009. This objection set out the Trustees' overriding responsibility to preserve the setting and integrity of the Cottage and Park and Garden, and identified a number of concerns and requirements. In particular these were in relation to the proposed link road, which would cross land in the ownership of the Trust, and traffic management in Cottage Lane. Whilst there are potential advantages from the scheme with regard to vehicle parking and traffic management in and around Cottage Lane, they have to be weighed with the overarching responsibility of the Trustees to protect the Cottage and its setting.

421. The Trust was consulted on further information and responded in November 2011 with confirmation of the earlier objection. The applicants have sought to satisfy the Trust on all matters raised in the objection and in November 2011 the Executive Committee considered all the issues. It concluded that, having regard to its duty, the advantages that could accrue from the application do not outweigh the potential irreversible harm from this development to the Cottage, its setting and the Registered Park and Garden.

**Ron Cockings<sup>742</sup>**

422. Mr Cockings is a District Councillor.

423. Shottery is an historic village and the home of Anne Hathaway's Cottage. It was linked to Stratford only by ribbon development until the 1980s. Putting 800 houses where proposed would increase the enclosure of Old Shottery, against all the restraint observed over the years. This is not the time to destroy the setting of Shottery enjoyed by the residents and the increasing number of tourists who walk from the town. Although the ward of Shottery has 1,056 dwellings the village has only 231 dwellings and would be dwarfed.

**Others**

424. There are around a further 120 individual written representations on the appeal which contain objections to the proposal. These are largely on the

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<sup>742</sup> INQ/TP/8, INQ/TP/8a

grounds covered in the cases made by third parties who gave evidence at the inquiry, as set out above.

425. There are 2 individual representations in support of the proposal, which cite a need for additional housing.

### **Representations Made at Application Stage**

426. The representations received by the Council as a result of its consultation on the planning application were attached to its appeal questionnaire<sup>743</sup> and summarised in the Committee report<sup>744</sup>. The report records that in total **1,155 letters from third parties** were received. Of these, 635 were in response to the original application, with 452 and 68 respectively in response to consultation on further details subsequently received by the Council. 2 of the letters were in support of the proposal and 7 commented only, with the remainder containing objections to it. The report sets out a full analysis of the issues raised in the objections and a breakdown of the letters into standardised and more individual letters. The objections generally raised grounds which have been repeated at appeal stage and are set out in the above reporting of the cases.
427. The application was supported by **Shottery St Andrew's Primary School** on the basis that the school would be enabled to move to a purpose-built building within the development where it could continue its work. The response notes that the school is currently over-subscribed and unable to meet needs on the current site.
428. The report also summarises the responses to the application from local bodies. Most of these have made further representations at appeal stage, which are dealt with above. There were also objections from **Stratford-upon-Avon Town Council, Luddington Parish Council, Binton Parish Council and Friends of the Earth Stratford-upon-Avon** on similar grounds to those raised by other parties. The **Stratford Society** did not oppose the application in principle, but raised concerns about the approach of the development to house design.
429. The responses from consultative bodies to the application are also recorded in the report. The comments of those which have not made appeal representations can be briefly summarised as follows.
430. **Advantage West Midlands** expressed interest in the application with respect to how it could contribute to creating a sustainable community at Stratford-upon-Avon.
431. **Sport England** did not object, seeking a financial contribution to mitigate the impact of the development on indoor and outdoor sports facilities.
432. **Warwickshire County Council** requested various contributions towards infrastructure, as set out below. As the local highway authority, the final position of the County Council, after additional information was provided and agreement reached on mitigation measures, was of no objection subject to conditions. On education, it was pointed out that it cannot be taken for granted that Shottery St Andrews Primary School would close and be relocated onto the appeal site. On countryside recreation, objection was raised to the crossing proposals for public footpaths. On archaeology, some further work was sought to be undertaken by

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<sup>743</sup> CD/A/19

<sup>744</sup> CD/A/20

- way of a suggested condition. On ecology, an initial objection was withdrawn following provision of further information, with conditions to cover protection and mitigation recommended.
433. **Warwickshire Police** sought a contribution towards policing.
434. The **Environment Agency** advised that the issues it had raised initially were sufficiently addressed to allow a recommendation of conditions on any permission granted, including with respect to ecology and great crested newts.
435. **Severn Trent Water** also had no objection subject to a condition.
436. **English Heritage** advised that the Council would need to satisfy itself that the site remains the most appropriate for development having regard to the emerging spatial strategy. The scheme would affect the setting of the village of Shottery and there is concern at the possible impact of the proposed road on the setting of Anne Hathaway's Cottage and Garden. Landscape issues need careful further justification. The western relief road is not opposed in principle subject to it forming part of an integrated package of traffic management for Shottery, together with striving to minimise its impact on the setting of the village and the heritage assets within it. The scheme has not yet been justified in terms of bringing substantial benefits to Shottery or the Cottage.
437. The Commission for Architecture and the Built Environment (**CABE**, now part of the Design Council) advised that significant further work was needed prior to outline approval<sup>745</sup>. Much of the information expected at outline stage is not yet available. The scheme should be more rigorous in testing the previous Statement of Development Principles<sup>746</sup>, for example the relief road may create future problems of severance between communities. There should be more information about the relationship between new and existing communities. The location of the local centre away from primary routes may not help it thrive. Further information on the character of the development is needed, with the opportunity to respond to differing contexts to the north and south of the site. The site would benefit from an approach driven by landscape and sustainable design, which could inspire more creative solutions, to achieve a high quality new place. A design code could address some of the concerns and allow a high quality design to be secured through the planning process. However, to be successful this would need to be developed alongside revisions to the Masterplan, addressing the fundamental concerns. Finally, the success of the development as a new community would depend in part on a strong phasing strategy, ensuring a high quality of life for residents occupying early phases of development.
438. **Natural England** withdrew its original objection after being satisfied by the provision of further information that there would be no adverse effects on the Racecourse Meadow Site of Special Scientific Interest. It supported the recommendations of the great crested newt assessment, and recommended conditions on construction impact and long term management of green infrastructure and SUDSs by way of planning obligation.
439. **Warwickshire Wildlife Trust** noted that no reptile or invertebrate studies were included in the assessment, but was broadly satisfied with the survey work

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<sup>745</sup> Response at INQ/RASE/12

<sup>746</sup> CD/B/5

that had been conducted. Recommendations were made on mitigation, including a financial contribution for skylark habitat replacement.

440. The Council's **Building Control Officer** considered that the submitted energy statement was sufficient for an outline application. Its **Environmental Health Officer** generally accepted the technical submissions made with the application and suggested recommended conditions.
441. **Western Power Distribution** raised a number of points but had no objection.

## CONDITIONS

442. A set of suggested planning conditions in the event of the appeal being allowed was put forward at the inquiry<sup>747</sup>. These were discussed, and a number of changes were agreed, but there were also areas of disagreement.
443. In addition, the appellants put forward for consideration 3 conditions which would accommodate potential changes to the scheme that arose from the evidence<sup>748</sup>. RASE suggested a further condition dealing with traffic management<sup>749</sup>.
444. Due to the number and detailed nature of points made on the conditions during the discussion these are not set out individually here, but they are addressed in the section on conditions in the Conclusions below where there are material differences of view to resolve.

## PLANNING OBLIGATIONS

### Legal Agreement

445. The submitted legal agreement<sup>750</sup> is between the appellants, various other owners of parts of the site, a chargee with respect to one part of the site, and Warwickshire County Council. The planning obligations contained in its Schedule 1 are as follows:
446. **Part 1: Secondary/Sixth Form Education Contribution.** This sets out a formula for calculation of a financial contribution to the County Council. It contains elements relating to anticipated pupil yield, birth rate, average stay-on rate and pupil place cost multipliers for the extension of an existing school, together with an additional amount for funding special needs places. Triggers are set out for payment of four equal instalments of the contribution relating to the number of dwellings occupied.
447. **Part 2: Primary School.** This requires the primary school site not to be used for any purpose other than the provision of a primary school unless otherwise agreed by the County Council. An initial contribution provides for surveys of the site, with two options then set out. The first is transfer of the site to the County Council for it to procure construction of the primary school, and the second is transfer of the site to the County Council with a completed primary school. Financial contributions to the County Council are required for early needs, primary and special needs provision by way of formula and triggers, as

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<sup>747</sup> INQ/LPA/23

<sup>748</sup> INQ/APP/43

<sup>749</sup> INQ/RASE/18a

<sup>750</sup> INQ/APP/52

above for Part 1, with adjustment of the contributions under the second option to reflect the cost of construction of the school.

448. **Part 3: Library Contribution.** The contribution to the County Council is to be used for extending, altering or improving library and information facilities. It is calculated on a sum per dwelling basis, varying with dwelling size (from £85.34 to £284.49), and is payable by development parcel.
449. **Part 4: Bus Contribution.** This is a sum of £387,120 payable to the County Council by instalments for the purpose of enhancing existing bus services and equipment provision and/or to secure new services to serve the development.
450. **Part 5: Travel Pack Contribution.** A sum of £50 per dwelling, payable to the County Council by development parcel, for provision of information packs on sustainable modes of transport.
451. **Part 6: Traffic Management Contribution.** This provides for payment to the County Council of a maximum of £500,000 to cover the reasonable costs of implementing a traffic management scheme. The scheme is defined as traffic measures regulating or controlling the movement of traffic in or through Shotton as shown indicatively on an included drawing or a scheme or measures otherwise agreed. The contribution is to be paid at any time required within 2 years of opening of the Relief Road.
452. **Part 7: Parkway Station Contribution.** This is £40,000 payable to the County Council prior to occupation of more than 150 dwellings towards provision of a new train station.

#### Unilateral Undertaking

453. The submitted unilateral undertaking<sup>751</sup> is by the appellants, various other owners of parts of the site, a chargee with respect to one part of the site, to Stratford-on-Avon District Council. The planning obligations are set out in Schedule 1 as follows:
454. **Part 1: Affordable Housing.** This is to be provided in accordance with an affordable housing scheme set out in Schedule 2. 35% of the dwellings are to be affordable housing, with this calculated by reference to the total residential floor area of the development. The scheme contains requirements relating to tenure, unit sizes, build standard and clustering. Detailed arrangements are set out for phasing of provision, occupancy, protection of mortgagees and variation of restrictions.
455. **Part 2: Community Park.** Works for laying out and planting the park are to be completed prior to occupation of 200 dwellings. Provisions are set out for either transfer of the park to the Council with a commuted sum or for the developer to retain and maintain the park according to an approved management scheme.
456. **Part 3: Open Space Land.** This relates to areas of public open space within the development including play areas, and contains requirements relating to specification and the phasing of provision. There are again alternative arrangements for transfer of the areas to the Council or retention by the developer.

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<sup>751</sup> INQ/APP/53

457. **Part 4: Local Centre Land.** Marketing of the local centre land to commercial operators is required, with alternative provisions if this is not successful.
458. **Part 5: Off-Site POS Contribution.** This is payable to the Council according to a formula which reflects the calculated under-provision of on-site open space for youth and adult use in Stratford-on-Avon. It is payable by parcel for provision of local facilities.
459. **Part 6: Skylarks.** Implementation of an approved skylark mitigation strategy is required in accordance with an agreed timetable, with related ongoing land interest restrictions.
460. **Part 7: Health Centre Land.** This requires confirmation to be obtained from the PCT as to whether there is a need for additional health related facilities to serve the development. If so, marketing of the health centre land is to be carried out to enable completion by occupation of the 600<sup>th</sup> dwelling, with alternative provisions if the land is not required or the marketing is not successful.
461. **Part 8: Marketing Obligations.** Requirements are set out on the details of marketing exercises where these are necessary under other obligations.
462. **Part 9: Built Facilities Contribution.** Payment to the Council is required according to a formula based on a cost of £371.37 per person towards a leisure centre in Stratford-upon-Avon, phased by parcel.
463. **Part 10 Police Contribution.** Payment of £566 per dwelling (£396 if secured by design compliance is achieved) to the Council towards Police facilities and costs, phased by parcel.
464. **Part 11 Noise Mitigation Measures.** A requirement to notify the owners of 4 specified properties that they are potentially eligible for noise mitigation measures funded by the developer and implementation of these where required to a maximum of £20,250.
465. The District Council and the appellants submitted an agreed statement of justification for the obligations having regard to the local and national policy framework and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations (2010)<sup>752</sup>. This provides in each case (except the noise mitigation, as referred to below) a reference to relevant policies and an explanation for the quantum of contributions in the obligations. Although a joint document, it notes that the appellants do not concur with the justification for the obligations on Stratford Parkway Station and the Police.
466. With respect to Stratford Parkway Station, the statement advises that the Station is being promoted, funded and delivered by Warwickshire County Council and part of the Stratford Local Sustainable Transport Project. It is to be located adjacent to the existing bus-based Park & Ride in Bishopton, 2km northwest of the Town Centre, on the Stratford to Birmingham Railway. The scheme would assist the delivery of the Local Transport Plan and national transport goals. Of the total cost of £8.866m, developer funding is to provide £0.7m. A formula for contributions provides a consistent basis for calculating these. According to the County Council<sup>753</sup>, the formula would result in a contribution of £339,707 for a

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<sup>752</sup> CD/H/2

<sup>753</sup> INQ/WCC/1

scheme of 800 dwellings, but that in fairness to the appellants in this case the contribution was limited to £40,000 on the basis that an initial request had been made for this amount. It also referred to an appeal decision in Bromsgrove District where an Inspector had agreed the need for a development to contribute to a station scheme<sup>754</sup>.

467. The appellants point out<sup>755</sup> that the officer report to Committee advised that this contribution had not been justified for the purposes of the CIL tests<sup>756</sup>. It is also argued that it appears the scheme has already secured the required funding<sup>757</sup>, and that in December 2011 the Council issued a consultation statement acknowledging<sup>758</sup> that the West of Shottery scheme is not required to fund transport schemes listed in the Developer Contribution towards Transport Schemes Supplementary Planning Document<sup>759</sup>. It is therefore contended that a contribution to the Station has not been justified.
468. On the Police contribution, the appellants referred to a letter on behalf of Warwickshire Planning Authorities to the Police Authority<sup>760</sup> advising that a document it had published in February 2011 did not provide adequate evidence to justify the level of contributions it sought. At the inquiry the Council advised that it was not party to the letter, and that specific evidence had been provided in relation to the appeal scheme on the need for a Police contribution, including details on how it would be used, and it considered that this was compliant with Regulation 122<sup>761</sup>. The appellants maintained that insufficient justification had been given for the substantial contribution sought.
469. With respect to the noise mitigation measures, the Council advised that it had not sought this as an obligation and would not be able to enforce it since it derived no benefit from it. Such provision should be secured by other means. The appellants, supported by RASE, considered that this was properly a matter to be covered by an obligation since it responded to a concern about impact of the development, and that enforcement of the mechanism would be possible.

### **Parties to the Obligations**

470. The Council made representations in relation to the absence of the Shakespeare Birthplace Trust as a party to the undertaking<sup>762</sup>. It considers this is of concern since the SBT owns a large part of the site onto which parts of the Relief Road and structural landscaping including the Shottery Conservation Landscaping are proposed to be located<sup>763</sup>. Further, it is appropriate for the whole of an application site to be bound by the provisions of a planning obligation seeking to secure financial contributions for off-site works. The undertaking provides that open space land which would include the landscaping which falls within the SBT land is to be either transferred to the Council or a Management Company. Given that a large amount of that land is currently not bound by the

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<sup>754</sup> INQ/WCC/2

<sup>755</sup> INQ/APP/1 p 122

<sup>756</sup> CD/A/20 p 132

<sup>757</sup> INQ/APP/2 Appendix 17 Table 2.4

<sup>758</sup> INQ/APP/2 Appendix 18 p 127

<sup>759</sup> CD/C/2

<sup>760</sup> INQ/APP/45

<sup>761</sup> INQ/LPA/22 para 3.1

<sup>762</sup> INQ/LPA/22 Section 2

<sup>763</sup> INQ/LPA/24



provisions of the undertaking such obligations would not apply to the landscaping and Shottery Conservation Area which fall within the SBT land. Even were the landscaping to be retained and managed by SBT, which had not been suggested, an obligation entered into by SBT would be necessary to secure this arrangement. Further<sup>764</sup>, maintenance of the conservation landscape is required for mitigation and an important area of retained vegetation is affected. A condition cannot be relied upon.

471. The appellants responded as follows<sup>765</sup>. SBT land is proposed to be used to deliver a section of the relief road. The balance of the SBT land would be the subject of planting and landscaping works only, which are to be specified pursuant to planning conditions. No residential or associated development is proposed to be located on SBT land. The SBT land is not required to be bound by the proposed planning obligations. While local planning authorities generally adopt an approach that all persons having an interest in a site should be party to any obligation, there is no provision in section 106 or requirement by guidance or legal authority that this has to be the case. For example, where a red line boundary includes access works on highway land outside the principal development site, the highway authority would not normally be expected to be party to a planning obligation. The key issue is whether the interests which need to be bound in order to secure delivery of the obligations are in fact bound. The County Council and District Council have agreed that the new road does not need to be the subject of a planning obligation but would be secured by way of a condition requiring a highways agreement and a bond to secure it prior to any development commencing. To conclude the highways agreement to discharge the condition, it would be necessary for ownership of that part of the SBT land on which the road is to be located to be secured. This would either be following acquisition by the appellants or by SBT being party to the agreement. Accordingly, none of the development is capable of being brought forward until the SBT land is secured to enable delivery of the road. All of the planning obligations relate to things that are to be delivered on land already within the control or ownership of the appellants. None of the proposed obligations are to be delivered on the SBT land. It is incorrectly suggested that areas of land to be transferred to the District Council or a Management Company lie within the SBT land. Accordingly, it is not necessary for the SBT land to be bound by such obligations, and no mischief could arise as a result of the SBT land not being bound, with no development value to be derived from that land. Further<sup>766</sup>, the SBT land is not intended to be publicly accessible or part of the open space offer, and SBT could be relied upon to continue to look after land in agricultural use.
472. On this matter the County Council initially expressed the view that all land owners should be party to the agreement in accordance with normal practice, and that it was minded not to execute the agreement unless and until the SBT were a party to it<sup>767</sup>. However, it subsequently entered the legal agreement as set out above.

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<sup>764</sup> Oral addition to submissions

<sup>765</sup> INQ/APP/44

<sup>766</sup> Oral addition to submissions

<sup>767</sup> INQ/WCC/1 section 2

473. RASE pointed out that there was no certainty of a bond in the condition as drafted. The County Council advised that it was normal practice to require such a bond.
474. RASE also raised a number of detailed points on the drafting of the obligations by way of annotated versions of these<sup>768</sup>.

