



Appeal Decision

Inquiry opened on 30 October 2012
(Sitting days 30-31 October, 1-2 and 12 November 2012)

Accompanied site visit made on 12 November 2012.

by J S Nixon BSc(Hons) DipTE CEng MICE MRPTI MCIHT

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

Decision date: 9 January 2013

Appeal Ref: APP/J3720/A/12/2176743

Land rear of 18 Salford Road, Bidford-on-Avon, Alcester, Warwickshire, B50 4EN.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Welbeck Land (Ifield) Ltd against the decision of Stratford-on-Avon District Council (the Council).
 - The application (Ref. No:11/01837/OUT) dated 10 August 2011 was refused by notice dated 24 April 2012.
 - The proposal is for mixed use development, comprising demolition of existing dwelling (18 Salford Road), erection of up to 137 No. dwellings and new medical centre, provision of access road and associated public open space.
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Decision

1. For the reasons given below, this appeal is dismissed.

Introduction and clarification

2. This is an outline application with all matters reserved apart from access, which falls to be considered at this stage. The application was decided by the Council in April 2012, following publication of the Government's National Planning Policy Framework document (the Framework) in March 2012. As such, regard has been had to the content of the Framework in reaching the Council's decision and in the production of the evidence presented to the inquiry. A signed s.106 Agreement and a signed s.106 Unilateral Undertaking were handed in on the last day of the inquiry.
3. Against Officer's advice, the Council refused the appeal application, citing six reasons for refusal. Of these, the fourth pertaining to landscape matters and the fifth to heritage arguments were not defended at the inquiry. Immediately prior to closing submissions the Appellants presented the inquiry with a revised Road Safety Audit (RSA) for the junction between the proposed access and the B439, Salford Road and an amended access design to reflect several findings of the revised RSA. An exchange of correspondence on highway matters took place following the last inquiry sitting day and, after the final response on behalf of the Appellants, the

inquiry was closed formally in writing. The developing highway situation is examined in more detail later in the decision. The representations of local organisations, including the Parish Council, and people have been taken into account in reaching this decision.

Main Issue

4. Having regard to the evidence presented to the inquiry, the written representations and visits to the site and surroundings, it follows that, having regard to the Framework and the prevailing development plan policies, the main issue to be decided in this appeal is whether the agreed shortfall in the 5-year housing land supply and the appeal site's sustainability accreditation outweigh site specific objections, the loss of Grade 2 agricultural land and the concerns about the proposed access from the appeal site to the B439 Salford Road and other local objections.

Reasons

Housing land availability

5. Although the Council approached the inquiry in the belief it could defend a 5-year supply of readily available housing land, the week before this inquiry opened the Secretary of State (SoS) issued his decision on the Shottery site on the outskirts of Stratford. In this nutshell, the SoS concluded that the Council's approach to housing land supply in its emerging Core Strategy (CS) was based on a figure significantly below that required by the most recent evidence based assessment, namely a report by G L Hearn commissioned by the Council. Faced with this, the Council now accepts the lack of a 5-year supply and concedes that paragraph 49 of the Framework applies.

Sustainability

6. The proposed development meets many of the sustainability factors contained in paragraph 7 of the Framework, with regard to social, economic and environmental roles. It will produce new housing and badly needed affordable homes to a construction level Code 4; deliver open space and a Health Centre; and in achieving these create employment for the duration of the construction works and support for local services thereafter.
7. If one considers locational sustainability i.e. being adjacent to a built up area and able to take advantage of any existing services and infrastructure, then developing this site would score moderately. It is just within acceptable walking distance of many services in the Village centre, if at the higher end of the range of acceptability, and a much shorter walk to the local primary school and supermarket. Where there is something of an imbalance is in the quantity of housing envisaged and the existing and proposed employment opportunities within the Village. Some new jobs would be created should the appeal development progress, but it is accepted that in the long term, outward migration for most job opportunities would seem inevitable.

8. On the other hand, if we seek a Bruntland scenario, whereby today's development would not impose environmental costs on future generations, we are a considerable way from achieving that. There was certainly no expectation that the development would 'consume its own smoke'. The application does not deal in many specifics and targets, other than the aim to reach Code for Sustainable Homes Level 4.
9. As for movement, there is little beyond broad principles and these are largely internally focused. A Travel Plan framework was submitted with the application, but no further detail. Financial contributions through the s.106s are offered towards Community Transport and to the Council's Welcome Pack. There is nothing about the construction period or future employment or leisure uses. Similarly, there were no proposals for energy generation on the site or a firm sustainable drainage protocol. When additional draft conditions were suggested they were readily accepted, and the saving grace is that this is an outline scheme and one where sustainability could be up-rated as part of the submission of details, so long as appropriate conditions are imposed at this stage. Such matters as design, layout and even the orientation of buildings are crucial in this context and the illustrative Masterplan makes a start in this regard.

Local policies

10. In the absence of a 5-year supply of readily available housing land and positives drawn from the sustainability accreditation of the appeal site and proposals, the Council's defence of its refusal relied heavily on local and site specific policy issues. This is supported by the Parish Council.
11. Principally this line of submission relates to the village status and character of Bidford. Bidford-on-Avon is a large village of some 5,000 (2001 census) and is now by-passed by the A46. It is identified as a Main Rural Centre and one of the eight rural settlements, comprising small market towns and large villages, which draft CS Policy CS16 indicates will be the focus of most development in the rural parts of the District. As such, it can expect growth during the emerging CS period until 2028. However, the local people, fronted by the Parish Council, are intensely proud of their designation as a village and are concerned that a disproportionate increase in size would place undue pressure on both its designation and services and its character as a village community.
12. In the first two emanations of the draft CS, a part of the appeal site was included as a preferred site for residential development. In the third and latest draft, however, site specificity has been dropped, but the general location is still included as Option 3 of 9 sites. This itself has created tensions. One site, Friday Furlong, the Option 1 site, has had the benefit of outline planning permission for residential development (125 dwellings) and a Health Centre for almost 3-years, but there are difficulties in progressing to a satisfactory reserved matters application, said mainly to be because of a difficulty in gaining the agreement of a multiplicity of owners. So much so that the Appellants say that at recent planning inquiries the Council dropped this as a commitment. Although the Council indicated that things were now

moving, there is nothing tangible so far and the current outline permission expires in spring 2013.

13. Two other Option sites, have been granted planning permission more recently for a further 90 dwellings. This makes a grand total of some 215 dwellings with planning permission in Bidford.
14. We turn next to examine the draft CS and the Council's preferred strategic direction. This looks for no individual site to be granted planning permission for more than 100 homes and/or a figure greater than 2% of the present settlement total. The appeal site is for development of 137 dwellings and, as such, would breach both criteria. The draft CS is consistent with the RSS Policy RR1(c)(i), which looks for the rate and nature of further development to meet local needs, while ensuring that local character is protected and enhanced.
15. The Council contends that had the CS had time to progress naturally through to adoption, the local choice would provide options to meet any increase in the figure for housing requirement by concentrating most new development around Stratford or creating a new settlement as envisaged by the Framework (para 52). It would not necessarily expand the rural centres any more than currently envisaged, especially the villages. The increased housing requirement evinced by the Shottery decision does not mean that the eight settlements and other smaller concentrations would inevitably have to accommodate more housing than the existing direction invites.
16. On the other hand, the Appellants submit that very little weight can be afforded this stance as it is arbitrary, in draft only and penned against the background of a much lower housing requirement for the District. It also conflicts with paragraph 17 of the Government's still extant guidance document entitled "The Planning System – General Principles", with respect to prematurity.
17. The first thing to note is that the emerging CS would appear to have been knocked back significantly following the Shottery decision and adoption would seem unlikely before 2014. As such, firm decisions as to whether the Council will opt for placing the bulk new residential development within Stratford, or a new settlement or increasing the development allocated to the eight named settlements is some way off. Moreover, as the latest draft of the CS only looks at site options and not specific allocations, there will have to be either a wholesale rewrite or adoption of a general CS, followed by a Housing Allocations DPD.
18. Either way this will take time, and Government, through the Framework, makes clear that readily available housing land to meet the evidence based requirement figure confirmed by Shottery needs to be demonstrated sooner rather than later. As for the prematurity argument, this attracts very little if any weight. This site does not profess to have significant or strategic implications for the District as a whole, but would impact on a relatively small area. Paradoxically, the acceptance of a shortfall in housing land provision will undoubtedly invite pressure to develop sites and, until the shortfall is rectified, this will almost inevitably lead to development proposals

that might not have come forward had the development plan process been more advanced. Under these circumstances, the generic settlement policies should count for little and the impact of a proposal needs to be considered on a site specific basis.