Richborough Estates

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<sup>768</sup> INQ/RASE/18

## CONCLUSIONS

475. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

### Main Considerations

476. Having regard to the Council's reasons for refusal of the application, the relevant policy context and the evidence to the inquiry, the main considerations that need to be addressed are as follows:

- i) whether the proposal is in accordance with the development plan;
- ii) whether and to what degree the proposal is supported by the housing land supply situation in the District;
- iii) whether allowing the development now would be premature in relation to the emerging development plan;
- iv) the effect the development would have on the character and appearance of the area with particular reference to landscape considerations;
- v) the impact the proposal would have on the settings of the heritage assets of Anne Hathaway's Cottage and its associated Registered Park and Garden, and the Shottery Conservation Area;
- vi) the effect the development would have on tourism in the District;
- vii) the effect the development would have on highway conditions;
- viii) whether the proposal would give rise to a risk of flooding;
- ix) the effect the development would have on the living conditions of existing residential occupiers in the vicinity and on residents of the development with respect to noise;
- x) whether the proposal is a sustainable form of development;
- xi) whether there is adequate environmental information;
- xii) whether any permission should be subject to planning conditions and planning obligations and the likely effectiveness of these with respect to mitigation of impacts.

#### (i) The Development Plan

477. The development plan comprises the West Midlands Regional Spatial Strategy (August 2004 and re-issued January 2008), saved policies of the Warwickshire Structure Plan 1996-2011 (Adopted 2002), and saved policies of the Stratford-on-Avon District Local Plan Review 1996-2011 (Adopted July 2006). There is no dispute that the saved policies remain in place notwithstanding that the original intended plan periods of the Structure Plan and Local Plan Review have passed. [22]

478. The appeal site is explicitly referred to in the Local Plan Review (LPR) in two policies, both of which have been saved. These are STR.2A and SUA.W [29,40]. It is described as Land West of Shottery, with the Proposals Map showing an almost common boundary with the current appeal site. In policy STR.2A, proposal SUA.W is one of three listed sites. The first part of this policy states that: "*The release of sites for housing development will be regulated...*",

indicating that it is a phasing-type policy. Consistent with this, the policy goes on to state that the three sites listed "*are identified as Strategic Reserve Sites to help meet long term (post 2011) housing needs*". The penultimate part of the policy seeks to prevent "*any development which would prejudice the long-term use of these sites for housing*". Such prejudice does not arise with the present proposal since it is substantially for housing development [13-21]. The final part of the policy precludes housing development before 31 March 2011 unless there is a significant under provision of housing land. Since that date is past, there is also no conflict with this part of the policy.

479. There is disagreement as to whether the use of the term 'identified' in the policy differs significantly in meaning from 'allocated' [74-77,185,230-231]. Supporting paragraph 2.4.12 differentiates the three Strategic Reserve Sites from Plan allocations on the basis that it was unlikely they would need to be released in order to meet requirements prior to 2011, and the housing provision identified in the Plan covered the period up to 2011 [75,185,231]. Nevertheless, the final part of the policy would have allowed their development pre-2011 had the need arisen, so that the term 'identified' in effect can be seen as intended to indicate an acceptance of actual development. Similarly, paragraph 2.4.14 states that "*when the need to release additional greenfield land is identified, priority is likely to be given to the release of land at Shottery in a phased manner*" [76]. Again, it is clear from this that identification of the site anticipated the scope for development to take place rather than being merely to prevent other prejudicial development.
480. Paragraph 2.4.12 refers to the reserve sites having a "*potential role in meeting housing needs post 2011*" [75,185,231]. The policy was extended by its saving in 2009 to support the delivery of housing, and remains saved [22,68,77]. It is reasonable to conclude that the realisation of that potential role by way of development now to meet current housing needs accords with the saved policy, despite the original intended end-date of the Plan being passed [77,93,185,232]. Housing needs can be interpreted as need for housing land (as evident in paragraph 2.4.13 which refers to "*an ongoing need... to accommodate development consistent with meeting local needs*", and ensuring that "*there is a continuous land supply to meet longer-term housing requirements*") [75].
481. Paragraph 2.4.16 refers to it being unlikely that the need to release any of the reserve sites will have to be addressed until after the Council has prepared its Core Strategy and Significant Allocations Development Plan Documents [79,185,231]. This has not happened, and the partial review of the Regional Spatial Strategy to cover the period post 2011 will not now occur [43]. However, the policy does not explicitly rule out development of the reserve sites in advance of such a stage in the development plan being reached. Conversely, with the progress yet to be made on the emerging development plan (dealt with below under consideration (iii)), and the saving of the LPR policies, the latter continue to provide the development plan framework for housing land supply in the post-2011 period [79,104].
482. Arguments have been made suggesting that policy STR.2A and proposal SUA.W are out of date, that benefits envisaged by the LPR Inspector no longer apply, and that emerging policies should take precedence [186-190,232-234]. These points are potentially other material considerations to balance against the development plan. They do not mean that there cannot be compliance with these policies [69-70,229]. Residential development of the West of Shottery site

at the present time to meet housing needs is consistent with the expectation of policy STR.2A. In such circumstances, the proposal accords with this saved policy [93]. A similar view was reached by the Inspector in an appeal decision on another of the Strategic Reserve Sites [78]. The matter of whether housing needs exist is considered below.

483. With respect to proposal SUA.W, this specifies a number of components that development of the site is expected to include, as indicated on the Proposals Map [40]. The appeal scheme proposes northern and southern residential parcels including affordable housing (components (a) and (b) of the policy), public open space (d), a local centre including a convenience store, primary school and doctor's surgery (e). With respect to (f), the required woodland areas could be incorporated in the development by way of planning conditions, as dealt with under consideration (iv) below. Under (c), the scheme includes the required road link between Alcester Road and Evesham Road, and makes provision for a rear vehicular access to Anne Hathaway's Cottage. Associated traffic calming measures in the Shottery area, also specified in (c), do not form part of the proposal itself, but a financial contribution towards these is put forward in a planning obligation [189,140,234]. This and the weight to be given to it are addressed below under considerations (vii) and (xii).
484. On the above basis, and subject to the remaining matters to be considered further below, the scheme substantially accords with proposal SUA.W [91]. It also closely follows the Council's Statement of Development Principles, which supported the policy [49,116]. There is no suggestion in the reasons for refusal that the proposal conflicts with this part of the development plan [55].
485. The refusal does cite a number of other policies in the LPR. To the extent that policy STRA.2 and proposal SUA.W form part of the same development plan, compliance with the site specific requirements of these should effectively override areas of apparent conflict identified with the Plan's other more general policies. This is on the basis that the Plan should be capable of an internally consistent interpretation [113]. Nevertheless, suggested conflicts with individual policies arising from the particular features of the appeal scheme, and related to changed circumstances, are considered within the specific topic issues below.
486. No breach of the Regional Spatial Strategy is suggested [55]. The LPR, including policy STR.2A and proposal SUA.W, was prepared in the context of both this and the Structure Plan, and reflects their requirements [183-184].
487. It can be concluded that, in the event that the proposal is shown to be required to meet current housing needs and subject to some detailed matters relating to proposal SUA.W on woodland and traffic calming to be considered further, it has a close accord with key policies of the development plan.

## **(ii) Housing Land Supply**

488. The National Planning Policy Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. There is disagreement as to whether the Council is able to meet this requirement. The Council's assessment of its 5 year housing land supply position (supported by RASE) is that it has a

- 5.01 years supply of housing land<sup>769</sup>, while the appellants' calculations applying a variety of assumptions are in a range in which the shortest period is 1.47 years and the longest 3.22 years [86-87,191,241].
489. Looking at the differing inputs leading to these varied estimates, the first is the size of the requirement for the 20 year plan period of 2008-2028. The Council suggests that this should be 8,000 dwellings [191,236], while the appellants prefer a figure of 12,000 [81-83]. The Framework requires that local planning authorities use their evidence base to ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with policies in the Framework.
490. A study of housing provision options for the District has been undertaken by GL Hearn to provide evidence for the Council's Core Strategy [81,191,237]. The study gave a range of options between 8,200 and 12,000 dwellings for the plan period, but advised that the Council should plan on the basis of a requirement in the 11,000-12,000 range. The lower option of 8,200 dwellings was put forward based on an assumption of reduced net in-migration. While indicated to have least environmental impact and do most to preserve the character of the District, also identified was that it would have a higher cost in economic and social terms. The Council has recently selected a figure of 8,000 for use in the third draft version of its Core Strategy. This is based on the belief that this scale of provision would best preserve the special character of the District and recognise the key role played in this by the District's tourism economy, which the Council considers was not properly reflected in the GL Hearn study [191].
491. Weighing the options with their differing environmental, economic and social implications for the District is a matter for the Council to consider through the emerging Local Plan [191,239]. However, the GL Hearn study is clear that the lower option is based on an approach of restraint and requires 'displaced demand', with implications for neighbouring authorities, to be addressed [81-82]. There is no apparent evidence base dealing with this in support of the Core Strategy. The 8,000 figure is yet to be tested through the Core Strategy examination process. The weight to be given to the emerging Plan is dealt with below under consideration (iii), but at this stage the adoption of the restraint figure in itself carries limited weight.
492. There is no reason to doubt that the GL Hearn study is a properly prepared independent assessment. Its recommended range of 11,000-12,000 dwellings is consistent with that produced in a separate expert analysis of demographic data using a well-established modelling approach, and received the support of Council officers [82-83]. Detailed criticisms have been made by RASE of the analysis, in particular in relation to migration assumptions [237-238]. However, the expert assessments are based on the most up to date available information and consider a range of factors before arriving at the recommended option. The GL Hearn study provides a more recent evidence base than the RSS Review Panel report [43-45]. I therefore consider that the figure of 11,000-12,000 dwellings for the period 2008-2028 accords more closely with the full, objectively assessed needs for market and affordable housing required to be met under the Framework than the Council's figure of 8,000 dwellings.

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<sup>769</sup> Calculated as explained in the footnote to paragraph 191(d).

493. The second area of difference relates to whether or not certain specific sites should be included in the land supply. The developments at Tiddington Fields (43 units) and Maudslay Park (179 units) are restricted for use as residential institutions, but on the evidence of the particular nature of the developments they comprise what can reasonably be regarded as individual dwelling units for housing supply purposes. They are therefore legitimately counted by the Council in the supply. [87,191,244]
494. The Former Cattle Market site (197 units) does not appear to have permission for a development that would currently be viable. However, it is in a suitable location for development and available, and with a desire for a viable scheme to come forward there would appear to be a realistic prospect that housing could be delivered within 5 years. This site is reasonably included in the supply. Similarly, the Chestnut Street site (7 units) should not be excluded merely because it has permission for flats. [87,191,244]
495. Therefore, the disputes on these sites can be resolved in favour of the Council (as supported by RASE).
496. A further area of disagreement on supply is with respect to windfalls. The Framework indicates that local planning authorities can make an allowance for these in the 5 year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the SHLAA, historic windfall delivery rates and expected future trends. The Council's allowance of 99 units per annum excludes residential gardens, as required by the Framework. There is evidence of the previous availability of such sites, and this is reflected in the SHLAA and by reference to windfalls in the LPR. However, there is not compelling evidence on the future reliability of this source, with the parties unable to satisfactorily interrogate the relevant Council data during the inquiry. As a result, there have to be reservations about whether the Council's allowance is realistic. [85,191,242]
497. Another disagreement is on treatment of the backlog in completions in the first part of the Plan period. The Council's figures spread this shortfall over the whole of the remaining period, while the appellants' assume it should be made up in the first five years. There is no firm policy guidance on the correct approach. However, the emphasis of the Framework is to boost significantly the supply of housing, which implies dealing expeditiously with a backlog. There are previous decisions which have followed the appellants' approach, and no strong local reason for a long term offsetting of the remaining requirement. The backlog should therefore be added to the 5 year requirement. [84]
498. The Framework suggests that the 5% buffer should be increased to 20% where there has been a record of persistent under delivery of housing. There has been a significant shortfall against the Council's own target over the period 2008-2012. However, the number of permissions was constrained by the moratorium imposed between November 2006 and March 2011 due to an oversupply of sites having regard to the strategic target. This would have been a strong factor in limiting delivery during recent years. Despite shortcomings in the achievement of new affordable homes, the performance record does not warrant a 20% buffer. [88,191,243]
499. I therefore conclude that a robust assessment of the 5 year housing land supply position in the District should be based on an 11,000-12,000 unit

requirement for the whole Plan period, a 5% buffer, the land supply as identified by the Council but excluding a windfall allowance, and the backlog being added to the 5 year requirement. This gives a supply of around 2.0-2.2 years. This would increase to around 2.4-2.6 years with the Council's windfall allowance and further to around 3.2-3.5 years if the backlog is spread over the whole Plan period. The degree of shortfall in the 5 year supply even with generous assumptions indicates the existence of a substantial requirement for land to meet objectively assessed housing needs in the District. [86]

500. The appellants suggest that the appeal site could deliver some 400 dwellings during the 5 year period, and add to the supply thereafter for a further 4 years [89]. The scope for the development being implemented is challenged by the other parties due to the need for this to involve the Shakespeare Birthplace Trust [248-250,188,192], and this point is addressed below in the overall conclusion. The rate of delivery has not otherwise been questioned by the Council, but RASE contends that the scale of this as set out by the appellants is unrealistic [175,245-247,258]. Points have been made regarding the financial position of the appellant companies and their capacity to undertake the scheme. This has been responded to by the appellants by way of information on recent performance. The identity of an appellant is not normally material to the decision on the grant of permission. The reference in the Framework in paragraph 173 to there being a need for attention to viability and costs in plan-making and decision-taking relates to the effect of the scale of obligations and policy burdens in affecting viability. There is no suggestion that implementation of the appeal scheme would not be viable. Delivery rates are clearly subject to uncertainty, and there would be complex issues to deal with including discharging conditions and risk. However, the appellants anticipate the involvement of 3 house builders and a housing association, such that a number of interests would be active in delivery. If implemented, there is no overriding reason to doubt the appellants' confidence that the development would contribute a substantial number of units within the 5 year period. This is consistent with the LPR's anticipation of the site making a significant contribution to the District's post 2011 housing supply.
501. While it is suggested that alternative sites should be considered, the review of sites for inclusion in the 5 year supply has been comprehensive, with known alternatives assessed on the basis of deliverability. The 5 year assessment as such takes reasonable alternatives into account. [90,100,250,265,271,286,293, 305,308]
502. It is therefore found that there is a significant unmet need for housing land in the District, and this warrants a role for the appeal site as anticipated in the LPR [90]. The proposal thus accords with the development plan in this respect.

### **(iii) Prematurity**

503. Advice on prematurity in relation to emerging development plans is given in 'The Planning System: General Principles'. This indicates that refusal of planning permission on grounds of prematurity may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A clear demonstration of how the grant of permission would prejudice the outcome of the DPD process is required. [96,193]



504. Although the West of Shottery proposal was included in the first and second drafts of the Core Strategy, it did not appear in the third draft issued in February 2012 [44-47,63-64,195,231,252]. That current draft seeks to restrict the number of new dwellings in Stratford-upon-Avon to no more than 560-840 and limit the size of estates to 100 homes. The appeal proposal is for up to 800 dwellings. If granted permission, a wider dispersal of the remaining substantial proportion of the total number of dwellings that the Core Strategy seeks to provide for would still be possible [101]. However, the scale and location of the appeal scheme, and a prospect of immediate development, would run strongly counter to the strategy that the emerging plan is seeking to deliver [258,195-196,253,258]. This would be to a degree that a grant of permission would materially prejudice the outcome of that process. The conflict between the proposal and the current version of the Core Strategy is widely cited in local representations, which see local decision making through the development plan as a key element of localism [317-410,412,414,422-426,428].
505. The General Principles advises that, when a DPD is at the consultation stage with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question. Consultation in the preparation of plans is consistent with consultation obligations in European Law, but it is important to avoid unreasonably holding up proposals on the basis of conflict with another process which has an uncertain outcome. The Council's officers in April 2012 considered that, with the Core Strategy unlikely to be submitted for examination before November 2012, it did not have an early prospect of submission and should only be accorded limited weight. November is now sooner, but an earlier prospect of submission does not automatically mean that refusal is justified on prematurity grounds. [95-97,194]
506. The Framework in paragraph 216 advises that weight may be given to relevant policies in emerging plans according to a number of factors. First is the stage of preparation reached, with the weight greater the more advanced the preparation. In this case two previous consultation exercises have been undertaken on the Core Strategy, and further consultation has been carried out. The Council considers that the latest version responds to the results of previous consultation and to changes in the planning context. However, with submission not until November 2012 it remains at a relatively early stage. [97-98,195]
507. The second factor is the extent to which there are unresolved objections to relevant policies, with the less significant these are the greater the weight that may be given. The information given to the inquiry is that there are some 1,600 duly made objections to the Plan, but no analysis of these had been carried out. Copies of a number of representations were provided, and within these there are objections to the relevant policies. The analysis of the representations and the implications of the whole range of these for the Core Strategy are matters for the Council to address. However, there do appear to be unresolved objections which are significant. In addition, it is apparent that the evidence base in support of the current version of the Core Strategy remains to be developed. [98,195,253]
508. The third factor is the degree of consistency of the relevant policies with policies in the Framework, with the closer the policies are the greater the weight that may be given. Again, this is a matter to be considered through testing of the Plan. However, identified above under consideration (ii) is the key issue relating to the housing requirement for the Plan period, where it is concluded that

the 8,000 unit figure put forward by the Council does not accord with advice in the Framework on meeting housing needs. Furthermore, sustainability concerns have been identified with the proposed distribution. The soundness of the emerging Plan is not for determination through this appeal, but there do appear to be significant questions relating to the degree of consistency with the Framework. [64-65,98,195,253]

509. A further relevant point is that the Core Strategy does not include site allocations, and therefore its progress would not resolve land delivery issues [99].
510. The Framework includes as a core planning principle that it should be genuinely plan-led, empowering local people to shape their surroundings. Representations on the appeal reflect evident local concerns about the previous growth of Stratford-upon-Avon and the changes that this has brought about, and there are many references to the Government's localism agenda. The Framework also identifies a role for neighbourhood planning as giving communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Considerable work has been undertaken on the neighbourhood plan process in Stratford-upon-Avon including consultation, which has been contrasted with that carried out by the appellants on the appeal proposal. To the extent that the neighbourhood plan would need to be consistent with the Core Strategy, the proposal would also be prejudicial to this. However, there is not expected to be a draft until the end of 2012. [65,99,190,195,254-259 317-410,412,414,422-426,428]
511. Taking all the above factors into account, I consider that relatively little weight can be attached to the emerging Core Strategy and the neighbourhood plan at this stage.