19. In the case of Bidford, three points militate against supporting the resistance to this scheme for local or site specific reasons. First, the Village of Bidford has grown since the 1970s, doubling in population in the last 30-years and generally by at least 10% each decade. In accommodating this growth, there is no objective evidence to suggest that the character and functionality of the Village has already been prejudiced unduly. What evidence there is is only anecdotal and, in fact, the relatively recent A46 By-pass of Bidford-on-Avon has created the opportunity for a more internally dependant community.
20. Even with all the current permissions and the dwellings on the appeal site, the increase in the percentage of dwellings in the Village would not grow much more than 10%, and with the housing market as it is, it is most likely these houses will be marketed over a lengthy period. Secondly, there was a concern expressed locally that businesses and shops in the Village had suffered as a consequence of the A46 By-pass of the Village and there are several vacant premises in the Village centre. This leads to two conflicting arguments. The first is that the loss of through traffic has lead to village services declining. The counter argument is that any increase in population will threaten the village status. However, any increase in population will provide local demand and this should promote and support local services. This should prevent further loss of local facilities and assist in maintaining the nuclear village, which is what most residents seem to favour.
21. Lastly, although the landscape objection to the appeal scheme was withdrawn, the acceptance that part of the appeal site should feature as a designation in the draft CS and remains an option today, is inconsistent with supporting a landscape objection. Any loss of trees and hedgerows can be replaced as part of the detailed landscape design.
22. Taking all this together, while there will be some concerns about the rate of building on the character and functionality of the Village, these are not sufficient on their own to outweigh the acknowledged shortage of readily available housing land. In addition, while accepting that paragraph 58 of the Framework looks to protect valuable character, to afford this line of argument significant weight in this case would need a much more detailed and evidential approach. Finally, it is still better to build on brownfield land where this is possible, but if insufficient housing land can be delivered in this way, then greenfield land must come forward. Government has made it clear that doing nothing or materially delaying the identification of readily available housing land is not an option.

Agricultural land

23. The appeal site extends to some 6.61 ha and it is all designated under the Agricultural Classification protocol as Grade 2 land. As such, it is judged to be the best and most versatile (BMV) agricultural land. The Framework (para

¹¹²⁾ advises that regard should be had to the economic and other benefits of BMV. On the basis of this, the Council contends that, when looking for housing land, sequentially lower grade agricultural land should be sought. The Appellants counter by pointing out that if any expansion is to take place at Bidford then the use of Grade 2 land will be almost inevitable: a point accepted on behalf of the Council.

24. Whereas Grade 2 land is a scarce resource throughout the country and especially so in Stratford, where Grades 1 and 2 amount to only some 10% of the total, there is no indication of the extent of Grade 3a, which is also classed as BMV. The Grades 3a and 3b are lumped together (78.5%), with the likelihood that some one third of this would be classed as Grade 3a. Faced with this, to effect any sort of sequential test would require further work on the land classification. Without this, if there is an urgent need for housing land, as there is here, this should take precedence, again a point accepted on behalf of the Council. The Council is not suggesting that any such assessment of Grade 3 land is to be undertaken as part of the emerging CS and the Government has made plain that the establishment of a readily available housing allocation cannot be delayed while such assessment is undertaken.
25. In this context, several other matters are worthy of mention. First, and on the one hand, it is always the potential of the land that should count and not what it is used for currently. On the other hand, the land does not currently form part of an agricultural holding and would not threaten the viability of such an enterprise. Next, access would be difficult to gain from the nearest holding and is currently taken through a residential area. In addition, the land is bounded on two sides by existing housing and on a third, by public open space. This could create a tension between adjacent land uses if an intensive farming use was intended. Although not conclusive, it supports the argument that the designation of the appeal site as Class 2 agricultural land should be afforded relatively less weight, where a housing land shortage is accepted.

Access

26. This is by far the most controversial reason for refusal and the arguments put forward are both complex and technical. The first matter to address on this matter is how the design process should have evolved. On the question of the basic design concept, the Appellants point out that the Local Highway Authority (LHA) has a highway design guide that was adopted as supplementary guidance in 2001. This requires the designer to follow the Design Manual for Roads and Bridges (DMRB) route. However, this document is manifestly out of date and the introduction of the recently published Manual for Streets 2 (MfS2), published by the Chartered Institution of Highways and Transportation (CIHT) in 2010 and endorsed by the Department for Transport (DfT) should now be starting point for non-residential and non-Trunk Road situations. This did not happen. One can appreciate why the Appellant's Highway Consultant followed the DMRB route to secure LHA acceptance, but it is in doing so that initiated the fundamental weakness in the Appellants' argument.