#### **(iv) Character and Appearance of the Area**

512. The inclusion of policy STR.2A and proposal SUA.W in the LPR confers an acceptance within the development plan of the landscape impact of the west of Shottery development, subject to compliance with the parameters it sets out [70,105,113]. That position reflected the analysis of the LPR Inspector, based on the information before him. This included the Council's Statement of Development Principles and the Scheme Assessment Study for the Stratford Western Relief Road (SWRR). The Inspector found that there would be inevitable changes to the area immediately west of the existing urban edge but that the overall cumulative impact on the designated Special Landscape Area would not be materially harmful [106]. Specifically in relation to views, he considered that the impact on those to and from Bordon Hill and its environs would be "*minimal*" [107]. His overall conclusion was that the scheme would have "*limited*" harmful effects [107].
513. Reference has been made to the findings of a previous Inspector on proposed development west of Shottery in the 1994-5 District Local Plan inquiry [111,198-199,235,261]. There is no dispute that fundamental elements of that Inspector's approach and the identified features of the landscape itself on this edge of the town remain applicable [198,235]. However, his conclusions were reached in relation to a scheme which was not the same as the current proposal and was in an earlier development plan context [111,198]. Those conclusions were clearly recognised by the LPR Inspector, who nevertheless found in favour of the West of Shottery proposal. He agreed on the need for a very sound case to justify a

- breach of the existing settlement boundary but considered that such a case existed [200-201]. The case included his acknowledgement of a requirement for housing development on greenfield land on the periphery of Stratford-upon-Avon<sup>770</sup> as well as the site specific benefits of the West of Shotton proposal [201,234]. On the deficit side his findings on the limited degree of harm from the LPR scheme are clearly set out in relation to the landscape impact, as referred to above. His analysis leading to this conclusion followed the current approach of landscape character assessment rather than one based on assessing landscape quality which was reflected in the earlier Inspector's findings [111].
514. There is doubtless scope for differing views to be held on the landscape impact of the proposal [108,201,205,261,269]. In addition to the Council and RASE, there are many other local representations which are strongly opposed to the scheme on landscape grounds [269]. However, the conclusion of limited harm was reached by the LPR Inspector in agreement with a wide body of expert evidence supporting that finding submitted at the LPR inquiry. A very similar expert case is put forward by the appellants on the current appeal, including a detailed Landscape and Visual Impact Assessment. [108]
515. Given the inclusion of policy STR.2A and proposal SUA.W in the development plan, it is necessary to focus on whether there are any considerations indicating a different conclusion on the acceptability of the current scheme [105,108-109,206]. The Special Landscape Area designation no longer applies, as the relevant policy was not saved [106,198]. This change does not militate against the LPR Inspector's findings or the justification for the proposal. The District Design Guide and the Town Design Statement, the latter explicitly seeking to give protection to the fields on either side of Bordon Hill and the panoramic view, were before the Inspector and the Council when the LPR was adopted [114,200,262]. The National Planning Policy Framework specifies a need to recognise the intrinsic character and beauty of the countryside, but that is not a material shift in national policy and does not warrant a change in approach to landscape impact assessment [114,204,260].
516. The Council has recently produced a Landscape Sensitivity Assessment which builds on an earlier Urban Edge Pilot study [109,203,261]. The northern residential component in the proposed development would lie within a zone identified in the Assessment as of medium sensitivity to housing, the southern residential component would be in a zone identified as of high/medium sensitivity, and the road link would pass through a zone identified as of high sensitivity [109-110,117,203,265]. However, the degree of sensitivity ascribed to these parcels of land, over which there is not expert agreement, does not in itself render the proposals unacceptable. In fact, the descriptors to the northern and southern zones in the Assessment provide for a potential acceptance of some housing development within these, although the scale of such development is at issue.
517. The Assessment has been prepared as supporting evidence for the Council's emerging Core Strategy, but has not been the subject of consultation and does

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<sup>770</sup> CD/B/3 para 782: "...I remain convinced that it is necessary to seek greenfield land on the periphery of Stratford for housing development, and that on balance the package of proposals set out in SUA.W represents the least harmful and most beneficial way of achieving this."

- not represent adopted policy. At this stage the weight it carries is limited [112,204].
518. The details of the proposed development and the supporting mitigation are important factors [110]. Reasonable reliance can be placed on the photomontage material, accepting that this provides restricted perspectives and is of an illustrative nature, as are the aerial visualisations [118,268]. The photomontages indicate limited visual impact over the longer term (10-15 years) with mitigation planting, as anticipated by the LPR Inspector. It can be expected that such planting, subject to appropriate conditions, would be successful in achieving a good level of screening and integration of the development within the landscape. I note at this stage that some of the landscaping is on land owned by the SBT, and the implications of this are examined under consideration (xii) below [113,205,269,272].
519. The proposal largely follows the Statement of Development Principles and the Scheme Assessment Study for the SWRR, closely adhering to the layout shown on the LPR Proposals Map and including extensive areas of green infrastructure. The two substantive areas of difference relate to the depth of planting to the north of the northern development area and the form of structural planting to the south west of Anne Hathaway's Cottage within the Shottery Conservation Landscape. Both of these could be brought into line with the indicative scheme and part (f) of policy SUA.W by way of amending conditions. [72,116,205,443]
520. The northern housing development would breach a ridgeline within that part of the site but be largely contained within the bowl that characterises this area [117,205,269]. The southern housing element would be exposed in views from Evesham Road without advance planting, but mitigation planting as part of the development would provide for visual absorption as a soft edge to the built up area in the longer term [117,205,269]. Approaching Stratford-upon-Avon along this road provides a vista of the town, with the recognisable landmark points of Holy Trinity Church spire and the Royal Shakespeare Theatre Tower. There is disagreement about whether this relatively brief view when travelling by vehicle can properly be described as 'iconic'. Notwithstanding this, the development would be to one side of the vista and not affect the identifiable features. New road signage and the roundabout would have a degree of negative visual impact, but overall the longer term effect on this approach to the town would not involve serious landscape harm. [119-120,204-205,264]
521. The new road would be contained within a false cutting for much of its length. Over time, with planting, the road and associated roundabouts could also be expected to be absorbed to a fair degree within the landscape. As envisaged by the LPR Inspector, in the view westwards from the Garden of Anne Hathaway's Cottage the proposed cutting and re-grading would preserve a continuous view of unbroken countryside, with the skyline in its existing position [115,122,136,205,272]. The new residential developments to the north and south as seen from here would be filtered by vegetation and peripheral, and have a limited visual impact [136,205,211,273].
522. The RSC Tower provides a new viewpoint in the town with an impressive panoramic view. This takes in the higher surrounding ground including Bordon Hill. It could be expected that the development would be perceived in this, but the contextual feature of higher ground surrounding the town would remain and the visual intrusion on this would be minimal. [121,264]

523. The submitted comparative visual analysis encapsulates the different expert opinions on the sensitivity of receptors, magnitude of visual change with the development, and significance of the impact from various viewpoints [108,201,205]. In the appellants' assessment, at year 15 the significance in almost all cases drops to negligible, with some only slight adverse, while the Council's has a number of major adverse impacts. Based on the evidence and with the benefits of site inspection, I prefer the assessment in the appellants' analysis. This reinforces the judgments that underlined the LPR Inspector's conclusions that the landscape impact of the development as then envisaged would be one of change but involving limited harm [106-107]. There is nothing to indicate in this respect that the development plan is out of date or has been overtaken by other factors. In this context there would be no material breach of policies PR.1, DEV.1, SUA.1 or SUA.2 of the LPR or of RSS landscape objectives. [26,31-39,69-71,112-113,201,206,232-233]

#### **(v) Heritage Assets**

524. National policy in the Framework requires an identification and assessment of the significance of heritage assets. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. [207]

525. Shottery contains a large number of designated heritage assets, with the Shottery Conservation Area covering the older part of the village which includes many listed buildings. Pre-eminent amongst these is the Grade 1 listed Anne Hathaway's Cottage ('the Cottage') together with its Grade 2 Registered Park and Garden ('the Garden'). The significance of these assets has been clearly set out in the evidence. The Cottage is of international importance, with its architectural and historic interest as a building of medieval origin added to by its historic, artistic and associative links with Shakespeare. The Garden has historic and aesthetic interest, although its current appearance is largely derived from the early 20<sup>th</sup> century rather than Shakespeare's time. Elements of the Garden including the presence of an orchard and boundaries may be relics of a medieval peasant homestead, but the evidence on this is uncertain. [10,129-130,132-133,136,208-209,216,270,274]

526. The setting of a heritage asset, as defined in the Framework, comprises the surroundings in which a heritage asset is experienced [207]. It does not have significance independently of the asset itself [134]. The Garden provides an established curtilage for the Cottage, which may be of medieval origin. It also creates a picturesque surrounding for the Cottage, enhancing the experience of the many visitors. The Shakespeare Birthplace Trust (SBT) owns land beyond the boundaries of the Garden, some of which forms part of the area open to visitors, including an extension of the orchard and a plantation to the south, which also contribute to the aesthetic qualities of the assets. There are views from the Garden to the countryside beyond to the west. These are not designed views and they would not be sought out by all visitors to the Cottage site, but they are mentioned in the Garden designation. The open vista contributes to the rural quality of the site and enhances an associative link with an agricultural landscape which potentially retains some elements of early origin. The settings

of the Cottage and Garden also include the more modern surrounding development through which most visitors approach. While a general sense of tranquillity is a feature of the site, this is intruded upon by traffic noise and views of passing cars, and by the negative impact in these respects of the Cottage coach park which immediately adjoins the site. [10,123,129-130,132,135,210,273]

527. The special interest of the Conservation Area is largely defined by the listed buildings and open spaces it contains, reflecting the early layout of the settlement. A feature of the Conservation Area, enhanced by its setting, is the linkage between the countryside and the town, with green space extending into this part of the built up area. There are no views from the west including Bordon Hill from which Anne Hathaway's Cottage can be readily discerned<sup>771</sup>, but in both inward and outward views there is a visual connection between open farmland and the settlement which contributes to the Area's significance. [133,135,210,277]
528. These elements of significance and setting were recognised by the LPR Inspector. He concluded that the West of Shottery proposal would have negligible direct visual impact on the immediate vicinity of the Cottage as a result of the inclusion of a false cutting for the road and land re-grading. He acknowledged some disruption and harm during the undertaking of the works including the reduction or loss of the very few remaining traces of ridge and furrow in the affected field. However, rather than the existence of unbroken countryside, he considered that preservation of continuous views of open countryside to the west was of concern for the settings of the Cottage and Conservation Area, and that this could be achieved by the scheme. [122-123]
529. The Inspector agreed that the area around the Cottage can be described as being generally tranquil, although he noted that it is subject for much of the time to a noticeable amount of traffic noise [123,131,209-210]. The evidence before him was of a predicted increase in noise with the scheme of some 4 to 6db(A) in the Cottage and Garden respectively, with the type of sound similar to that which already existed. He concluded that, while this would be perceptible, given the existing audible traffic noise and the relatively low increase, there was not likely to be a material overall harmful effect on the Conservation Area or the setting of the Cottage. [123,138]
530. The inclusion of policy STR.2A and proposal SUA.W in the LPR was in the context of these findings and can be viewed as consistent with them [122]. Paragraph 7.15.49 of the LPR in support of proposal SUA.W states that it is essential that the development does not have a material impact on the setting of Anne Hathaway's Cottage<sup>772</sup>. Given the Inspector's recognition of temporary harm, as set out above, this can reasonably be interpreted as a permanent material impact.
531. Key questions to consider are whether it has been demonstrated that the current scheme would give rise to any harm to heritage assets that was not anticipated by the LPR Inspector and by the inclusion of the relevant policies in the LPR, and whether there have been any other changes in circumstances in this regard [69-71,124].

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<sup>771</sup> It could not be seen at the site visit

<sup>772</sup> CD/B/1

532. The expert evidence for the appellants is that there would be no material harm from the development, such that paragraphs 133 and 134 of the Framework, which deal with harmful outcomes, are not engaged [127]. In contrast, English Heritage gave evidence in support of the Council against the proposal [127,188,211,269]. There is debate over the consistency of this as a change from its previous position of raising no objection to the proposal subject to certain provisos [126,137,188,213,436]. Of more importance, however, are the nature and extent of its concerns regarding the impact of the scheme. While many third party representations suggest that there would be a major degree of harm to the heritage assets, the expert assessment for English Heritage does not contend that the impact reaches the threshold of substantial harm in the sense addressed by paragraphs 132 and 133 of the Framework [127,211].
533. The proposal would have no direct physical effects on the Cottage or Garden or the Conservation Area [21]. In terms of the visual impact of the link road on their settings, with this contained in a false cutting and the proposed gentle contouring of the land, this would be no more and probably less than previously anticipated in views westward from the Garden [115,122,125,136,273]. The use of lighting would be restricted, and this could be required by condition [136,211,442]. The view of open countryside directly to the west, identified as important by the LPR Inspector, would be retained. The evidence, including the response from the County Council, is that archaeological interest of ridge and furrow, which he referred to, could be safeguarded satisfactorily by an investigative condition [59,122,273,432]. The loss can be regarded as a slight harm, including that it would not enable a fully precautionary approach which has been advocated [271].
534. The proposed landscaping would substantially screen the housing in the northern parcel lying to the north west of the Garden. Similarly, the plantation to the south of the Garden would largely obscure the southern housing parcel beyond this. Nevertheless it is likely that there would be some partial views of residential development from some positions in the Garden and the neighbouring SBT land, especially before new planting is fully established. This impact was not identified by the LPR Inspector, but the views would be restricted and peripheral to the main rear outlook from the Garden. The impact would amount to a slight element of harm as a result of visible urban development (including lighting) replacing countryside as part of the setting of the assets. [122,135-136,205,211,273]
535. In views from the west the new blocks of residential development would be seen. However, these would be to the sides of the Conservation Area and not affect the positive feature of its setting derived from the penetration of countryside into the edge of the urban area at this point. From this direction looking towards the rear of the Garden and the adjoining land it could be expected that the line of the road would be perceived as traversing the countryside. Although this would be substantially mitigated by the re-grading and new planting, a residual effect would be to create a visual divide between the wider countryside and that immediately abutting the western edge of the Conservation Area. The effect on this eastward view was not explicitly considered by the LPR Inspector, and would involve a limited element of harm to the settings of the assets. [122,135-136,205,211,273]
536. In terms of noise, the only expert evidence is that of the appellants [138]. The technical basis of this noise assessment is agreed in the statement of

- common ground between the appellants and the Council [59]. Some criticisms are made by RASE of the assumptions used in this, including of the modelling of traffic speeds and the design year, but there is no counter evidence on which to evaluate these [138,275]. The assessment indicates an increase in background noise within the Garden at the design year of 1.7dB. This is significantly less than that considered by the LPR Inspector, and the technical evidence is that it would not be perceptible as a change from the existing noise environment despite the acceptance that the road could be an identifiable noise source [125,138,214]. On this evidence, the suggestion that the Garden would be in an 'acoustic enclosure' appear to be exaggerated. According to the assessments, the use of a low noise surface for the road and additional screening would reduce noise levels further [138]. There are limitations to the likely effectiveness of low noise surfacing, particularly in terms of deterioration over time [275]. However, the assessment indicates a negligible noise impact even without the use of this. Some of the proposed noise mitigation would be on SBT-owned land [214], and this is addressed under consideration (xii) below.
537. Due to distance and intervening structures, the proposal would have no material effects on the settings of Burmans Farmhouse or other listed buildings in the Conservation Area [136].
538. Drawing the above together, in most respects the impact of the proposal would be as or less than that anticipated by the LPR Inspector. There would be minor harm as a result of a loss of potential archaeological interest, glimpsed views of urban development from the rear of the Garden and Conservation Area, and severance by the road of the countryside beyond the rear of the Garden and Conservation Area as seen from the west. This harm, although less than substantial, would be in addition to that of a temporary nature and involve a minor erosion of significance of the assets. The proposal would therefore not entirely meet the requirement of paragraph 7.15.49 of the LPR and policies EF.13 and EF.14. However, a preclusion on any harm to heritage assets does not comply with the Framework, and is not up to date. Paragraph 134 of the Framework sets out that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
539. The LPR Inspector gave consideration to the benefits of the West of Shottery development proposal. In particular, he cited the opportunity for a new vehicular access from a roundabout on the link road, which would mean that vehicles for visitors to the Cottage would no longer have to use Cottage Lane, which would in turn provide an opportunity to remove all vehicular traffic other than emergency or service vehicles. He considered that this would very greatly enhance the character of the Conservation Area and the setting of the Cottage, noting that the noise and visual intrusion of vehicles on Cottage Lane is considerable and the width and featureless environment of the road causes serious harm to the character of the area. [139,212-213,234]
540. The view of SBT at the time was that this would be a major benefit. The Inspector saw it as of 'especial value' [188,212,272]. It is suggested by the Council and RASE that the Inspector required this benefit as the basis for acceptance of the development proposal [187,212,234]. However, it is important to note that his general findings on the proposal were that the character and appearance of the Conservation Area and setting of the Cottage would be preserved, and that there would be no material harmful effect in terms of noise



[122,123]. He saw the potential access changes as an opportunity for enhancement; the only harm referred to as being 'far outweighed' was that of a temporary nature caused during the execution of works and maturing of new planting [234].

541. The provision of the re-located coach park would be dependent on this option being pursued by SBT [20,136] and a grant of planning permission for it, which would need to take into account the landscape implications in current circumstances including with respect to the plantation. SBT's position in relation to the development has evidently changed [176-178,188,208-209,233,272,418-421]. It has objected to the proposal and has set out concerns about its impact. SBT did not give evidence to the inquiry, and there is some speculation about whether its pre-conditions can be met [176-178,188]. Given that SBT itself wishes to reserve its position until the outcome of the appeal is known, assumptions cannot be made about what this would be.

542. The Framework requires less than substantial harm to the significance of designated assets to be weighed against the public benefits of a proposal. While the provision of rear parking for the Cottage is far from certain, it cannot be ruled out. It is therefore a potential public benefit, and the provision for this complies with proposal SUA.W [40,91]. A lack of certainty does not impel that the benefit should be given no weight, but in the circumstances I consider that little weight can be attached to it.

543. Public benefits do not need to be restricted to heritage ones, and other benefits have been contended for the development [72]. The overall balance is dealt with in the final conclusion.

#### **(vi) Tourism**

544. The tourism industry is an important part of the economy of the District, and makes a significant contribution to national tourism. The attractions in Stratford-upon-Avon linked to Shakespeare are a fundamental element in drawing visitors to the area. Anne Hathaway's Cottage is prominent amongst these. [142,217-218]

545. The propensity of tourists to visit a particular location can be affected by a change in perception of its attractiveness. Information is easily available to potential visitors and quickly updated. Were an image to develop of Anne Hathaway's Cottage as a degraded attraction, this could affect visitor numbers, despite its existing iconic status. [219-220,306]

546. These general assertions, supported by expert evidence at the inquiry, can be readily accepted. However, the contention that this particular scheme would have such an impact is lacking in tangible analysis. If it is agreed, as set out in these conclusions, that the proposal would not give rise to significant landscape, heritage or traffic harm, there is no basis to believe that the completed development would have any effect on visitor numbers. Construction works during implementation of the development could potentially be expected to be more apparent to visitors. However, certain factors suggest that the effect of these on the overall visitor experience would be unlikely to be perceived as markedly intrusive. The works would not directly affect the Cottage or Garden or Conservation Area and would be physically separated from the site by some distance. Not all visitors take an interest in what happens beyond the rear boundary of the Garden. It would already be seen by visitors that the town's older heritage co-exists with modern development. Planning conditions could be

imposed to regulate the impact of construction works on the amenity of the area. [21,143-145]

547. The relative resilience of Stratford-upon-Avon's tourism was accepted in the expert evidence [142]. With no quantification of the possible effects of the proposal on visitor numbers, either short term or permanent, comparison of the risk to tourism with the scale of predicted economic benefits of the proposal are not informative [220]. While a degree of adverse effect on tourist numbers cannot be ruled out, a potential harmful economic outcome has not been sufficiently established or quantified for this to be given other than very limited weight.

**(vii) Highway Conditions**

548. The proposal includes a new road link between Alcester Road and Evesham Road, as required by proposal SUA.W in the LPR. This is laid out in close accordance with the scheme assessment study, and would provide for access to the two residential parts of the development. [14,40,72,91,147]

549. At the time of the LPR inquiry the road link formed part of a transport Major Scheme Bid, the benefits of which were identified in the study. As a relief road it was seen as a congestion reduction scheme. It was part of a package which also included pedestrianisation schemes in the town centre. The evidence before the Inspector included traffic forecasts with the anticipated scheme, which showed considerable improvements on various links including Alcester Road, Birmingham Road and Church Lane Shotton. There were also forecast to be traffic increases on other roads, including Evesham Road and Severn Meadows Road. The Inspector took into account the transport benefits of the proposal as then put forward, and also the scope for traffic management in Shotton. [92,187,234]

550. The appeal scheme is supported by a detailed Transport Assessment, which was refined during the application process in consultation with the local highway authority and Highways Agency. The assessment includes traffic forecasts for the modelled year of 2023 both with and without the development and new road link. As in the scheme assessment study, these show that with the development there would be both increases and decreases in traffic flows on various road links at the modelled peak hours. [146-147,187,279]

551. In terms of the increases, these would be fairly large on some roads, for example 24% in the pm peak on part of the A46 North, 15% in the pm peak on the Evesham Road, and 17% in the pm peak on Severn Meadows Road [279]. However, these increases are consistent with the aim of the scheme to concentrate traffic on the primary links [147]. Substantial increases in traffic on these roads were forecast in the scheme assessment study. Moreover, there are significant changes in overall traffic flows between that study and the current assessment. These reflect reductions in modelled traffic growth. As a result, the flows on these roads with the development would be less or similar to those in the assessment, and implicitly accepted by the inclusion of proposal SUA.W in the LPR. [147-148]

552. In addition, the local highway authority and Highways Agency have accepted the scheme with these increases. The resultant traffic levels appear to be within the capacity of these roads and would not add significantly to journey times or have an adverse impact on journey reliability. This includes on Evesham Road, which has been raised as of concern in many representations. [146,147-148,413,432]

553. On Alcester Road, the forecast peak hour traffic flows would be similar to those forecast in the scheme assessment study, but the percentage reduction from the position without the scheme is much smaller than previously modelled. In Shottery, the pattern for Church Lane is similar. For the various roads paralleling the SWRR, the Transport Assessment forecasts reductions of 10% in the am peak and 8.7% in the pm peak. [187,280]
554. With respect to the town centre, there would be some relatively small increases in traffic on some links, and decreases on others. These changes would be reflected in variable results on queuing, although this would reduce at some important junctions. In overall terms, there would be a saving in average journey time of 9 seconds and increases in average speed of 1mph. In global terms, total delay in the town centre in peak periods would reduce by over 15 hours from a base level of 133.6 hours. [92,187,285]
555. Overall the development would not have a serious adverse effect on traffic conditions on the surrounding road network or within the town. However, also for consideration is the scale of the potential benefits with respect to transport that would arise from the proposal and whether the proposed road link would serve the function of a relief road as envisaged at the time of its inclusion in the LPR. There has been a change in the context of these factors involving the lower levels of traffic growth now anticipated and that the road scheme no longer forms part of a Major Scheme Bid. The latter factor is not decisive in assessing the desirability of the scheme. Its status in this respect was not referred to in the LPR, and furthermore the road remains in the Local Transport Plan in which it is identified as a key proposal. The assessment indicates that it would bring some net benefits in the town centre, although these would be modest and considerably less in terms of congestion reduction than previously envisaged. The added road network capacity could offer future potential for pedestrianisation schemes by way of providing for displaced traffic, but these are not worked up at this stage, and the degree to which these would be related or would be a necessary pre-condition is difficult to assess on the available evidence and therefore uncertain. [72,92,147,187,233-234,279-280]
556. In Shottery the reductions in flows at peak times would involve relatively small numbers of vehicles. However, the environmental impact of traffic in the Conservation Area means that such reductions are more significant than is apparent simply from numbers of vehicles, removing elements of rat running. [72,187,280]
557. Policy SUA.W requires development of the West of Shottery site to include associated traffic calming measures in the Shottery area [40,140]. The analysis of the potential effects of such measures suggests that they could result in substantial further reductions in through traffic, together with more wide ranging environmental benefits, with relatively minor displacement effects including in the town centre [92,282]. The LPR Inspector saw traffic calming as a substantial benefit, and this was reflected in the requirement of policy SUA.W. Funding for traffic calming is put forward by way of a section 106 obligation towards this [72,140,158,281,451]. The likelihood of traffic calming being implemented and the weight to be given to this obligation are addressed below under consideration (xii). Traffic calming could be pursued independently of a road scheme, but there is no evidence that this would be likely, and therefore this alternative carries very little weight [281].

558. With regard to highway safety, the Council raises no objection to the scheme in this respect [221]. There are local concerns, including with respect to traffic on Bordon Hill and the new roundabout on Evesham Road, and in West Green Drive including the effect of parked cars on the access points to the local centre and school. However, there is no technical evidence to indicate that with the details subject to conditions these aspects could not be designed to be safe [149,285]. Crossing points of the SWRR could also be safe, although there would be some erosion of quality of public rights of way [149]. This was an inherent aspect of the scheme accepted in the LPR. There would be no breach of policy DEV.4 of the LPR.

559. Some detailed criticisms have been made of the technical analysis in the Transport Assessment, in particular the use of the GEH statistic including by way of an expert opinion on this. The statistic is used as a measure of significance. The technical basis for the assessment was agreed with the Highways Agency and local highway authority, and the appellants' highways witness was the only expert in this field to give evidence at the inquiry. The statistic is only one indicator of the highways impact of the development, and the figures showing the absolute values are available. The assessment does not contain fundamental flaws that invalidate its findings. [146,166,283,313]

#### **(viii) Flooding**

560. Flood risk and drainage matters were addressed in the application by way of a flood risk assessment. Most of the proposed built development would be in Flood Zone 1 (low probability of flooding as defined in the Technical Guidance to the Framework), with only part of the road access off Evesham Road in Zone 3 (high probability of flooding). [160]

561. The Framework requires inappropriate development in areas at risk of flooding to be avoided by directing development away from areas at highest risk, but where development is necessary making it safe without increasing flood risk elsewhere. The sequential test should be applied to steer new development to areas with the lowest probability of flooding. [288]

562. The sequential test under the guidance is to be undertaken through the Local Plan process. That has yet to be done for the District. However, policy STR.2A and proposal SUA.W in the LPR were put forward in the context of its policy PR.7 which deals with flood risk. Under the Framework guidance, essential transport infrastructure which has to cross the area at risk can be accepted in Zones 2 and 3, with for Zone 3 the exception test needing to be passed, requiring wider sustainability benefits to the community to outweigh the flood risk. [31,160,288]

563. The Environment Agency, Natural England and Severn Trent Water agreed to the application subject to conditions based on the mitigation measures put forward in the assessment [160,434,435,438]. The Council has also withdrawn its objection on flooding grounds [56,58]. The drainage proposals would provide for storm water run off from the developed areas to be reduced by 20% below the existing rate. Drainage would incorporate SUDS, in accordance with policy DEV.7 of the LPR. These would be subject to County Council control over future maintenance. [37,72,160,172]

564. Flooding from Shottery Brook has occurred in the local area, with evident unwelcome consequences. As well as for residential properties, this is of concern with respect to Anne Hathaway's Cottage. There are objections on flooding grounds from RASE and local residents, with representations which dispute the

detail and conclusions of the technical work which support the assessment including some written expert comments [276,287-291,313,322-324,341,345, 351,371, 383, 387,410]. However, the flood risk proposals have been accepted by the relevant statutory bodies. The proposal would also upgrade an existing culvert near Evesham Road which appears to be a local constriction [72,160]. There remain a large number of detailed matters to be addressed further, but this work could be required by way of conditions. [160,434,435,438]

565. It is concluded that the proposal would not add to the risk of flooding in the surrounding area, and would make satisfactory provision for drainage within the development. In this context a suggested infringement of Human Rights would not arise [292]. I view these findings as outweighing that the site has not been allocated under an up to date sequential assessment. The exception test is addressed further in the overall conclusions below.

#### **(ix) Living conditions**

566. The development would involve the removal of two properties on Bordon Hill to enable the southern end of the new road to link with Evesham Road at the proposed roundabout junction [14]. The properties to either side of this section of road would be affected by increases in traffic noise, in particular by way of a new noise source at the rear and to the sides of the immediately adjacent properties [153,222-223,293-294].

567. Harm to living conditions by way of noise is a material consideration, and can lead to permission being refused [222]. For 6 properties the impact is categorised as 'major adverse' in terms of predicted change in noise levels in the final assessment (excluding use of low noise surfacing). The appellants have put forward a financial package to cover noise insulation works for the properties they do not control, and there would also be the normal potential eligibility for compensation as a result of noise increases from the public highway. Such noise impact was a foreseeable outcome of the inclusion of proposal SUA.W in the LPR. Nevertheless, the specific harm to living conditions gives rise to a conflict with policies PR.8 and DEV.1 of the LPR, and is to be taken into account in the overall balance. [31,36,151,153,222-223,294,464]

568. The noise impact on properties in West Green Drive would not be material [56,59,153]. Appropriate standards could be achieved for the new dwellings within the development, including having regard to noise from the electricity sub-station [152,440].

#### **(x) Sustainable Development**

569. The LPR describes the West of Shottery proposal as a long term sustainable development option [76]. The preparation of the LPR had regard to sustainable development principles [94,154,183]. There is no disagreement by the Council that the site is in a reasonably accessible location for necessary services which would enable a choice of travel modes [155,224].

570. The site is of a greenfield nature, and includes an area which is good quality agricultural land. However, the principle of development of such land is accepted in the LPR proposal. In addition, the emerging Core Strategy envisages a need for greenfield sites to meet development needs in the District, although no specific sites are identified. [11,40,99,101,309,318]

571. Impact on ecology is addressed in the Environmental Statement. Some significant negative impacts are identified, but mitigation is proposed to deal with

- these, including habitat creation. It can be expected that the biodiversity of the site would be enhanced through the green infrastructure proposals. Conditions could deal with protection during construction and the securing of new habitats, and a planning obligation is put forward on creating alternative habitats for skylarks. Following the provision of additional information, including a great crested newt survey and proposed pollution control, the approach is accepted by the relevant consultative bodies. It takes into account the nearby protected areas including Racecourse Meadows Site of Special Scientific Interest. With regard to the absence of an invertebrate survey and of a great crested newt survey at Burmans Farmhouse, on the basis of the available information, and with conditions and the statutory protection that would exist, the advice in Circular 06/2005 on circumstances where surveys should not be required are considered to apply. There would be no breach of LPR policies EF.6 and EF.7. [34,55-56, 59,72,161,171,303-305,313,432,434,438,439,459]
572. The air quality implications of the proposal have been assessed, including taking into account the various traffic flow predictions. The changes are not regarded as significant. There would be no material breach of LPR policy PR.8 in this respect. [31,59,169,308,313,440]
573. An energy statement was submitted with the application. With the envisaged measures that would be incorporated, and the scope for a condition on this matter, the statement is adequate for an outline application. The proposal complies with policy DEV.8 of the LPR and the Council's supplementary planning document in this respect. [37,50,56,163,307,440]
574. Criticisms were made of the scheme at application stage by CABI, although these have not been taken up by the Council. In part the criticisms are on matters of layout which were incorporated in the Development Principles Document and reflected in the LPR by proposal SUA.W and the Proposals Map. The new road is designed to provide a strategic link between Alcester Road and Evesham Road as well as serve the development, and therefore could be expected to a degree to act as a physical barrier across the site. However, new and existing routes would allow for permeability and linkages through the site. The location of the proposed local centre appears to respond to the needs of both the existing and new communities. As CABI acknowledges, a Design Code could deal with some of its concerns relating to the need for creative and high quality design. The Design and Access Statement, as supplemented, provides a satisfactory basis for a Code at this stage with an appropriate condition. Conditions could also deal with the need for acceptable phasing. There is no fundamental conflict with the objective of the Framework for development to take the opportunity to improve the character and quality of an area and the way it functions, or in this respect with development plan design policies including LPR policy DEV.1 and supplementary advice. [36,50,162,278,297-298,437]
575. More generally, the Framework indicates that its policies in paragraphs 18 to 219, taken as a whole, constitute the meaning of sustainable development. These policies cover the range of matters addressed in the above considerations, and therefore whether or not the proposal is regarded as sustainable development will depend on the degree to which the conclusions on these matters are agreed. With my findings as set out above on each of these, it is considered that the proposal overall does represent a sustainable form of development. [72,179,226,316]

## **(xi) Environmental Information**

576. RASE has questioned the adequacy of the submitted environmental information, although the Council has not raised this as a concern [118,310-315]. The environmental information comprises the original Environmental Statement and the supplements to this subsequently submitted, together with the information provided for the purposes of the inquiry and comments from statutory consultees [8].
577. Most of the points questioned by RASE relate to elements of the evidence which have been dealt with above. The methodology of the Transport Assessment was agreed with the relevant statutory bodies, and taken overall the Assessment provides an appropriate set of information on which the likely significant transport implications of the proposal can reasonably be understood. The traffic impact between the assessed dates of 2013 and 2023 could be regulated by conditions on phased implementation, and important information on the effects between these dates has not been omitted. The information indicates that the traffic impact on West Green Drive would not be significant. [166-170,313]
578. With respect to air quality, ecology and flooding, the impacts of the development as assessed and consulted upon have been found acceptable on the basis of suggested conditions. The suggested defects in the information including the lack of an invertebrate survey and soil infiltration tests have not underrepresented or overlooked any likely significant effects in these respects. [169-172,313]. Overall, it is possible to reach a reasonable understanding of the likely effectiveness of proposed mitigation measures involving conditions and planning obligations [249,442-474].
579. The environmental information, although in a suite of documents, is not so disparate or difficult to track that it involves a 'paper chase' [173,314].
580. Regard has been had to relevant case law [310], but the environmental information is not considered to be materially inaccurate, inadequate or incomplete. The information meets the purposes of the Regulations in this respect and is not defective such that this should prevent the granting of planning permission.

## **(xii) Conditions and Obligations**

### ***Conditions***

581. Suggested conditions to be imposed on a grant of permission were put forward and discussed at the inquiry. There was a large measure of agreement on these, but also differing views on some matters [442-444]. The conditions fall to be considered against the advice in Circular 11/95. Taking into account the views expressed and the advice, a set of amended conditions that are recommended in the event of the appeal being allowed is included in an Annex.
582. A number of detailed changes have been made to the suggested conditions to improve the wording. Specifically, this has included adding implementation clauses and requirements for subsequent approvals to be in writing, and removing discretionary clauses to provide for certainty (conditions 1, 22, 24, 30, 31, 34, 36, 40, 57). References to the consultations to be carried out by the Local Planning Authority in its approval of details have been removed (6, 7, 8, 15); although such references were advocated by RASE, the procedure followed by the Council with such approvals would be a matter for it to determine, and the

compliance elements of the conditions are intended to be requirements for the appellants to discharge rather than procedural matters that are imposed on the Local Planning Authority.

583. Some conditions require submission of further details in compliance with details that were previously submitted with the application. In these conditions, 'substantial accordance' with the previous details is a reasonable level of requirement given the outline nature of the application, and provides an appropriate balance between precision in terms of approving what has been applied for and allowing for a reasonable degree of flexibility in drawing up the final details (4, 7, 8).
584. Other changes made in the recommended conditions from the discussed drafts are now set out under the headings of the groups into which the conditions are arranged, dealing with the matters in dispute. The need for imposition of the conditions is also referred to.

#### *General*

585. Appropriate timescale conditions are required to reflect the outline nature of the application and the need for subsequent approval of reserved matters. Condition 3 as originally suggested conflicts with condition 2 in that it requires commencement within 3 years of the date of permission, whereas condition 2 allows for the first submission of reserved matters to be up until 3 years after this date. The development is expected to be implemented on a phased basis, with the phases subject to approval under condition 5. As discussed at the inquiry, amending condition 3 to a requirement that commencement be within 2 years of the last of the reserved matters to be approved for each phase is consistent with this. The time periods are reasonable given the scale of the development while retaining currency of the Environmental Assessment.
586. To ensure the development is in accordance with the maximum scale proposed and assessed, and to provide certainty, it is necessary to impose a limit on the total residential content (added to condition 4).
587. The scale of development, and the sensitivity of the setting into which it would be inserted, warrant adherence to an approved Construction and Environmental Management Plan of some detail (6). Control of odour is added to the measures on emissions under point (vi).