27. The appeal scheme should first have been assessed against the MfS2 protocol and only if this could not be employed satisfactorily should they have moved to look at the DMRB approach. Whereas MfS2 clearly advocates that there should not be slavish adherence to the objective criteria in DMRB for roads other than Trunk Roads, it does not advocate that in all non-Trunk Road situations MfS2 would be applicable. It says that consideration should be given to employing MfS2. In this instance, and having regard to the particular circumstances of this case, it would, for a number of reasons, be understandable if the MfS2 route had been followed, but found to be unsatisfactory.
28. First, the B439 is the main road leading from Bidford to and from the Trunk Road network (A46T). It currently boasts a varying speed limit between the A46T and the centre of Bidford, starting with a 50mph limit, which reduces to a 40 mph 280m west of the appeal site and then to 30 mph some 185m east of the appeal site. At the proposed access point to the appeal site, the inter-peak 85%tile speed is 44 mph westbound and 43 mph eastbound. However, the speed check profile shows a higher 85%tile speed during the peak hours, which is a clear indicator that there is no existing appreciable level of congestion. The road currently operates in free flow mode, even during the peaks. It also shows a noticeably higher 85%tile figure for the 7-day period, which suggests that the design speed should be rounded up and not down.
29. The Appellants correctly point out that the convention is to design to the inter-peak 85%tile speed. However, this is only the case because the inter-peak hour speeds are invariably higher than the peak, when congestion usually slows traffic down and this has a reducing effect on the 7-day figure. This is not the case here and this factor was not picked up at any stage of the design or in either of the RSAs undertaken.
30. Next, at no point does MfS2 advocate that the MfS2 protocol should be applied to a junction in isolation or, even worse, a particular geometric characteristic of a junction otherwise designed to DMRB standards. As I read them, the principles always refer to routes or streets, never to a junction. Moreover, each of the examples given in MfS2 seems to reflect this comprehension, being for the design of a route and not for an individual location. This is entirely understandable when one considers that MfS2 heralds a game change and requires an entirely different approach to design.
31. MfS2 is not about just about vehicle movement and capacity. Its overarching principle is to create a sense of place, where each of the road user categories should have far greater mutual respect for the others. Design should be based on a hierarchical approach, with the needs of pedestrians placed first: something certainly not done here. It, also, looks to reduce vehicle speeds, minimise the street furniture and increase user awareness. As such, it is a route process and difficult, if not impossible, to introduce for an isolated junction in an otherwise 'DMRB world'.
32. Under these circumstances, on a direct approach to and from a Trunk Road, my professional judgement is that the MfS2 protocol should be approached

with extreme caution. When applied to a junction in isolation and along this section of the B439, where speeds are high, this is a case where caution is justified. Things might have been very different if the LHA had agreed to reduce the speed limit to 30mph and the route along the B439 had been designed accordingly. The reduction to 30 mph is a main recommendation of the second RSA. However, the inquiry was informed that the overriding criterion for the LHA was that speed limits should be self enforcing. In this statement, a fundamental principle of MfS2 is undermined and it is necessary to default to DMRB.

33. The gist of the evidence presented on behalf of the Council was that the junction design fell seriously short of the criteria for a junction to support the anticipated capacity, when measured against the DMRB TD42/95. The crucial shortcoming is identified as the substandard length of the right turn lane, which is less than 40% of the overall requirement. The Council then asserts that to overcome this deficiency the Appellants have applied a 'pick and mix' approach, invoking the philosophy of MfS2 to justify a much greater departure from the DMRB standard than would normally be justified. This it considers is inappropriate and potentially dangerous. As a consequence, considerable concern is expressed directly and indirectly about the RSA and the conclusions reached therein. In addition, the Council challenges the size and location of a pedestrian refuge and position regarding a private access from the B439.
34. Looking first at a DMRB approach, the appeal site junction with the B439 could be designed to meet all the standards other than the length of the right turn facility, where, dependant on the design speed chosen, it falls short by some 60%. Put crudely, the design would be for much lower speeds than the design speed, which is itself lower than the 7-day average 85%tile speeds.
35. As a consequence of not being able to meet the required DMRB standard for the right turn lane, as suggested by the Council, it was then argued that the relaxation was acceptable as a consequence of the MfS2 protocol. I am clear that, having 'discounted' the MfS2 approach at the start, it would be untenable to then invoke it to justify a shortfall. Nowhere in any guidance is it suggested that a 'pick and mix' approach is acceptable and, in my professional judgement, this would introduce a severe risk of accidents.
36. What is the real failure with this scheme is that the junction is designed to DMRB standards, with one exception, namely that of the length of the right turn lane. This leaves everyone, other than those driving west on the B439 able to maintain speeds and movement commensurate with the 40 mph speed limit and higher 85%tile. Radii, carriageway widths, visibility and highway markings would all indicate this to be the case. Only those turning right into the appeal site would have to adjust their thought process. In my judgement, this would be extremely dangerous and should be positively resisted.
37. We now turn to the Road Safety Audit (RSA) for the proposed junction produced by the Appellants as part of the application details. As noted previously (DL3), a revised RSA was submitted late in the day and this

prompted an amended design and both are commented on in the following section.

38. As was pointed out by the Appellants, on non-Trunk Roads there is no requirement for the production of an RSA, though many highway authorities do request one. In this situation, which is anything other than standard, an RSA, or some other form of risk based assessment, does seem eminently sensible. The first one produced on the basis of the submitted junction design does not highlight any particular concern, beyond the location of the pedestrian refuge in relation to an existing vehicular access. As a consequence, and based on the submitted design layout, no objection was raised to the proposed access to the appeal site by Warwickshire County Council (County Council) as the LHA. In turn this was supported by Planning Officers of the Council. Disagreeing with this, the Members drafted a highway reason for refusal. At the inquiry this position was supported by a Consultant Highway Engineer appointed by the Council.
39. For my part, I find the first RSA assessment and the design fatally flawed for a number of reasons.
40. While the RSA clearly informed the decision makers, several major flaws in the assessment appear to have been overlooked. First, while on site, an 85%tile speed check was taken. This showed that no westbound traffic exceeded 40 mph. It did not give the corresponding 85%tile, but common sense directs that this was somewhat lower. Thus, the Auditor's impression was of a junction operating at at least 4+ mph less than the 85%tile speed of 44 mph used as the design speed and considerably more so when measured against the 7-day figure. I would have expected this disparity to have triggered a further check, or at the very least merited comment.
41. On the basis of this on-site measurement at the time the RSA was undertaken, it was not appropriate to conclude that the design speed should be for a 40 mph road. In my experience, the most likely reason for the discrepancy is that the 85%tile speed check was taken overtly and on seeing the speed gun drivers adjusted their speeds accordingly, as any sensible driver would. The crucial point is that, when applying DMRB standards, the difference of 5 mph in the 85%tile speed introduces a step change in the design criteria and so the RSA introduced an incorrect benchmark for assessment.
42. The second point is that the RSA describes the shortfall in the right turn lane as "*marginally reduced*". Even for the design speed the enumerators employed the shortfall was some 45% and, as noted previously, for the correct design speed a shortfall of 60%. In either case, use of the word "*marginally*" is grossly misleading, but could well have unduly influenced the decision makers. Next, it concludes that as other junctions along the same route with substandard right turn features do not give rise to a particular accident problem, this should not raise any concerns about the appeal site junction. This was not a qualified statement and without being so, the enumerator was not entitled to reach this conclusion. The variables not taken into account are the speed limit, 85%tile speeds, volumes of through and turning traffic and pedestrian movements.

43. Perhaps the most damning feature of the RSA is the complete disregard for pedestrian movement and the desire lines implicit in the appeal proposal. The only reference to the pedestrian refuge is that it should be moved slightly so as not to block the vehicular access to a property on the north side. What the RSA failed to note was the location of the refuge some 50+ m to the east of the proposed junction, with the bus stops a considerable distance to the west. In effect, this would mean that the expected pedestrian route from the bus stop on the south side would be to walk to and past the proposed junction and a further 50+ m to the refuge. Salford Road would then have to be crossed and then the return journey of 50+ m on the north side to the access.
44. Common sense suggests that pedestrians would be most unlikely to walk this distance, especially as they would have to pass their intended destination. In practice they would attempt to cross at the junction, where most vehicle speeds would be in excess of 40mph and there would be no protection. A refuge to the west of the junction would be on the pedestrian desire line. This potential danger should have been recognised by the RSA in a risk based assessment.
45. In addition, the pedestrian route through the junction on the north side of Salford Road would be broken by the proposed new access. In the design, this was not catered for by creating a safe route for pedestrians through the junction. Once again this was not spotted by the RSA. Neither was a safe route through the junction for cyclists.
46. At the inquiry it was advanced that the refuge to the east had been located so as to channel and calm traffic moving through the proposed junction and assist the right turn movement. This may be so, but the RSA did not recognise it as essential for this function and, even if it had, it should also have highlighted the pedestrian danger and recommended action to address this.
47. In fact, something else the RSA did not recognise was that this stretch of 40 mph highway has overtaking potential and a refuge to the west, as well as one to the east, would assist in deterring overtaking. There is room to accommodate a wide refuge to the west of the junction, without interfering with other access points or movements. If such a refuge was included, then with a refuge just further east opposite the 'Village Hall' the pedestrian crossing point becomes redundant, and there may well be better ways of channelling and slowing traffic, without impeding turning traffic and without anything physical it would be easier to extend the right turn facility.
48. The next objection advanced on behalf of the Council also pertains to the refuge and the width of 1.5 m proposed. This is recognised as the minimum width in the DMRB, whereas 2 m is said to be more desirable. Where mothers may be pushing youngsters to and from the proposed Health Centre it is clear that a 2 m refuge would be better and safer, if it could be physically accommodated within the highway. From the site inspection, it is clear that the carriageway of the B439 could be widened on the south side, though this has not been costed, and service diversions and accommodation