#### *Highways*

588. The construction of the Stratford Western Relief Road is an important part of the scheme, needed to serve the development as a whole as well as providing some elements of wider benefit as sought under the LPR and discussed above. A Grampian style condition (10) requires an agreement to secure implementation of the road prior to the development. While the condition does not specify who should be signatories to the agreement, the requirement for the agreement to secure the entirety of the road would ensure that all relevant owners would need to be party to it. This would include the Shakespeare Birthplace Trust. The likely willingness of SBT to be involved in the development is a matter discussed above and in the overall conclusion below, but the evidence does not establish that there is no prospect of the condition being complied with within the time limit of the permission. RASE pointed out that the condition does not specify the requirement for a funding bond, but the County Council explained that provision



of a bond would normally be expected with such a condition; that is a matter for it to determine. [249,473]

589. Various details of the SWRR and other aspects of highway infrastructure and footpath provision require further working up and approval. To ensure satisfactory highway conditions during the carrying out of the development and prior to completion of the road, thresholds on the amount of development to be occupied are needed. The thresholds of 150 and 300 units relate to phasing scenarios tested in the Transport Assessment, and are reasonable. For provision of crossings of the SWRR, a reasonable timescale would be for this to be concurrent with construction. Condition 11 is amended to incorporate suggested condition 64<sup>773</sup>, which imposes a maximum on the number of houses in the southern development area which is consistent with the Transport Assessment. In addition, the condition is expanded to allow for amended details to be incorporated for an improved layout of the southern roundabout as a result of further acquisition of property neighbouring the site by the appellants [11]. This reflects the appellants' suggested additional condition on this matter [443].
590. The Anne Hathaway's Cottage access roundabout makes provision for access to a new coach/car park, but should this not be taken up within a reasonable timescale it would be necessary for the unused roundabout arm to be landscaped in the interests of amenity.
591. As well as a preclusion on lighting along the sensitive part of the SWRR in order to safeguard the setting of the Cottage and Garden, details of the lighting to be installed along the remainder should be approved, as suggested by RASE.
592. A Travel Plan, following the framework plan already prepared, should be secured in the interests of sustainable transport.
593. Car and cycle parking provision within the local centre should be controlled to reflect local standards and context. This would be more effectively done by requiring the details to be approved rather than specifying current documents (conditions 19 and 20).

#### *Drainage*

594. Conditions on drainage are needed to secure appropriate provision to deal with flooding and runoff, in accordance with the evidence. Further details need to be worked up on some matters.
595. The reference in condition 23 to the Flood Risk Assessment should be 'and in accordance with the principles' rather than just 'based on', in order to provide clarity on this; 'substantially' is not required here as the reference is to principles rather than details. A requirement for further details to be approved in relation to raised levels/embankments is also added to deal with the specific features of these. The reference in (i) to 'phase' rather than 'parcel' is correct since condition 5, to which there is a cross reference, identifies phases. 'In perpetuity' is added to (iv) on maintenance and management to provide long term certainty, and details are additionally required under (v) on the landscaping and safety features of balancing ponds to ensure that these important elements are appropriately addressed.

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<sup>773</sup> This refers to condition 64 as included in document INQ/LPA/23

### *Design*

596. Although the application is in outline, a requirement for approval of a Design Code is an effective means to ensure design quality and consistency across the development. Reference is added to the Design and Access Statement Addendum in condition 26, with the specific paragraphs cited setting out a detailed list of matters to be addressed, including density. While RASE wished to see the principles included as conditions, as explained by the Council the list sets out the structure and the principles which would then be in the Code, and would be subject to approval by the Council.
597. Building forms, sizes and heights warrant additional specific conditions. In condition 27 it is clarified that the narrow form dwelling is a type identified in the Design and Access Statement. In view of the importance of site levels, these should be approved, with the requirement extended to adjacent parcels (condition 29).
598. Various other detailed matters warrant additional control. These are Secured by Design standards to ensure that crime prevention is addressed, renewable energy in the interests of sustainable development in accordance with the local standard, and the Code for Sustainable Homes and Lifetime Homes standards for the same reason. RASE suggested that the Code Level should ratchet up to Levels 4 and 5 over the lifetime of the development, but there is no local policy basis for this. The Lifetime Homes target is based on the local standard, with the required percentage reflecting an expectation that all affordable housing would meet this, so that an appropriate ratio is applied to the market housing to achieve the overall target.
599. There is insufficient justification for removal of permitted development rights for all boundary structures (suggested condition 30<sup>774</sup>); the suggested condition is therefore not recommended.

### *Landscape*

600. Landscaping is clearly an important element of the development in ensuring that it is acceptable in landscape and visual terms. Although a reserved matter, a number of requirements need to be incorporated whatever the final details. In order to provide adequate structural landscaping in accordance with the Statement of Development Principles, condition 37 is expanded to incorporate the appellants' suggested additional conditions to allow for the necessary amendments [116].
601. With respect to condition 40, RASE advocates adding undergrounding of powerlines to the description of the development [266]. However, reasonable certainty would be provided that this would be carried out by removing the discretionary clause from the condition.
602. Some of the proposed landscaping works are on land not currently within the control of the appellants but owned by SBT. The implications of this are addressed below.

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<sup>774</sup> This refers to condition 30 as included in document INQ/LPA/23

### *Ecology*

603. Provision for ecology through a management plan and approval of further worked-up details on various mitigation measures are needed in the interests of biodiversity. Short term design and ecological objectives are added to long term ones in condition 42 (i), as suggested by RASE, to ensure that a range of timescales is addressed.
604. Although there is adequate information for determination of the application, provision for further surveys of certain species is required to deal with the likely timescale of implementation, with these setting out measures to be taken in the event of any being found [432,434,438,439]. Together with statutory protection, the wording of the conditions would provide for appropriate control in these circumstances.

### *Ground, Air and Noise Quality*

605. In accordance with the Environmental Assessment, provision for investigation of ground conditions and appropriate mitigation are necessary for environmental safety. Construction hours should be controlled to protect the local noise environment, and similarly hours of deliveries in the finished development. Good noise standards should be achieved by the new dwellings to ensure high quality living conditions, including taking account of the existing substation. Condition 54 has been amended to reflect the deletion of PPG24.
606. To protect amenity and the environment, controls are needed on lighting, refuse storage and plant.

### *Other*

607. A requirement for archaeological investigation is warranted by the identification of potential interest [432]. Fire hydrants are needed for safety, and water butts for sustainability.

### *Further Highways and Noise Conditions*<sup>775</sup>

608. Suggested condition 65 deals with the specification of the SWRR in terms of the surface treatment and speed limits. The condition is agreed by the appellants and the Council, although RASE expressed concern about lack of specification of the surface and future maintenance. The objectives of the condition are desirable in terms of minimising noise emissions from use of the road. However, the intention is that the road would be constructed through a highways agreement leading to its adoption. In these circumstances it is considered that the matters cited are not appropriate for a reasonable planning condition since they would be outside the control of the developer. In addition, as set out above, the noise assessment indicates that the proposal would be acceptable without the use of low noise surfacing. The condition is therefore not recommended.
609. Suggested condition 66 deals with the offer of funding for sound insulation of affected existing properties. This is also covered by a planning obligation. In accordance with the views expressed by the Council and RASE, it is considered that, given the private funding basis of the arrangement, the matter is more appropriately dealt with by the obligation, and the condition is not recommended.

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<sup>775</sup> This refers to the Further Highways and Noise Conditions as included in document INQ/LPA/23

610. RASE suggested a further Grampian condition to require a traffic management scheme for Shottery to be capable of implementation, including contracts let and no legal matters outstanding, prior to commencement of the development [281,443]. This is on the basis that traffic calming is necessary to meet the requirements of policy SUA.W. The appellants argued that a calming scheme is not needed until the SWRR is completed, and that the steps needing to be overcome in achieving an agreed calming scheme would set up opportunities to frustrate the development; a planning obligation is put forward, and details would be progressed in parallel with the development. Weight to be given to the planning obligation is dealt with below. In the circumstances I consider that the suggested condition would not be reasonable since it is an onerous requirement which would not in itself achieve implementation of a calming scheme at a specified stage.

### ***Obligations***

611. The Framework sets out policy tests for the seeking of planning obligations, and there are similar statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations (2010) which must be met for obligations to be given weight. There are also relevant development plan policies, including policies IMP.4 and IMP.5 of the LPR, supplementary planning documents (SPDs), and the Local Transport Plan [42,50,52]. The submitted obligations have been considered in the light of these requirements and the joint evidence put forward in support of them and the evidence on areas of disagreement [445-474].

### ***Legal agreement***

612. The secondary/sixth form education contribution would address needs that would arise from the development which would need to be catered for, with various options outlined in the joint statement as to how this would be done [301,465]. The basis for assessing the shortfall in places and calculating the contribution has been properly explained.

613. The primary school obligation responds to the requirement of policy SUA.W for a primary school to be included within the development and to the unmet education needs that would arise. Alternative means for provision are appropriately addressed, including with respect to funding and the potential relocation of the existing St Andrew's Primary School [427,432].

614. The library contribution is also properly explained in terms of how it is calculated and would be spent to meet additional library needs that would arise.

615. The bus contribution responds to policy COM.7 of the LPR on support for bus services and the sustainable development objectives of the Local Transport Plan, and would provide a subsidy to enable serving of the development. The travel pack contribution would similarly be used to promote sustainable travel and has been calculated on a reasonable basis.

616. The traffic management contribution has been calculated on the basis of the estimated costs associated with a likely traffic calming scheme in Shottery. While there is an indicative scheme, the details are yet to be worked up, and it may or may not require a Traffic Regulation Order. The obligation responds to the requirement of policy SUA.W for the West of Shottery development to include associated traffic calming measures in the Shottery area, and therefore can be regarded as necessary to make the development acceptable on a policy basis.

The measures could be expected to provide for environmental improvements within the Conservation Area, and with the County Council a party to the agreement there is a reasonable likelihood of a scheme being implemented [158-159,189,281].

617. The justification for the Parkway Station contribution is disputed by the appellants. The station scheme reflects local sustainable transport objectives, and it could be expected that it would be used by occupiers of the development. Although the contribution is relatively modest, the sum appears to have been arbitrarily calculated rather than reflecting an apportionment of actual costs. In addition, the evidence suggests that further funding for the scheme is not needed. The necessity and reasonableness of this contribution has therefore not been fully established. [466-467]

*Unilateral undertaking*

618. The commitment on on-site affordable housing responds to policy COM.13 and proposal SUA.W and the Meeting Housing Needs SPD. Arrangements for the nature and provision of this are appropriately addressed.

619. The Community Park and open space land obligations deal with the provision and future ownership and management of these important amenity elements of the development. They reflect the requirements of proposal SUA.W and policies DEV.3, COM.4 and COM.5 of the LPR.

620. The local centre and health centre land commitments again respond to specific requirements of proposal SUA.W. The marketing obligations reasonably allow for alternative arrangements for these areas in the event that occupiers are not forthcoming.

621. The off-site public open space and built facilities contributions address needs that could be expected to arise from the development but would not be provided for within it. Site specific reasons have been given for not incorporating play pitches within the development on the basis of the nature of the land and the relationship to heritage assets [301,465]. The calculation of the contributions and how they would be used has been properly explained, and the provision accords with the LPR policies.

622. The skylark mitigation obligation arises from a likely adverse impact of the development identified in the Environmental Statement [303,432,439]. It would involve favourable habitat treatment of adjoining land under the appellants' control.

623. The police contribution is disputed by the appellants. The calculation of the amount has been explained, but equates to a sum per dwelling with no clear link between needs that would arise from the development and how the funding would be spent in response to those. [468]

624. The Council is concerned that it would not be able to enforce the obligation on noise mitigation measures since it would derive no benefit from it. However, the obligation relates only to the setting up of a funding mechanism for noise insulation, and properly responds to a planning impact of the proposal on residential living conditions. [469]

625. All of the above obligations meet the tests of being necessary, directly related to the development and fairly and reasonably related to it, with the exception of

the contributions on Parkway Station and the police, which are therefore accorded no weight.

***Parties to the obligations and the enforceability of conditions***

626. An important matter arises with respect to land ownership. The Shakespeare Birthplace Trust, which owns a central portion of the site, is a party to neither the agreement nor undertaking. The obligations cover a wide range of commitments. Normal good practice is that all those with an interest in an application site should be party to section 106 obligations in order for these to be properly enforceable. [205,225,250,272,470-474]
627. The SBT land would be traversed by part of the SWRR. The remaining SBT land within the site is covered by the Shottery Conservation Landscape designation as shown on the Green Infrastructure Plan, which includes some structural planting and hedgerow retention/reinstatement. An agreement involving the developers and SBT to enable full construction of the road would be needed in advance of the development, with this covered by the suggested Grampian type condition no. 10. The County Council as local highway authority would oversee this, and I note that it entered the section 106 agreement notwithstanding its initial concern about SBT not being party to it [472]. Given the extent of land works that would be required to construct the road, it can be anticipated that any future agreement would include the land on which the noise mitigation measures alongside the road are proposed, such that the scope for delivery of these could reasonably be relied upon [225,214].
628. The remaining landscape area is not intended to be publicly accessible or the subject of a future transfer involving maintenance commitments under the obligations. It appears that the ownership matter should not therefore affect the weight that can be given to the obligations [470-471].
629. It can realistically be expected that the land retained by SBT would continue in agricultural use with an appropriate management regime. However, this land is covered by the proposed landscape conditions, which include some ongoing requirements beyond the development. Since it appears that the developers would not control all the land covered by the conditions, there have to be reservations about the full enforceability of these. In the particular circumstances where delivery of the development would require the willing involvement of SBT, and in view of its particular interests in sustaining the settings of the Cottage and Garden, it seems that this gives rise to only a limited risk on the securing and future of the landscaping. It is therefore not suggested that the concern about enforceability is of such magnitude as to invalidate the conditions, which remain recommended on a grant of permission. Nevertheless, it does to a small degree reduce the weight that can be placed on them as mitigation. [470,471]
630. RASE made a number of detailed comments on the wording of the obligations which were not taken up by the authorities [474]. It is not considered that these points materially affect the weight that can be given to the obligations.

**Overall Conclusion**

631. The development of the appeal site substantially as proposed in the appeal scheme has been part of the development plan since 2006. Policy STR.2A of the Local Plan Review on Strategic Reserve Sites has been saved, and anticipates the development of the West of Shottery site to meet housing needs in the post 2011

- period. An assessment of the housing land position in the District based on the extent of needs that the Framework requires should be met indicates that there is a significant shortfall in the 5 year supply. In this respect the proposal complies with an important element of the development plan.
632. Proposal SUA.W of the LPR sets out a number of components which development of the West of Shottery site should include. Most of these would be provided by the appeal development. A rear vehicular access to Anne Hathaway's Cottage off the new link road would be created, in accordance with the requirement for this to be incorporated. Associated traffic calming measures in the Shottery area are not part of the proposal itself, but a planning obligation would provide funding for this. The implementation of such measures is not certain but could realistically be expected to take place. A planning condition requiring full capability for implementation of a management scheme prior to commencement of development is considered not to be reasonable. The areas of woodland required by the policy are not included in the proposal, but could be added by way of amending conditions.
633. Overall the appeal development substantially accords with the LPR. Such compliance with its two policies that are specific to the site diminishes the significance of identified areas of conflict with other policies where these conflicts arise from the form of development and its impacts as implied by the inclusion of proposal SUA.W in the LPR.
634. The latest version of the emerging Core Strategy does not include the West of Shottery proposal, and envisages a different distribution of development in the District from that previously planned for. With this draft Local Plan's relatively low limits on the number of dwellings to be accommodated in Stratford-upon-Avon and on the size of estates, the proposal is in conflict with it. Approval of the development now would substantially prejudice the emerging Plan as a result of its size and location, and run counter to what appear to be widespread local expectations on what the Plan should achieve. The Framework supports a shared local vision for development and neighbourhood planning. However, the weight to be given to the emerging plan is a matter to be determined. Given the relatively early stage reached, apparent unresolved objections to relevant policies, and areas of potential inconsistency with the Framework, I consider that relatively little weight can be accorded to it.
635. The impact the development would have on the character and appearance of the area by way of visual and landscape changes is anticipated to involve very limited harm. This matches the assessment by the LPR Inspector, and reflects a combination of the nature of existing landscape features and key elements of the scheme, the latter including a false cutting for the road and new landscaping. The Council's recent Landscape Sensitivity Assessment study is not a new consideration that alters the fundamental acceptability of development in this location. Nevertheless, with the proposal's scale there is scope for different views to be legitimately taken on its potential impact.
636. There are important designated heritage assets in the vicinity of the development, in particular Anne Hathaway's Cottage and its Registered Park and Garden. Again, the potential impacts on these and the Shottery Conservation Area were assessed by the LPR Inspector, and his findings are substantially agreed. In terms of the likely effect of the road on tranquillity, technical noise evidence suggests that the mitigated impact even without a low noise surface would be less than previously expected and negligible. Rational challenges have

been made to the robustness of this conclusion, but there is no expert counter evidence.

637. The LPR Inspector anticipated that the development would involve harm to the settings of the heritage assets of a temporary nature during the works and a small loss of archaeological interest. Some additional minor harm to the settings has now been identified by way of new visible urban development glimpsed from the east and the severance effects of the new road in views from the west. The current approach to heritage assets, as set out in the Framework, requires that where there would be less than substantial harm to the significance of designated heritage assets, as in this case, this should be weighed against the public benefits of a proposal. The potential benefit of a relocated coach park for the Shakespeare Birthplace Trust can now be given little weight, in view of SBT's reserved position pending the outcome of the appeal and the need for any proposal on this to be considered in the light of current circumstances. The potential for traffic calming in Shottery remains a benefit. Other benefits to be taken into the balance are dealt with at the end of this conclusion.
638. Tourism is important to the economy of the District, and the Shakespeare related attractions are a key part of this. However, there is no substantive evidence to indicate that the proposal would have a material adverse effect on visitor numbers, and the generalised assertion of consequent economic harm carries very little weight.
639. The potential impact of the development on highway conditions is of local concern. The forecasts indicate that there would be increased traffic flows on some roads, but the flows would be no more than anticipated previously and are not objected to by the relevant statutory highway bodies. The predicted flows are within the capacities of the affected roads and would not give rise to serious adverse highway effects. Safety concerns could be met through detailed design.
640. In terms of potential transport benefits, the evidence is that, in the current context of forecast background flows that are significantly lower than previously modelled, the proposed road link would result in only modest improvements in town centre traffic conditions. New circumstances also involve that the new road is no longer part of a Major Scheme Bid, although still in the Local Transport Plan. A compelling case has not been made for the new road on the basis of potential pedestrian and environmental improvements in the town centre. In this respect one of the strong arguments cited in favour of the West of Shottery development in the LPR is now significantly diminished. As set out above, it would however bring forward a reasonable likelihood of traffic calming in Shottery, with beneficial environmental effects.
641. Potential flooding is another matter of widespread local objections, but the concern of the Council and statutory bodies on this has been met subject to conditions. There would be some drainage benefits from reduced storm water runoff and an upgraded culvert. The sequential test is not strictly met since this relies on site selection through the Local Plan, but the West of Shottery proposal in the LPR was included in the context of its policy on flood risk. The exception test for the small section of road infrastructure in Flood Zone 3 requires consideration of benefits, as dealt with below.
642. The impact the development would have on living conditions of properties in Bordon Hill involves an element of harm from noise.



643. Development of the appeal site as proposed, although greenfield agricultural land, was seen in the LPR as a sustainable form of development. Whether it can currently be viewed as such has given rise to debate in the context of the range of points in the Framework on which this depends, and encompasses the conclusions reached on other considerations. On the specific points of ecology, air quality and design, the objections that have been raised have been addressed or could be by way of conditions. Along with my above findings on other considerations, the development can reasonably be regarded as sustainable.
644. The submitted environmental information is adequate for the purposes of assessing the likely significant effects of the proposal and this factor should not prevent the granting of planning permission.
645. Planning conditions and the submitted planning obligations would largely be effective in mitigating the effects of the development, and most of the planning obligations can be given weight in its favour. Despite that SBT are part site owners and not a party to the obligations, it appears that were the development to be implemented the specific objectives of the obligations could still be secured. However, there is a reservation to be acknowledged about the enforceability of delivery and maintenance of landscaping on SBT owned land. This reduces to a degree the reliance that can be placed on planning conditions, but implementation of the scheme would require the willing involvement of SBT and this moderates the likely consequences of the risk.
646. The development would provide a number of benefits to be balanced against the harmful effects. There would be a substantial gain of dwellings including affordable housing, in accordance with the aim of the Framework to boost significantly the supply of housing. This would be in a sustainable location that accords with the development plan. New green infrastructure would be provided in the form of a park, with scope to increase biodiversity. New local facilities would be available to existing as well as new residents. There would be some drainage improvements. The new road would enable some modest transport benefits. There would be a reasonable likelihood of traffic calming in Shottery, although the potential for a relocated coach park for SBT carries little weight.
647. The implementation of the scheme would require the involvement of SBT. Since SBT's current position is unresolved, it is therefore not certain that the scheme would be implemented and the benefits delivered. However, were it not implemented, there would also be no harmful impacts. This factor therefore carries little weight in terms of the overall balance. [178,192,248,]
648. The Framework sets out a presumption in favour of sustainable development, and advises that development that accords with an up-to-date Local Plan should be approved. Policies in a Local Plan should not be considered out of date simply because they were adopted prior to the publication of the Framework. Policy STR.2A, although drawn up in the context of RSS housing targets, is reinforced by a current assessment of housing needs and the emphasis of the Framework on housing delivery. The assumptions underlying proposal SUA.W in terms of the transport benefits of the new road link and the position of SBT are not now correctly founded. However, the sustainable development qualities of the West of Shottery proposal are such that it remains reasonably up-to-date. [186-190,232-234]
649. In the overall balance, I find that the benefits of the proposal are sufficient to outweigh the harmful impacts, and to meet policy tests on heritage and flooding.

The changed circumstances since the adoption of the LPR, the harmful effects of the proposal that have been identified, and the prejudice to the emerging Local Plan, do not amount in my judgement to material considerations such as to indicate a decision otherwise than in accordance with the statutory development plan.

**RECOMMENDATION**

650. That the appeal be allowed and planning permission be granted subject to the conditions set out in the attached Annex.

*T G Phillimore*

INSPECTOR

Richborough Estates

## **ANNEX: RECOMMENDED CONDITIONS**

### *General*

- 1) No part of the development hereby permitted shall be commenced on any parcel (as referred to in Condition 5) until full details of the layout, scale, appearance and landscaping within the parcel (hereinafter called "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.
- 2) Application for approval of the reserved matters for the first phase of the development hereby permitted as approved under condition 5 shall be made to the Local Planning Authority no later than the expiration of three years from the date of this permission and the last application for reserved matters approval shall be made no later than seven years beginning on the date of this permission.
- 3) Each phase of the development hereby permitted as approved under condition 5 shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved for that phase.
- 4) The development hereby permitted shall not be carried out except in substantial accordance with the details shown on the following submitted plans:
  - i) Parameters Plan 1953-SK-01 Rev. S
  - ii) Access Plan 207137-00 Figure 13 Issue 05No more than 800 dwellings shall be developed on the site.
- 5) No part of the development hereby permitted shall be commenced until a detailed phasing plan showing the parcels which shall be the subject of separate reserved matters applications has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the phasing plan thus approved.
- 6) No development shall take place, including any works of demolition or clearance, until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) the loading and unloading of plant and materials;
  - iii) the storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) installation and maintenance of wheel washing facilities;
  - vi) measures to control the emission of dust, dirt and odour during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

- viii) an appropriately scaled plan showing "Environment Protection Zones" where construction activities are restricted and where protective measures will be installed or implemented;
- ix) details of protective measures (both physical measures and sensitive working practices) to minimise impacts during construction;
- x) a timetable to show phasing of construction activities to avoid periods of the year when sensitive wildlife, particularly nesting birds, could be harmed;
- xi) details of persons/organisations responsible for:
  - a) compliance with legal consents relating to nature conservation;
  - b) compliance with planning conditions relating to nature conservation;
  - c) installation of physical protection measures during construction;
  - d) implementation of sensitive working practices during construction;
  - e) regular inspection and maintenance of the physical protection measures and monitoring of working practices during construction;
  - f) provision of training and information about the importance of "Environment Protection Zones" to all construction personnel on site.
- xii) pollution prevention measures;
- xiii) details of measures to protect the public footpaths and amenity of users of the public footpaths crossing the site during the construction works;
- xiv) in relation to every element topic or subject included in the Plan, proposals for the standards to be achieved, monitoring schedules, record keeping and communication of results to the Local Planning Authority.

All works shall be carried out in accordance with the approved details. Any alteration to this Plan shall be approved in writing by the Local Planning Authority prior to commencement of the alteration.

#### *Highways*

- 7) No more than 150 dwellings in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as Housing Area - Alcester Road [Component A]), shall be occupied until a highway scheme substantially in accordance with drawing number 207137-00 CH-011 Issue 01 (Wildmoor Roundabout) has been submitted to and approved in writing by the local planning authority and the approved scheme has been fully implemented and is open to traffic.
- 8) Prior to the first occupation of the development, a Travel Plan, in substantial accordance with the submitted Travel Plan Framework (October 2009), to include details of the mechanisms to be used for its delivery, monitoring and enforcement, shall be submitted to and approved in writing by the Local Planning Authority.
- 9) The proposed Stratford Western Relief Road (SWRR), connections to the existing highway and new junctions on the SWRR, shall be laid out in general accordance with the following plans in the Revised Transport Assessment (February 2011):

- 207137-00 Figure 6 Issue 03
  - 207137-00 Figure 7 Issue 03
  - 207137-00 Figure 8 Issue 04
  - 207137-00 Figure 9 Issue 04
  - 207137-00 Figure 10 Issue 04
  - 207137-00 Figure 11 Issue 04
  - 207137-00 Figure 12 Issue 03
  - 207137-00 Figure 15 Issue 06
  - 207137-00 Figure 16 Issue 04
  - 207137-00 Figure 17 Issue 03
  - 207137-00 Figure 18 Issue 05
  - 207137-00 CH-011 Issue 01
- 10) No development shall take place until a highway works agreement has been entered into and signed to secure the construction, completion and adoption of the entirety of the SWRR (as shown on Plan 207137-00 Figure 13 Issue 05).
- 11) No more than 200 dwellings shall be constructed pursuant to this permission in the southern development area (shown on Parameters Plan 1953 SK-01 Rev. S as the Housing Area - Evesham Road [Component B]). Prior to the commencement of the southern development area and notwithstanding the detail shown on the Parameters Plan 1953-SK-01 Rev. S and drawing 207137-00 Figure 15 Issue 06, an access scheme for the junction of the SWRR and the Evesham Road roundabout shall be submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied in the southern development area until the Evesham Road / Luddington Road roundabout (as shown on Plan 207137-00 Figure 15 Issue 06 and incorporating the approved amendment) has been completed and is open to traffic.
- 12) No dwellings shall be occupied in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as the Housing Area – Alcester Road [Component A]) until the new junctions on Alcester Road (as shown on Plan 207137-00 Figure 9 Issue 04) and West Green Drive (as shown on Plan 207137-00 Figure 7 Issue 03) and the new pedestrian crossing on the Alcester Road (as shown on Plan 207137-00 Figure 9 Issue 04) have been completed and are open to traffic and/or pedestrian use (as applicable).
- 13) No more than 150 dwellings in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as Housing Area – Alcester Road [Component A]), shall be occupied until the northern section of the SWRR (as shown on Plans 207137-00 Figure 16 Issue 04 and 207137-00 Figure 17 Issue 03), the improvements to the Wildmoor Roundabout (as shown on Plan 207137-00 Figure 20 Issue 07), the northern sector access roundabout (as shown on Plan 207137-00 Figure 6 Issue 03) and works to create the crossings of the SWRR for public right of way SD16, in accordance with details approved under Condition 15, have been completed and are open to traffic and/or pedestrian use (as applicable).
- 14) Within 2 years of the commencement of development or prior to the occupation of the 300th dwelling in the northern development area (shown on

Parameters Plan 1953 SK-01 Rev. S as Housing Area – Alcester Road [Component A]), whichever is the sooner, the entirety of the SWRR (as shown on Plan 207137-00 Figure 13 Issue 05), the Anne Hathaway's Cottage access roundabout (as shown on Plan 207137-00 Figure 12 Issue 03) and works to create the crossings of the SWRR for public right of ways SD16b and SD42, in accordance with details approved under Condition 15, shall have been completed and be open to traffic and/or pedestrian use (as applicable).

- 15) Detailed schemes for providing suitable crossings of the SWRR for public rights of ways SD16, SD16b and SB42, as shown on Plans 207137-00 6 Issue 03, 207137-00 12 Issue 03 and 207137-00 16 Issue 04, shall be submitted to and approved in writing by the Local Planning Authority. The crossings shall thereafter be implemented in accordance with the approved details concurrently with construction of the SWRR.
- 16) All new highway junctions, as shown on Plans 207137-00 Figure 7 Issue 03, 207137-00 Figure 8 Issue 04, 207137-00 Figure 9 Issue 04, 207137-00 Figure 10 Issue 04 and 207137-00 Figure 11 Issue 04, shall be laid out so as to provide the relevant visibility splays shown on these plans and thereafter no structure or vegetation exceeding 0.6m in height above the adjoining highway carriageway shall be placed or allowed to grow within the visibility splays as defined.
- 17) If the north-eastern arm of the Anne Hathaway's Cottage access roundabout (as shown on Plan 207137-00 Figure 12 Issue 03) is not brought into use within 2 years of the completion of the roundabout, it shall be landscaped during the next planting season in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. Any planting that is removed, uprooted, severely damaged, destroyed or dies within 5 years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.
- 18) With the exception of lighting that is required to directly illuminate roundabout junctions, no street lighting shall be installed on the SWRR between the northern development area access roundabout (as shown on Plan 207137-00 Figure 6 Issue 03) and the Anne Hathaway's Cottage access roundabout (as shown on Plan 207137-00 Figure 12 Issue 03). Details of a scheme for lighting that is to be installed in connection with the SWRR including the design of lighting columns, lux levels and lighting direction shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any lighting and the works shall be carried out and permanently retained thereafter in accordance with the details thus approved.
- 19) Details of car parking provision within the local centre and primary school to be constructed as part of the development shall be submitted to and approved in writing by the Local Planning Authority prior to their construction and the development shall be carried out and thereafter retained in accordance with the details thus approved.
- 20) Details of cycle parking provision within the local centre and primary school to be constructed as part of the development shall be submitted to and approved in writing by the Local Planning Authority prior to their construction and the development shall be carried out and thereafter retained in accordance with the details thus approved.

### *Drainage*

- 21) No development shall take place including works of demolition until such time as a phasing plan for the surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Any reference to parcels in Conditions 21-25 inclusive shall be to the parcels set out on the phasing plan approved pursuant to this condition.
- 22) The development hereby permitted shall not be commenced until such time as a scheme to provide for the following three requirements has been submitted to, and approved in writing by, the Local Planning Authority:
- i) Ensure no raising of ground levels in the floodplain, i.e. Flood Zones 3 and 2, other than as set out specifically in the approved details for the provision of development infrastructure and in accordance with the approved floodplain compensation scheme.
  - ii) Ensure finished floor levels are set 600mm above the corresponding 100 year plus 20% for Climate Change Flood Level (set to AOD).
  - iii) Implement the flood compensation area as indicated in drawing number 1363/FL/03 Rev B contained in the submitted Flood Risk Assessment (October 2009).

The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.

- 23) Development shall not begin within each parcel until a surface water drainage scheme for that parcel, based on and in accordance with the principles outlined in the submitted Flood Risk Assessment (October 2009) together with assessment and proposals for drainage in connection with runoff from raised levels or embankments associated with the SWRR or other parts of the development, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the timetable for implementation approved as part of the scheme for each respective parcel.

The scheme for each parcel shall also include:

- i) Final drainage calculations for the site taking into account the drainage catchment areas from each phase of the development (determined through Condition 5) as they contribute to the site network.
  - ii) Infiltration tests for use of soakaways.
  - iii) Final drainage layouts including SUDS.
  - iv) Details of how the scheme shall be maintained and managed in perpetuity after completion.
  - v) Details of the landscaping and safety features of the balancing ponds.
- 24) Prior to any site works commencing, a scheme to cover interim surface water drainage measures during construction shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be fully

implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.

- 25) The development hereby permitted shall not commence until comprehensive details of permanent foul drainage proposals for the site, to include phasing, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied in any parcel until the foul drainage scheme for that parcel has been implemented in accordance with the approved details.

#### *Design*

- 26) Prior to the submission of any reserved matters applications, a Design Code document for the site shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles of the Design and Access Statement (October 2009) and the Design and Access Code Addendum (October 2010) and address the matters set out in paragraphs 1.7 to 1.13 of the Addendum. Applications for approval of reserved matters shall thereafter be in accordance with the approved Design Code.
- 27) The building forms and sizes shall follow the matrix set out in Chapter 8 of the Design and Access Statement (October 2009). The 'narrow plan' dwelling form as described shall only be used for terraced or semi-detached units.
- 28) Notwithstanding the building heights set out through Condition 27, maximum building heights shall be limited in accordance with details that shall be approved as part of the Design Code submission pursuant to Condition 26.
- 29) No parcel of the development hereby permitted shall be commenced until detailed plans and sections showing existing and proposed site levels for that parcel and showing the proposed relationship with adjacent parcels have been submitted to and approved in writing by the Local Planning Authority and the development thereafter shall only be carried out as approved.
- 30) No part of the development hereby permitted shall commence until details of how 'Secured by Design' standards will be achieved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details thus approved.
- 31) The development hereby permitted shall not be commenced until a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the Local Planning Authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been agreed in writing by the Local Planning Authority, and shall thereafter be retained in place and in working order at all times.
- 32) Not less than 23% of all Private Market Dwellings shall fully comply with all relevant requirements of the Joseph Rowntree Foundation's "Lifetime Homes" standards (or any substitute therefore which may be published from time to time) and details of which of the Private Market Dwellings will comply with the "Lifetime Homes" standards shall be set out in reserved matters for each parcel and thereafter the Private Market dwellings identified in reserved matters



approvals as being those which will comply with the "Lifetime Homes" standards shall be constructed in accordance with these standards.

- 33) All new dwellings within each parcel shall achieve a minimum rating of Level 3 of the Code for Sustainable Homes as applicable at the time of commencement of development within that parcel. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that a minimum of Code Level 3 has been achieved. Copies of certificates shall be supplied to the Local Planning Authority on request.

#### *Landscape*

- 34) No part of the development hereby permitted shall be commenced or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the Local Planning Authority and has been put in place.

The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837 (Trees in relation to design, demolition and construction). Fencing shall be shown on a plan and installed to the extent of the tree protection areas as calculated using the British Standard. Nothing shall be stored or placed in those fenced areas or the ground levels altered without the prior consent in writing of the Local Planning Authority.

The development shall be carried out in accordance with the approved scheme which shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.

- 35) No works or development shall take place until a scheme of supervision for the arboricultural protection measures required by Condition 34 has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of:

- i) induction and personnel awareness of arboricultural matters;
- ii) identification of individual responsibilities and key personnel, including the qualified arboriculturalist responsible for administering the scheme;
- iii) statement of delegated powers;
- iv) timing and methods of site visiting and record keeping, including updates;
- v) procedures for dealing with variations and incidents.

The scheme of supervision shall be carried out as approved.

- 36) No works or development shall take place in any parcel until full details of all service runs within that parcel have been submitted to and approved in writing by the Local Planning Authority. The details shall include:

- i) The location of all existing services above and below ground
- ii) The location of all proposed services (e.g. drainage, power, communications cables, pipelines etc) including routes, supports etc.

The development shall be carried out in accordance with the details thus approved.

37) Prior to the commencement of site works, full details of hard and soft landscape proposals for the areas of Structural Landscape, Shottery Community Park and Shottery Conservation Landscape as shown on Green Infrastructure Plan 1953-SK-04 Rev. E shall have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. The details shall include the following amendments:

- a) Notwithstanding the landscaping detail shown on the northern edge of the Housing Area – Alcester Road (on Green Infrastructure Plan 1953-SK-04 Rev. E), such an area of landscaping shall accord with that shown on the Development Principles Plan with the Land West of Shottery Statement of Development Principles Document (October 2003).
- b) Notwithstanding the landscaping detail shown within the Shottery Conservation Area ('southern field') on Green Infrastructure Plan 1953-SK-04 Rev. E these landscape features shall accord with that shown on the Development Principles Plan with the Land West of Shottery Statement of Development Principles Document (October 2003).

The submitted details shall also include:

- i) the timing of implementation, which shall be no later than the end of the first planting season following the completion of the SWRR;
- ii) planting plans;
- iii) written specifications;
- iv) a schedule of plants noting species, plant sizes and proposed numbers;
- v) existing landscape features such as trees, hedges and ponds to be retained accurately plotted (where appropriate);
- vi) existing landscape features such as trees, hedges and ponds to be removed accurately plotted (where appropriate);
- vii) existing and proposed finished levels (to include details of grading and earthworks where appropriate).