works to the pedestrian accesses of frontage development may be needed. In this location to the east of the proposed access point, if the cost were high, it would seem reasonable to accept a 1.5 m refuge. This would not be on the major desire line. As noted, the preferred location to the west could accommodate a wider refuge with far less difficulty.

49. The final point of contention concerns the access to the property 16 Salford Road. At present, a car or light van can pull off clear of the through carriageway and wait across the footway/verge while the gate is opened. If the sightline shown and the right turn lane were to be built, then this would require some widening on the north side, thereby reducing the waiting space available between the carriageway and the gate, with the possibility that vehicles would overhang into the carriageway while the gate was opened. To address this, ideally, the gate should be set back to allow a vehicle to wait clear of the carriageway.
50. However, there is no agreement to this with the landowner or, as also suggested, to the gate being electronically operated to avoid the need for the residents to stop and open the gate. Even then, this would still leave visitors unable to gain access. Although the Appellants said that the gate was open on most if not all occasions the site was visited by their highway Consultant, this cannot be guaranteed. Incidentally, this was another factor missed by the RSA.
51. Turning now to the second RSA, this represents a marked improvement. Certain aspects omitted from the first RSA are now covered and these include an acceptance that pedestrians will use the junction as will cyclists. However, there are still shortcomings. Once again, there appears to be an acceptance that a 'pick and mix' approach to design would be acceptable. However, the crucial conclusion in this RSA is that the speed limit on the B439 should be reduced to 30 mph, something the LHA still resists strongly. A 30 mph speed limit and an accompanying traffic management protocol would allow an MfS2 approach to be resurrected. However, without it the scheme still falls materially short. In addition, the refuge to the east of the proposed junction is retained. This is an entirely redundant feature for pedestrian purposes and the benefits of its removal should have been considered.
52. All in all, there is much still to be done to achieve a satisfactory highway solution, and without improvement, I am certain that the residual problems would be severe and fall foul of paragraph 32 of the Framework. As such, the present proposal should be resisted.
53. The next question is whether, as suggested by the Appellants, the access could be withdrawn from the current appeal proposals and be left for determination as a reserved matter or a specific access condition imposed along the lines espoused in the Wheatcroft judgement. The Council opposed this on the basis that as a scheme had not yet been designed in detail it would be impossible to establish if an acceptable layout could be achieved within the highway boundary. If it could not, then the Council could be faced with the submission of a similar layout, with attendant shortcomings, and be back at square one, albeit with the principle of development

conceded. Moreover, any widening on the south side of the B439 would involve land outside the application site edged red. Finally, both the Council and Parish Council seek to invoke the objectives of the Aarhus Convention, with regard to access to information and the opportunity for consultation. For these reasons, the Council contends that the access should be turned away and a new application submitted, when the access problems have been resolved.

54. On balance I agree that there is not enough to go on to issue an outline planning permission subject to an access condition for something that cannot be assured. I am not too concerned about the red line site boundary *per se*, as all the land necessary for a widening on the south side would lay within the existing highway boundary. Even so, this may involve changes to pedestrian access for some frontage properties and these should be the subject of consultation. Such an arrangement may also involve higher construction and service diversion costs and this could have repercussions for public realm contributions and/or affordable housing.
55. As for the Aarhus Convention, I am more inclined to the Appellants' view that reserving the matter for subsequent approval would neither change the principle nor the location of the access nor deny anyone the ability to be consulted. In any event, it is the practical difficulties that lead me to conclude that the difficulties in gaining an acceptable access that delivers the very strong argument against 'approving' the access layout as it stands.