The hard and soft landscaping approved as part of this condition shall be completed in accordance with the approved timing details.

Any planting that is removed, uprooted, severely damaged, destroyed or dies within five years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.

38) All hard and soft landscape works, including earth works in the Shottery Conservation Landscape and adjacent to the Electricity Substation, shall be carried out in accordance with the details approved through reserved matters submissions. The works approved by all reserved matters submissions shall be completed within the first planting season following the first commencement of any part of the development on that parcel.

Any planting that is removed, uprooted, severely damaged, destroyed or dies within five years of the date of planting shall be replaced by the approved type planting by the end of the first available planting season.

39) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, for the Shottery

Conservation Landscape (shown on Parameters Plan 1953 SK-01 S) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.

- 40) Where a parcel is crossed by existing Power Lines, all Power Lines within that parcel shall be diverted underground prior to the first occupation of any dwelling within that parcel.
- 41) Prior to the construction of the Anne Hathaway's Cottage roundabout (as shown on Plan 207137-00 Figure 12/03), a Management Plan for the Plantation to its east and north-east shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall provide details of any tree works and replacement planting including timing, as appropriate, within the Plantation as a result of weaker trees being subjected to increased wind as a result of the removal of outer trees and shall be implemented in accordance with the details approved.

### *Ecology*

- 42) A Combined Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The Plan shall thereafter be implemented and carried out as approved and in accordance with timescales and programmes as set out in the approved Plan. The Plan shall include the following elements:
- i) short and long term design and ecological objectives;
  - ii) description of target habitats and range of species appropriate to the site;
  - iii) selection of appropriate strategies for creating/restoring target habitats or introducing/encouraging target species;
  - iv) selection of specific techniques and practices for establishing vegetation;
  - v) sources of habitat materials (e.g. plant stock) or species individuals;
  - vi) method statement for site preparation and establishment of target features;
  - vii) extent and location of proposed works;
  - viii) management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens, to be designed to maximise ecological benefits on the site, e.g. seasonal mowing to encourage wildflowers;
  - ix) the personnel responsible for the work;
  - x) the timing of works;
  - xi) monitoring;
  - xii) disposal of wastes arising from works.
- 43) The development hereby permitted (including demolition of Nos. 3 and 4 Bordon Hill) shall not commence on any parcel, until a further bat survey of the site, to include appropriate day/night time activity surveys, preferably during May to August in the season prior to demolition or the commencement of works

in that parcel, has been carried out. If evidence of bats is recorded, a detailed mitigation plan including a schedule of works and timings shall be submitted to and approved in writing by the Local Planning Authority. Such an approved mitigation plan shall thereafter be implemented in full.

- 44) The development hereby permitted shall not commence on any parcel, unless and until two weeks' notice in writing of the start of any site works has been given to a licensed great crested newt ecologist appointed by the applicant to supervise all ground work elements of the development within the site. Should evidence of newts be found, then any recommendations or remedial works shall be implemented within the timescales stated/approved by the relevant consultant ecologist and the Local Planning Authority shall at the same time be advised in writing of these.
- 45) Should a protected species, with the exception of bats, great crested newts or badgers, be found to be present and either preparing to breed or in the process of breeding or rearing young, then:
- i) work shall stop across the entire site until the Local Planning Authority has approved details of a 'permitted working area' in writing;
  - ii) site works shall thereafter only continue outside of the 'permitted working area', unless and until details of appropriate mitigation measures and contingency plans including timescales have been submitted to and approved in writing by the Local Planning Authority.

The works shall thereafter be carried out in accordance with the details approved.

- 46) No part of the development hereby permitted shall be commenced until a scheme for the provision of suitable bat bricks/bat access tiles and bird nesting boxes to be erected on buildings within the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of box type, location and timing of works. Thereafter, the bat bricks/bat access tiles and bird nesting boxes shall be installed and retained in perpetuity.
- 47) Prior to the commencement of development a scheme for the provision and management of a buffer zone (at least 8m wide on one bank) alongside the Shottery Brook and of buffers around ponds and ditches present shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

The scheme shall include:

- i) plans showing the extent and layout of the buffer zones;
  - ii) details of the planting scheme;
  - iii) details demonstrating how the buffer zones will be protected during development and managed/maintained over the long term.
- 48) The proposed pond shown indicatively on the Green Infrastructure Plan 1953 SK-04 Rev. E shall be constructed in accordance with a scheme, to include the timing of its implementation, to be submitted to and approved in

writing by the Local Planning Authority prior to the commencement of development.

- 49) Prior to the commencement of development, a working method statement to cover channel and bank works shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The method statement shall cover the following requirements:
- i) timing of works;
  - ii) methods used for all channel and bank side water margin works;
  - iii) machinery (location and storage of plant, materials and fuel, access routes, access to banks etc.);
  - iv) protection of areas of ecological sensitivity and importance.
- 50) Prior to the commencement of development, details of all bridges proposed on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the bridges shall be constructed as set out in the approved scheme. The scheme shall comprise the following features:
- i) all bridges shall be clear spanning structures with the abutments set back from the watercourse on both banks to provide a bank width of 4 metres beneath the bridge;
  - ii) bridges shall be a minimum of 4 metres from the bank top of the watercourse to provide an unobstructed corridor to allow the movements of otters and other animals;
  - iii) bank revetment should not be necessary as all revetment and structural work should be associated with the bridge structure and set back at least 4 metres.

*Ground, Air and Noise Quality*

- 51) No work shall commence on the site unless the further intrusive site investigations detailed in Chapter 12 of the Geo-environmental Phase 1 Desk Study 2008 have been undertaken and the results, including any mitigation measures, have been submitted to and approved in writing by the Local Planning Authority. Any mitigation measures proposed as a result of the investigations shall be carried out in accordance with the approved details and a validation report shall be submitted within 2 months of the works being carried out to the Local Planning Authority confirming that the mitigation works have been completed.
- 52) Construction works, construction related works or construction related deliveries shall not be carried out on the site outside of the following hours and at no time on Sundays or Bank Holidays:

Monday to Fridays 08:00-18:00 hours; Saturdays 08:00-13:00 hours.

In addition, piling operations or vehicle/equipment maintenance shall not be carried out on the site outside of the following hours and at no time on Saturdays, Sundays or Bank Holidays:

Monday to Fridays 09:00-16:00 hours.

- 53) Prior to the commencement of the development hereby permitted, details of a package of acoustic measures to allow all residential units within the development to achieve the "good" internal ambient noise criteria, as described by BS8233:1999 i.e. achieve internal noise levels equal to or less than  $30\text{dB}_{\text{LAeq,T}}$  during the day and  $30\text{dB}_{\text{LAeq,T}}$  at night for living rooms and bedrooms with the windows open in a manner typical for ventilation (or where the above criteria cannot be met with windows open, for example where habitable rooms have windows with unscreened views towards the estate through-road, using passive acoustic ventilators with equivalent acoustic performance to those approved for use under the Noise Insulation Regulations), shall be submitted to and approved in writing by the Local Planning Authority. The approved package of measures shall be installed before the proposed dwellings are occupied.
- 54) A noise mitigation/control scheme to ensure the provision of a garden area suitable for amenity use for each residential property that achieves a noise level of  $55\text{dB}_{\text{LAeq,T}}$  or lower during the day and  $45\text{dB}_{\text{LAeq,T}}$  or lower at night shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the development and none of the dwellings shall be occupied until the approved scheme has been implemented.
- 55) Prior to the commencement of dwellings hereby approved in the northern development area (shown on Parameters Plan 1953 SK-01 Rev. S as the Housing Area – Alcester Road [Component A]) a mitigation scheme detailing the external works proposed to mitigate the noise impact of the electricity substation affecting part of the development and a glazing/ventilation specification to protect the internal space of dwellings proposed shall be submitted to and approved in writing by the Local Planning Authority and none of the dwellings within the northern residential parcel shall be occupied until the approved scheme has been implemented.
- 56) There shall be no deliveries to or collections from any non-residential building outside the hours of 07:00-19:00 Mondays-Saturdays or at any time on Sundays or Bank or Public Holidays.
- 57) No security lighting or floodlighting shall be installed on any non-residential building until full details have been submitted to and approved in writing by the Local Planning Authority. All such installations shall be designed and located to avoid nuisance to the occupiers of nearby dwellings, and shall be implemented and thereafter retained in accordance with the approved details.
- 58) Development shall not commence on any non-residential building until details of arrangements for refuse storage have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 59) Development shall not begin on any non-residential building until details of any externally-mounted plant or equipment or any internal equipment which vents externally, including any extraction ventilation system for a cooking area, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

*Other*

- 60) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. Thereafter the approved scheme shall be implemented and the work shall be carried out by a professional archaeological organisation or person approved in writing by the Local Planning Authority.
- 61) No parcel of the development hereby permitted shall be commenced until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire fighting purposes for that parcel has been submitted to and approved in writing by the Local Planning Authority. No parcel of the development shall be occupied until the scheme for that particular parcel has been implemented in accordance with the approved details.
- 62) No dwelling or other building that has a downpipe within the development hereby permitted shall be occupied or used until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Paul Cairnes of Counsel	Instructed by Mrs Leenamari Aantaa-Collier, Principal Solicitor, Stratford-on-Avon District Council
He called:	
Nicholas Molyneux FSA IHBC	Team Leader and Inspector of Historic Buildings, English Heritage
Simon White DipLA DipUD(Dist) MA CMLI	Director, White Consultants
Alexander Holmes BA(Hons) MTS MTMI DipTour	Tourism Consultant
Malcolm Brown FRICS MRTPI	Director, Sibbett Gregory
Ms R Warren	Solicitor, Stratford-on-Avon District Council (at session on planning obligations and conditions)
Richard Gardner	Planning Department, Stratford-on-Avon District Council (at session on planning obligations and conditions)

### FOR THE APPELLANT:

Tom Hill QC	Instructed by Owen Jones, Boyer Planning
He called:	
Phil Rech BA(Hons) BPhil CMLI	Director, FPCR Environment & Design Ltd
Johnny Ojeil MSc MIHT	Director, Ove Arup and Partners
Tom Zarebski BSc(Hons) MSc MIOA MInstP	Director, Cole Jarman Limited
Dr Chris Miele MRTPI IHBC FRHS FSA	Partner, Montagu Evans LLP
Paul Boileau BEng CEng CEnv MICE	Director, Brookbanks Consulting Ltd
Owen Jones BA(Hons) PGDip MSc MRTPI	Director, Boyer Planning Ltd



FOR RESIDENTS AGAINST SHOTTERY EXPANSION:

Richard Ford	Resident of Shottery and planning solicitor
Martin Luscombe	Resident of Shottery

FOR WARWICKSHIRE COUNTY COUNCIL:

Peter Oliver	Solicitor, Warwickshire County Council (at session on planning obligations and conditions)
Mr D Neale	Highway engineer, Warwickshire County Council (at session on planning obligations and conditions)

INTERESTED PERSONS:

Debbie Griffiths	Local resident
John Condés	Local resident
James Philpotts	Local resident
Bill Dowling	Town Councillor and Mayor of Stratford-upon-Avon
Nicholas Butler	Warwickshire Branch of the Campaign to Protect Rural England
James & Kirstin Greygoose	Local residents
Gordon Brace	Local resident
Milan Turšner	Local resident
Roy Massey	Local resident
Robert Harding	Local resident
Donald Cowan	Local resident
Jenny Fradgley	District Councillor for Guild and Hathaway Ward
Peter Moore	District Councillor for Mount Pleasant Ward
Bob Malloy	Local resident
Valerie Hobbs	District Councillor for Old Stratford & Drayton Ward
Jean Chollerton	Local resident
Paul Stanton	Local resident
David Bowie	Stratford Voice
Yvonne Wiggins	Local resident
Peter Emerson	Chairman of Old Stratford and Drayton Parish Council

## CORE DOCUMENTS

### Planning Application Documents

CD/A/1	Planning application forms
CD/A/2	Ownership Schedule
CD/A/3	Environmental Statement Main Text (Volume 2)
CD/A/3a	Environmental Statement Technical Appendices (Volume 3a)
CD/A/3b	Environmental Statement Technical Appendices (Volume 3b)
CD/A/3c	Environmental Statement Non-Technical Summary (October 2009)
CD/A/3d	Environmental Statement Non-Technical Summary (October 2010)
CD/A/4	Site plan 1953-SK-02 Rev G
CD/A/4a	Site plan 1953-SK-02 Rev J
CD/A/5	Parameters plan 1953-SK-01 Rev R
CD/A/6	Access Plan 207137-00 CH-007 Issue 02
CD/A/7	Green Infrastructure Plan 1953-SK-04 Rev C
CD/A/8	Indicative Layout 1953-SK-08 Rev C
CD/A/9	Design and Access Statement
CD/A/9a	Design and Access Statement Addendum (October 2010)
CD/A/10	Transport Assessment (incorporating access drawings)
CD/A/10a	Travel Plan Framework
CD/A/11	Planning Statement
CD/A/12	Flood Risk Assessment and Drainage Strategy
CD/A/13	Energy Statement
CD/A/14	Statement of Community Involvement
CD/A/15	1 <sup>st</sup> Regulation 19 Response (October 2010)
CD/A/15a	Amended parameters plan 1953-SK-01 Rev S
CD/A/15b	Amended green infrastructure plan 1953-SK-04 Rev E
CD/A/16	2 <sup>nd</sup> Regulation 19 Response (February 2011)
CD/A/16a	Great Crested Newt Risk Assessment (January 2011)
CD/A/16b	Badger Survey Report (3 March 2011)
CD/A/16c	Green Infrastructure and Open Space Provision (13 July 2011)
CD/A/17	Revised Transport Assessment (September 2010)
CD/A/18	Revised Transport Assessment (February 2011)
CD/A/18a	Amended access plan 207137-00 Figure 13 Issue 05
CD/A/19	Consultation Responses – LPA Appeal Questionnaire
CD/A/20	Planning Committee Report – 21 <sup>st</sup> September 2011
CD/A/21	Planning Committee Update Note – 21 <sup>st</sup> September 2011
CD/A/22	Stratford-on-Avon District Council Decision Notice – 22 <sup>nd</sup> September 2011
CD/A/23	Further Environmental Information Submission – February 2012

### Development Plan Related Documentation

CD/B/1	Stratford-on-Avon District Local Plan Review 1996-2011 Written Statement and Proposals Map
CD/B/2	Stratford-on-Avon District Local Plan Review Saved Policies Schedule and Government Office letter dated 9 July 2009
CD/B/3	Stratford-on-Avon District Local Plan Inspector's Report
CD/B/4	Evidence submitted to Local Plan Inquiry on proposal SUA.W
CD/B/5	Land West of Shottery Development Principles Document 2003
CD/B/6	Warwickshire Structure Plan 1996-2011 and Saved Policies Schedule
CD/B/7	Regional Spatial Strategy for the West Midlands Incorporating Phase 1 Review January 2008

### Stratford-on-Avon District Council Supplementary Planning Documents

CD/C/1	Car and Cycle Parking Standards
CD/C/2	Developer Contributions towards Transport Schemes

CD/C/3	Managing Housing Supply
CD/C/4	Provision of Open Space
CD/C/5	Design in Residential Areas
CD/C/6	Town Design Statement
CD/C/7	Local Choice – meeting the needs of Rural Communities
CD/C/8	Meeting Housing Needs
CD/C/9	Sustainable Low-Carbon Buildings
CD/C/10	Urban Design Framework

### Highways Documentation

CD/D/1	Stratford-on-Avon Western Relief Road Scheme Assessment Study October 2003 – Warwickshire County Council
CD/D/2	Warwickshire Local Transport Plan 2011-2026
CD/D/3	Design Manual for Road and Bridges

### Emerging Development Plan

CD/E/1	West Midlands Regional Spatial Strategy (Phase 2 Revision) Preferred Option December 2007
CD/E/2	West Midlands Regional Spatial Strategy (Phase 2 Revision) Panel Report September 2009
CD/E/3	West Midlands Regional Spatial Strategy (Phase 2 Revision) EIP Participant Statement - Stratford-on-Avon District Council
CD/E/4	West Midlands Regional Spatial Strategy (Phase 2 Revision) EIP Participant Statement - Bloor Homes & Hallam Land Management
CD/E/5	(Unused)
CD/E/6	Stratford-on-Avon District Council Local Development Scheme – updated timetable 12 September 2011
CD/E/7	Stratford-on-Avon District Core Strategy - Issues and Options May 2007
CD/E/8	Stratford-on-Avon District Draft Core Strategy October 2008
CD/E/9	Stratford-on-Avon District Consultation Core Strategy February 2010
CD/E/10	Sustainability Appraisal / Strategy Justification paper 2010 Draft Core Strategy
CD/E/11	(Unused)
CD/E/12	Housing Provision Options Study Final Report (GL Hearn, June 2011)
CD/E/13	Landscape Sensitivity Assessment Final Report (White Consultants, July 2011)
CD/E/14	Green Infrastructure Study (UE Associates, August 2011)
CD/E/15	Draft Core Strategy – Summary of representations received February-April 2010
CD/E/16a	Report to Cabinet on 5 September 2011 relating to Housing Provision Options
CD/E/16b	Cabinet Decision of 5 September 2011 relating to Housing Provision and the spatial approach to the Core Strategy
CD/E/17	Report to Cabinet on 16 January 2012 relating to the spatial approach to the Core Strategy
CD/E/18	Stratford-on-Avon District Draft Core Strategy February 2012
CD/E/19	Report to Cabinet on 6 February 2012 relating to the Draft Core Strategy
CD/E/20	Sustainability Appraisal of Stratford-on-Avon District Core Strategy (Lepus Consulting, January 2012)

### Other Documents

CD/F/1a	Strategic Housing Land Availability Assessment (Baker Associates 2008)
CD/F/1b	Strategic Housing Land Availability Assessment (Baker Associates 2009)
CD/F/2	Joint Housing Assessment for South Warwickshire (Outside Research & Development, 2006)
CD/F/3	Stratford-on-Avon District Housing Strategy 2009-2014
CD/F/4	Stratford-upon-Avon Town Design Statement (2002)
CD/F/5	Conservation Principles - Policies and Guidance (English Heritage 2008)
CD/F/6	The Setting Of Heritage Assets (English Heritage 2011)