Health Centre

56. Of the material considerations falling outside the main issues, this is probably the most controversial matter raised. It therefore merits some comment.
57. A proposed Health Centre on site would be the main element contributing to the appeal site's mixed use status. However, the provision of a Health Centre in Bidford-on-Avon has had a chequered history. A site for a Health Centre was granted outline permission on the Friday Furlong site almost 3-years ago. However, as noted ^(DL12) this has not so far been progressed. The appeal site then became the next focus, but, with the refusal and subsequent appeal, the timescale for delivery again became uncertain. Against this background, the local Medical Practice took the opportunity to seek planning permission for the change of use and refurbishment of a building on the other side of Bidford-on-Avon. This was granted full planning permission and is now the favoured option, especially as the Medical Practice believes that a delay beyond the current financial year would make funding for a Health Centre in any location much more difficult.
58. On this basis, the Council's argument is that the need for and provision of a Health Centre on the appeal site should not attract any great weight, when balancing the arguments. The Appellants do not agree and say that there is no certainty either of the consented sites for a Medical Centre will actually reach fruition and their proposal remains live. Moreover, there is no confirmation that monies for the Health Centre would disappear, only that it would have to be applied for from a different 'pot'. Even if the Medical

Centre does not materialise, then beneficial use could be made of the identified land for employment purposes or even additional housing.

59. Although there are clearly uncertainties about the future location of the Medical Centre, there is nothing cast in stone that justifies weakening the mixed use development credentials of the appeal site. Although perhaps less likely to come forward than when the planning application was submitted, it still remains an option that would be acceptable to the Medical Practice in practical terms. The paradox is that the Health Centre would be a high traffic and pedestrian generator that makes it all the more important that the access from the appeal site to Salford Road is safe.

Localism

60. The Localism Act 2011 is understood in a number of ways and, as a consequence, the expectation following its enactment varies significantly. Many individuals express the view that if the local consensus is against a development then it should not be granted a planning permission, irrespective of its merits or any benefits it might offer. However, nowhere is it suggested that Government sees its localism agenda as one to promote nimbyism. It is aimed at empowering local agencies and people to deliver and better the Government agenda, without interference in the detailed management from the centre or from regionally appointed bodies. It is not directed to deliver less, but to deliver at levels to maximise or exceed Government's strategic objectives.
61. Against this background, very little weight can be afforded to those who do not wish for any more development of this kind locally. The preferred way is for the development plan policies to be drafted in full consultation with local people and interests. However, where this process is seen as not having been expedited quickly, the SoS, through the Framework, expects decisions to be made on the basis of the best evidence base available, which for Stratford he has divined in the recent Shottery decision is the G L Hearn Report.
62. In this case, there is a significant, acknowledged shortfall in the 5-year supply of available housing land, and there is a presumption in favour of sustainable development. Moreover, there is the Framework imperative to boost market and affordable homes and this site would deliver some 30-40 affordable homes. Finally, if planning permission is granted within the Government's requisite 3-year time framework, it is submitted that there would be local benefit from the New Homes Bonus, to the tune of £1M.
63. Although one might not be overly impressed with the project's sustainability accreditation, its location, together with the housing land factors, place this scheme at the top end of the presumption in favour of sustainable housing.

Other matters

64. A number of other points, mainly of objection, are raised by third parties and the key ones not covered so far are looked at briefly. The starting point is that none are seen as crucial by the Council.

65. As for these other matters, the pressure on education is not seen as especially worrying by the local education authority, subject to a contribution toward delivering the necessary education provision. It is acknowledged that secondary education would be 'out of town', but this is the same for many remote communities. Bus services are available, and, although they might not be as frequent as many would wish, they would no doubt respond to any increased demand. As for flood risk and drainage/sewerage, there are no findings in any assessment that would preclude development of the appeal site.
66. Turning to local impacts such as noise, disturbance, privacy and light pollution, these are all factors that could be addressed in the final design details. Importantly, there is no objective evidence to say that they can not be overcome satisfactorily. The house that would be demolished to facilitate the main access is described by some as an example William Morris Arts and Craft. The Council distances itself from this and points out that the building is neither listed nationally nor locally. As such, whereas the loss of any 'cherished' building is not to be undertaken lightly, this does not provide any strong reason for resisting the appeal scheme. The suggested damage to the local ecology is not borne out by scientific surveys and any habitat or species that might be affected could be covered in an Ecological Management Plan for the site.
67. All other matters raised, such as crime and house values have been taken into account, but any concerns are not of sufficient moment to outweigh the material planning considerations highlighted above.
68. Finally, there would be benefits arising from the scheme and these include affordable housing, open space and play areas, contributions to public transport and other services and from the New Homes Bonus.