CD/F/7	Defining a Fabric Energy Efficiency Standard for Zero Carbon Homes - Executive Summary of Task Group Recommendations (Zero Carbon Hub November 2009)
CD/F/8	Carbon Compliance for Tomorrow's New Homes: A Review of the Modelling Tool and Assumptions (Zero Carbon Hub July 2010)
CD/F/9	Allowable Solutions for Tomorrow's New Homes: Towards a Workable Framework (Zero Carbon Hub July 2011)
CD/F/10	Warwickshire Landscape Guidelines (1993)
CD/F/11	Stratford-upon-Avon Landscape Study (1992)
CD/F/12	Stratford Town Edge Study (2005)
CD/F/13	Land at Kipling Road Committee Report and Appeal Decision Ref APP/J3720/A/10/2139071
CD/F/14	Egg Packing Station, Bishopton Lane Committee Report and Decision Notice
CD/F/15	Long Marston Storage Depot, Campden Road Committee Report and Decision Notice
CD/F/16	Land off Ettington Road, Wellesbourne Committee Report
CD/F/17	Land West of Birmingham Road, Bishopton Committee Report
CD/F/18	Stratford-on-Avon District Council Shottery Conservation Area Booklet 1992 and Conservation Area boundary plan 2005
	<b>National Planning Policy</b> <sup>776</sup>
CD/G/1	PPS1 Delivering Sustainable Development- General Principles – Planning and Climate Change Supplement
CD/G/2	PPS3 Housing
CD/G/3	PPS4 Planning for Sustainable Economic Growth
CD/G/4a	PPS5 Planning for the Historic Environment
CD/G/4b	PPS5 Historic Environment Planning Practice Guide
CD/G/5	PPS9 Biodiversity and Geological Conservation
CD/G/6	PPS13 Transport
CD/G/7	PPG17 Planning for Open Space, Sport and Recreation
CD/G/8	PPS22 Renewable Energy
CD/G/9	PPS23 Planning and Pollution Control
CD/G/10	PPS24 Planning and Noise
CD/G/11	PPS25 Development and Flood Risk
CD/G/12	Draft National Planning Policy Framework 2011
CD/G/13	PINS Guidance on Draft National Planning Policy Framework (amended)
CD/G/14	Dear Chief Planning Officer letters re RSS revocation
CD/G/15	Ministerial Statement Planning for Growth
CD/G/16	Circular 5/05 – Planning Obligations
CD/G/17	Circular 11/95 – Conditions
CD/G/18	Community Infrastructure Levy Regulations 2010
CD/G/19	Circular 11/95: The Use of Conditions in Planning Permissions
CD/G/20	Circular 05/05: Planning Obligations
CD/G/21	Community Infrastructure Levy Regulations 2010
CD/G/22	Circular 08/09: Arrangements for Handling Heritage Applications
CD/G/23	The Planning System: General Principles (ODPM 2005)
CD/G/24	National Planning Policy Framework
	<b>Joint Documents</b>
CD/H/1	Statement of Common Ground between the Local Planning Authority and Appellants
CD/H/2	Stratford-on-Avon District Council and Bloor Homes and Hallam Land Management: Joint Statement addressing the tests on obligations arising under

<sup>776</sup> Numbered for reference only, copies not provided

CD/H/3 Regulation 122 of the Community Infrastructure Levy Regulations  
Suggested site visit route

**Stratford-on-Avon District Council Core Documents**

CD/SDC/1 Stratford-on-Avon District Annual Monitoring Reports 2006-2011  
 CD/SDC/2 (Unused)  
 CD/SDC/3 Housing Development Sites in Stratford-on-Avon District September 2011  
 CD/SDC/4 Statement of Community Involvement April 2006  
 CD/SDC/5 Corporate Strategy 2011-2015  
 CD/SDC/6 Sustainable Community Strategy  
 CD/SDC/7 The Aarhus Convention 1998  
 CD/SDC/8 (Unused)  
 CD/SDC/9 Landscape Character Assessment Guidance for England and Scotland 2002  
 CD/SDC/10 The European Landscape Convention 2006  
 CD/SDC/11 Topic Paper 6: Techniques and criteria for judging capacity and sensitivity, Countryside Agency and Scottish Natural Heritage January 2004.  
 CD/SDC/12 The Setting of Heritage Assets (English Heritage 2011)  
 CD/SDC/13 Stratford-on-Avon District – Tourism Economic Impact Assessment 2009  
 CD/SDC/14 Stratford-upon-Avon Visitor Survey – Final Report 2011  
 CD/SDC/15 Making Tourism our Business in the Stratford-on-Avon District 2011  
 CD/SDC/16 Stratford-on-Avon Destination Tourism Strategy 2011-2015 – revised draft 2011  
 CD/SDC/17 Government Tourism Policy (Dept for Culture, Media and Sport, March 2011)  
 CD/SDC/18 A Strategic Framework for Tourism in England 2010 – 2020, revised edition 2011 (Visit England)  
 CD/SDC/19 Office of National Statistics Annual Business Inquiry 2008 revised results  
 CD/SDC/20 Culture and Heritage Topic Profile, February 2010 (Visit Britain)

**Residents Against Shottery Expansion Core Documents**

CD/RASE/1 RASE objections documents to the application  
 CD/RASE/2 (Unused)  
 CD/RASE/3 Stratford-on-Avon District Council Response to Inspector’s Report July 2005 (extracts)  
 CD/RASE/4 Appeal Decision Ref APP/R3515/A/09/2115949 Land at Westerfield Road, Ipswich  
 CD/RASE/5 Appeal Decision Ref APP/LI765/A/10/2126522 Land at Barton Farm, Andover Road, Winchester, Hampshire  
 CD/RASE/6 Appeal Decision Ref APP/D0840/A/10/2130022 Land at Treverbyn Road, St Austell, Cornwall  
 CD/RASE/7 Appeal Decision Ref APP/R0660/A/10/2141564 Land off Abbey Road and Middlewich Road, Sandbach, Cheshire  
 CD/RASE/7a Appeal Decision Ref APP/H3510/A/10/2142030 Land at Hatchfield Farm, Fordham Road, Newmarket  
 CD/RASE/8 Appendices to David King proof of evidence to Land South of Kipling Road inquiry dated February 2011 (APP/J3720/A/10/2139071)  
 CD/RASE/9 Guidance on Transport Assessment (Department for Transport 2007)  
 CD/RASE/1 WG-AEN’s Good Practice Guide And The Implications For Acoustic Accuracy NANR 93 (DEFRA 2005)  
 CD/RASE/11 Noise Modelling research paper NANR 208 (DEFRA 2007)  
 CD/RASE/12 Research into the Practical and Policy Applications of Soundscape Concepts and Techniques in Urban Areas NANR 200 (DEFRA 2009)  
 CD/RASE/13 Stratford-on-Avon District Council Housing Advisory Panel report 20 January 2012  
 CD/RASE/14 (Unused)  
 CD/RASE/15 Stratford-on-Avon Western Relief Road Scheme Assessment Study October 2003 – Warwickshire County Council

- CD/RASE/16 Faber Maunsell transport statement on behalf of RASE submitted to the Local Plan Inquiry in 2003
- CD/RASE/17 Report of the Inquiry into objections to the Deposit Draft of the Stratford-on-Avon District Local Plan held 22 March 1994 to 22 March 1995
- CD/RASE/18 Decision Notice refusing a planning application proposing development at Evesham Road, Luddington Road (Reference 99/03097/OUT)

## **INQUIRY EVIDENCE AND SUBMISSIONS – LOCAL PLANNING AUTHORITY**

- INQ/LPA/1 Mr Molyneux's proof and summary
- INQ/LPA/1/a Mr Molyneux's supplementary proof
- INQ/LPA/2 Mr Molyneux's Appendices
- INQ/LPA/3 Mr White's proof
- INQ/LPA/4 Mr White's summary
- INQ/LPA/4a Mr White's supplementary proof
- INQ/LPA/5 Mr White's Appendices
- INQ/LPA/5a Mr White replacement Appendix SWN
- INQ/LPA/6 Mr Holmes's proof and Appendices
- INQ/LPA/7 Mr Holmes's summary
- INQ/LPA/7a Mr Holmes's supplementary proof
- INQ/LPA/8 Mr Brown's proof
- INQ/LPA/9 Mr Brown's summary
- INQ/LPA/9a Mr Brown's supplementary proof
- INQ/LPA/10 Mr Brown's Appendices
- INQ/LPA/11 Bloor Homes' publicity leaflets
- INQ/LPA/12 Council news releases
- INQ/LPA/13 Opening statement
- INQ/LPA/14 Letter from the Council to Visit England dated 14 November 2011
- INQ/LPA/15 Letter from Visit England to the Council dated 19 December 2011
- INQ/LPA/16 Letter from Advantage West Midlands to the Council dated 21 December 2009
- INQ/LPA/17 Technical Note on the Five Year Housing Land Supply April 2012 and Schedules
- INQ/LPA/18 Armorial Bearings of the Stratford-on-Avon District Council
- INQ/LPA/19 National Indicators for Local Authorities and Local Authority Partnerships Handbook of Definitions Annex 4
- INQ/LPA/20 Masterplan considered at time of 2000 Local Plan inquiry (CD/RASE/17)
- INQ/LPA/21 Accommodation Report: Margaret Court
- INQ/LPA/22 Statement addressing the planning obligations offered by the Appellants
- INQ/LPA/23 Suggested planning conditions
- INQ/LPA/24 Land ownership plan
- INQ/LPA/25 Closing submissions

## **INQUIRY EVIDENCE AND SUBMISSIONS – APPELLANTS**

- INQ/APP/1 Mr Jones's proof
- INQ/APP/1a Mr Jones's summary
- INQ/APP/1b Mr Jones's supplementary proof
- INQ/APP/2 Mr Jones's Appendices
- INQ/APP/3 Mr Rech's proof
- INQ/APP/3a Mr Rech's summary
- INQ/APP/3b Mr Rech's supplementary proof
- INQ/APP/4&5 Mr Rech's Appendices
- INQ/APP/5a Enlarged versions of Figures 33-38 from Appendix 2
- INQ/APP/5b Corrected version of Appendix 2 Figure 5 RevA

INQ/APP/6	Dr Miele's proof
INQ/APP/6a	Dr Miele's summary
INQ/APP/6b	Dr Miele's rebuttal to Mr Robert's analysis (in Appendix 4 of RASE3)
INQ/APP/6c	Dr Miele's supplementary proof
INQ/APP/7	Dr Miele's Appendices
INQ/APP/8	Mr Zarebski's proof
INQ/APP/8a	Mr Zarebski's summary
INQ/APP/8b	Mr Zarebski's rebuttal to Mr Brown
INQ/APP/8c	Mr Zarebski's Addendum to 09/2252/PoE/SCH/rev1
INQ/APP/9	Mr Zarebski's Appendices
INQ/APP/10	Mr Ojeil's proof
INQ/APP/10a	Mr Ojeil's summary
INQ/APP/11	Mr Ojeil's Appendices
INQ/APP/12	Mr Boileau's proof
INQ/APP/12a	Mr Boileau's summary
INQ/APP/13	Mr Boileau's Appendices
INQ/APP/14	Email from Highways Agency dated 30 March 2012
INQ/APP/15	Letter to Shakespeare Birthplace Trust dated 23 March 2012
INQ/APP/16	Email from Shakespeare Birthplace Trust dated 3 April 2012
INQ/APP/17	Boyer Planning response to Stratford-on-Avon Third Core Strategy
INQ/APP/18	Opening submissions
INQ/APP/19	Letter from English Heritage dated 8 April 2010
INQ/APP/20	Comparative visual effects schedule
INQ/APP/21	Mr Boileau's rebuttal proof
INQ/APP/22	Mr Ojeil's rebuttal proof
INQ/APP/23	Environmental Statement National Planning Policy Framework Update April 2012
INQ/APP/24	Draft section 106 agreements (2no.)
INQ/APP/25	Note on the financial status of the Appellant Companies
INQ/APP/26	Evidence of Mr King relating to appeal on Land South of Kipling Road APP/J3720/A/10/2139071
INQ/APP/27	Bundle of responses to the Stratford-on-Avon Draft Core Strategy February 2012
INQ/APP/28	Stratford-on-Avon Planning Committee report on Land to the rear of 18 Salford Road, Bidford-on-Avon dated 17 April 2012 and decision notice dated 24 April 2012
INQ/APP/29	Appeal decision ref APP/R0660/A/09/2105034 Cardway Premises, Linley Lane, Alsager, Cheshire ST7 2UX
INQ/APP/30	Stratford-on-Avon Planning Committee report on Maudslay Park, Henley Road, Great Alne dated 12 April 2011
INQ/APP/31	Letter from Mr S and Mrs G Reed dated 23 April 2012
INQ/APP/32	FPCR Figure 29 Rev A Evesham Road Gateway Sketch
INQ/APP/33	Brookbanks Technical Note: Traffic Calming
INQ/APP/34	Brookbanks Technical Note: Low noise Surfacing
INQ/APP/35	Brookbanks Technical Note: Overhead Cables
INQ/APP/36	Housing Land Supply – response to Stratford-on-Avon District Council technical note April 2012
INQ/APP/37	Brookbanks Drawing No. 1363/HL/07 New Bypass/Site Access Illustrative Vertical Alignment
INQ/APP/38	Folder of Representations to Stratford-on-Avon Draft Core Strategy 2012
INQ/APP/39	Appeal Decision Ref APP/F1610/A/10/2130320 Land at Todenham Road, Moreton in Marsh, Gloucestershire
INQ/APP/40	Note on housing delivery in response to RASE comments
INQ/APP/41	Draft Section 106 Agreement
INQ/APP/42	Draft Section 106 Unilateral Undertaking

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INQ/APP/43	Suggested additional planning conditions
INQ/APP/44	Note on parties to the Section 106 Planning Obligation
INQ/APP/45	Letter dated 29 June 2011 regarding Policing Contributions
INQ/APP/46	Heritage Plan
INQ/APP/47	Note responding to RASE's note on whether the environmental assessment information is capable of being regarded as an Environmental Statement
INQ/APP/48	Note on representations received on Environmental Statement National Planning Policy Framework Update
INQ/APP/49	Stratford Voice comments on Draft Stratford-on-Avon Core Strategy
INQ/APP/50	Stratford-upon-Avon Society's 'The Historic Spine' leaflet
INQ/APP/51	Extract from Stratford-upon-Avon Herald dated 10 May 2012
INQ/APP/52	S106 Agreement dated 14 May 2012
INQ/APP/53	S106 Unilateral Undertaking dated 14 May 2012
INQ/APP/54	London Borough of Bromley v SoSCLG and Castlefort Properties Ltd [2007] EWHC 2480 (Admin)
INQ/APP/55	Closing submissions

### **INQUIRY EVIDENCE AND SUBMISSIONS – RESIDENTS AGAINST SHOTTERY EXPANSION**

INQ/RASE/1	Mr Ford's proof
INQ/RASE/2	Mr Ford's summary
INQ/RASE/3	Mr Ford's Appendices
INQ/RASE/4	Opening statement
INQ/RASE/5	Bloor Homes Limited Report and Financial Statements dated 30 June 2011
INQ/RASE/6	Hallam Land Management Limited Annual Report 2010
INQ/RASE/7	Mr Ford's supplementary proof
INQ/RASE/8	Comments on the statement of common ground between the local planning authority and the appellants
INQ/RASE/9	Mr Ford's second supplementary proof
INQ/RASE/10	J S Bloor (Tewkesbury) Limited Report and Financial Statements 30 June 2011
INQ/RASE/11	Arup notes of meeting of 10 July 2008
INQ/RASE/12	Letter from Commission for Architecture and the Built Environment dated 3 February 2010
INQ/RASE/13	Note on "A review of current research on road surface noise reduction techniques"
INQ/RASE/14	Note on the status of Stratford-on-Avon Neighbourhood Plan process and bundle of attachments
INQ/RASE/15	Note on whether the environmental assessment information is capable of being regarded as an ES
INQ/RASE/16	Barchester Healthcare Ltd v SoS and Sevenoaks [2010] EWHC 2784 (Admin)
INQ/RASE/17	Letter from Shakespeare Birthplace Trust dated 8 May 2012 to Mrs Jean Chollerton
INQ/RASE/18	Annotated copies of draft planning obligations
INQ/RASE/18a	Suggested additional condition
INQ/RASE/19	Closing submissions

### **INQUIRY EVIDENCE AND SUBMISSIONS – WARWICKSHIRE COUNTY COUNCIL**

INQ/WCC/1	Statement addressing the planning obligations offered by the Appellants
INQ/WCC/2	Appeal Decision Ref APP/P1805/A/11/2152467 Land at St Godwald's Road, Bromsgrove



## **INQUIRY EVIDENCE AND SUBMISSIONS – THIRD PARTIES**

INQ/TP/1	Statement by Nicholas Butler for The Campaign to Protect Rural England
INQ/TP/1a	CPRE Warwickshire comments on Stratford-on-Avon Draft Core Strategy 2012
INQ/TP/1b	Letter from CPRE Warwickshire dated 15 May 2012
INQ/TP/2	Statement by Milan Turšner
INQ/TP/3	Statement by Councillor Jenny Fradgley
INQ/TP/4	Statement and presentation by Debbie Griffiths
INQ/TP/4a	Email from Quedgeley Area Conservation Association to Debbie Griffiths dated 10 April 2012
INQ/TP/5	Statement by David Bowie for Stratford Voice
INQ/TP/6	Presentation by John Condés
INQ/TP/7	Statement by James Philpotts
INQ/TP/8	Statement by Councillor Ron Cockings
INQ/TP/8a	Additional statement by Councillor Ron Cockings
INQ/TP/9	Statement by Councillor Bill Dowling
INQ/TP/10	Statement by James and Kirstin Greygoose
INQ/TP/11	Article from Financial Times dated 24 January 2012, submitted by Gordon Brace
INQ/TP/11a	Photographs submitted by Gordon Brace
INQ/TP/11b	Statement by Gordon Brace
INQ/TP/12	Statement by Robert Harding
INQ/TP/13	Statement by Roy & Kathleen Massey
INQ/TP/14	Statement by Donald Cowan
INQ/TP/15	Statement by Bob Malloy
INQ/TP/16	Statement by Councillor Valerie Hobbs and attachment
INQ/TP/17	Statement by Councillor Peter Moore
INQ/TP/18	Statement by Peter Emmerson
INQ/TP/19	Statement by Jean Chollerton and attachments
INQ/TP/20	Statement by Paul Stanton
INQ/TP/21	Statement by Yvonne Wiggins and attachments

## **INSPECTOR'S DOCUMENTS**

INSP/1	Folder of appeal representations
INSP/2	Pre-inquiry meeting notes
INSP/3	Council's notification letter
INSP/4	Bundle of representations responding to consultation on Appellants' Environmental Statement National Planning Policy Framework Update April 2012

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

#### **Challenges under Section 288 of the TCP Act**

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

### **SECTION 2: AWARDS OF COSTS**

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

### **SECTION 3: INSPECTION OF DOCUMENTS**

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