Conditions and s.106 Undertakings

69. A signed s.106 Agreement and a signed s.106 Unilateral were handed in at the inquiry. These s.106s cover such matters as affordable housing, open space/play area, Police, libraries, education, transport and Travel Plan contribution. These are all matters relevant to the project and would be CIL compliant.
70. Draft conditions were also discussed in detail during the inquiry and an agreed list submitted. Amendments to these draft conditions were agreed and some added without demur. With these additions, all the points, other than access, necessary to secure the sensible development of the appeal site should be covered.

Summary

71. In summary, the key problem with the appeal proposal is that the residual cumulative highway problems arising from the proposed access would be severe and this runs counter to the Framework Policy. Moreover, the amendments submitted late in the day do not address the problems

satisfactorily and leave a number of unresolved uncertainties. As such, the highway objection constitutes a compelling reason for resisting this development at this time.

72. On the positive side the site is identified as an option for housing in the emerging CS and is likely to supply some housing at some stage. There is also a significant shortfall in the 5-year Housing Land Supply requirement. It would meet many of the sustainability criteria embodied in the Framework and deliver affordable housing and contribute locally with the New Homes Bonus. All other matters could be overcome by the s.106 Undertakings and/or conditions, though the sustainability accreditation could benefit from being addressed further. In any event, and while the Appellants may be disappointed at not securing an outline permission, the positives, taken individually or cumulatively, are wholly insufficient to outweigh the compelling and outstanding highway objection.
73. All other matters raised in the evidence and representations have been taken into account, including the local views and the Planning Officer's recommendation for approval. However, there is nothing of such significance as to outweigh the material planning considerations leading to the clear conclusion that, under the present circumstances, this appeal should fail.

J S Nixon

Inspector

Richborough Estates

DOCUMENTS HANDED IN AT THE HEARING

- 1 Opening submissions on behalf of the Appellants
- 2 Opening statement on behalf of the Council
- 3 Position statement on behalf of the Council
- 4 SoS Decision re Shottery Ref. No: 2163206
- 5 Stratford-on-Avon District Local Plan Review 1996-2011
- 6 Extract from Manual for Streets 2
- 7 The Warwickshire Estate Roads Guide 2001
- 8 Bidford-on-Avon Housing Needs Survey
- 9 Housing scheme on land off Grafton Avenue Bidford
- 10 Plan showing Warwickshire Key Transport Infrastructure
- 11 Plans showing Bidford Medical Centre proposals on Stratford Road
- 12 Third party letter re attributes of Bidford
- 13 Third party extract from Daily Telegraph re housing land banks
- 14 Extract from Shakespeare's Land
- 15 Parish Plan for Bidford
- 16 85th %tile Speed details handed in by a third party
- 17 Business case for Bidford Health Centre
- 18 Council's Statement addressing CIL Regulations
- 19 Statement setting out justification for planning obligations
- 20 Details of repositioned pedestrian crossing position
- 21 Responses to landscape and environmental matters
- 22 Report for Parish Council re need for a surgery
- 23 The case for shortened time limit conditions – Bidford Parish Council
- 24 Aarhus Convention details

- 25 Exchange between Appellants and Highway Authority
- 26 Second Road Safety Audit
- 27 Draft Conditions – Council’s version
- 28 Draft Conditions – Appellant’s version
- 29 Draft Conditions – Composite version
- 30 Deed of Agreement
- 31 Deed of Unilateral Undertaking
- 32 e-mail from Carl Tonks dater 1.11.12
- 33 Justification for noise conditions
- 34 PINS Good Practice Note 9 – Accepting amendments to schemes at appeal
- 35 Amended plan for access
- 36 Parish Council Closing remarks
- 37 Council’s closing
- 38 Appellant’s closing
- 39 Comments from Parish Council 7.11.12
- 40 Letter from Appellants dated 29.11.12
- 41 Exchange of correspondence on highway matters
- 42 Submissions on behalf of Bidford-on-Avon Parish Council
- 43 Updated housing position submitted by the Appellants