



Department for
Communities and
Local Government

Mr Les Stephen
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Shrewsbury
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Our Ref: APP/Y3425/W/16/3149840

22 December 2016

Dear Mr Stephen

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR N HAWLEY OF MOORE FAMILY TRUST
LAND AT SHENLEY COTTAGE, MAIN ROAD, LITTLE HAYWOOD, STAFFORD, ST18
0TR**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Louise Nurser BA (Hons) Dip UP MRTPI, who held a site visit on 27 July 2016, and considered written representations into your client's appeal against the refusal of Stafford Borough Council ("the Council") to grant planning permission for residential development of 60-65 dwellings, open space and access at Shenley Cottage, Main Road, Little Haywood, Stafford in accordance with application ref: 15/22731/OUT, dated 31 July 2015.
2. On 12 July 2016, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal is for residential development of over 25 units in an area where a qualifying body has submitted a neighbourhood plan to the local authority, but the relevant plan has not yet been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and with her recommendation. He has decided to dismiss the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. An application for a full award of costs was made by your clients against the Council (IR2). This application is the subject of a separate decision letter, also being issued today.
5. The Secretary of State notes that the Inspector sought comments from the parties requesting an update following the referendum into the (then) emerging Colwich Neighbourhood Plan as well as the emerging Part 2 of the Plan for Stafford Borough and has reflected the views received in her report (IR5-6). He further notes that on 22 November 2016 the Colwich Neighbourhood Plan was formally made and is now part of the development plan for the area. Given that the Inspector sought the parties' views on the Neighbourhood Plan post-referendum and that the plan has not changed from referendum to being made, he does not consider it necessary to seek further views from the parties.

Policy and statutory considerations

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan comprises the Plan for Stafford Borough (PSB) 2011-2031 adopted June 2014 and the Colwich Neighbourhood Plan (CNP) made 22 November 2016. The Secretary of State agrees with the Inspector that the most relevant development plan policies of most relevance to this case are those set out at IR18-26 and IR30-31.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal schemes or their settings or any features of special architectural or historic interest which they may possess. Additionally, and in accordance with section 72(1) of the LBCA Act, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Emerging plan

10. The emerging plan comprises Part 2 of the Plan for Stafford Borough (eP2PSB). The Secretary of State notes that the Inspector was not provided with relevant policies contained within this emerging plan and that it was confirmed by e-mail that the settlement boundary remains the same within the eP2PSB (IR27-28). Like the Inspector, and for the reasons set out in IR130, the Secretary of State agrees that considerable weight should be given to the significance of the boundary within the eP2PSB.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR118 while accepting that the Colwich Neighbourhood Plan now forms part of the development plan for the area (see paragraphs 5 and 7 above).

Settlement Hierarchy

12. The Secretary of State notes, like the Inspector, that both parties are in agreement that the PSB sets out the relevant housing target but that this figure should not be seen as a ceiling (IR119). The Secretary of State has considered carefully the Inspector's analysis at IR120-127, and agrees with her conclusions that the appeal proposal would conflict with both PSB policy SP4 and SP7.

Emerging Plan

13. The Secretary of State has noted in the above paragraphs that the Colwich Neighbourhood Plan has now been made and forms part of the development plan and is given due weight. For the reasons given in IR128-IR132, the Secretary of State agrees with the Inspector's analysis that development plan policy provides for settlement boundaries to be established either in Site allocations Development Plan Documents or Neighbourhood Plans. In his view, it is clear that the appeal site is outside the settlement boundary and therefore conflicts with existing and emerging development plan policy.

Housing land supply

14. The Secretary of State notes (IR133), that there is no argument between the parties that Stafford Borough Council can demonstrate a five year supply of land for housing.

Benefits

15. The Secretary of State agrees with the Inspector that the proposal would provide up to 65 dwellings of a mix of house types, including 30% affordable. In the context of a Council with a five year land supply, he further agrees with the Inspector that the benefits of housing provision, including affordable housing, should be given moderate weight (IR133); that the financial contributions referenced should be accorded no weight (IR134); that the new areas of public open space and improved access should be accorded moderate weight (IR135); and that the construction phrase would have a positive economic impact on the local economy and is also attributed moderate weight (IR136).

Other matters

16. Like the Inspector, the Secretary of State has had specific regard to both the desirability of preserving the setting of the wall to the estate of the Grade 1 listed Shugborough Hall and the impact of the proposed development on the Colwich and Little Haywood and the Great Haywood and Shugborough Conservation Areas. He agrees with the Inspector's conclusion that the proposed development could be implemented without impacting on the setting of the nearby heritage assets (IR137).
17. Again, like the Inspector, the Secretary of State agrees with her conclusion that given the available evidence, there are no reasons for highways and drainage matters to count against the scheme (IR139).

Planning conditions

18. The Secretary of State has given consideration to the recommended conditions set out in Annex A to the IR, to the Inspector's analysis at IR104-IR116, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph

206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning obligations

19. The Secretary of State has had regard to the Inspector's analysis at IR102-103, the completed section 106 agreement, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. Like the Inspector, the Secretary of State considers that the proposed £437.50, payable to the County towards the costs of administering and monitoring the obligation would not accord with the CIL Regulations and would not be lawful to take into account (IR103). He further agrees with the Inspector that the remainder of the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development (IR102). Overall, the Secretary of State does not consider that the obligation overcomes his reasons for deciding that the appeal should be dismissed.

Planning balance and overall conclusion

20. The Secretary of State considers that the appeal scheme is not in accordance with Policies in the adopted PSB and the made CNP. There are also conflicts with the emerging eP2PSB. The Secretary of State concludes that the appeal proposal is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He attaches moderate positive weight to the delivery of housing (especially affordable housing), and the economic benefits from the proposal during construction. He considers that the impact on both the nearby heritage assets and the conservation areas is neutral in the planning balance. Overall, the Secretary of State does not consider that there are any material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for residential development of 60-65 dwellings, open space and access at Shenley Cottage, Main Road, Little Haywood, Stafford in accordance with application ref: 15/22731/OUT, dated 31 July 2015.

Right to challenge the decision

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

24. A copy of this letter has been sent to Stafford Borough Council.

Yours sincerely

Richard Watson

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Date: 28 September 2016

TOWN AND COUNTRY PLANNING ACT 1990

STAFFORD BOROUGH COUNCIL

APPEAL BY

MR N HAWLEY (MOORE FAMILY TRUST)

Site visit made on 27 July 2016

Shenley Cottage, Main Road, Little Haywood, Stafford ST18 0TR

File Ref: APP/Y3425/W/16/3149840

File Ref: APP/Y3425/W/16/3149840

Shenley Cottage, Main Road, Little Haywood, Stafford ST18 0TR

- 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 Mr N Hawley (Moore Family Trust) against the decision of Stafford Borough Council.
- The application Ref 15/22731/OUT, dated 31 July 2015, was refused by notice dated 6 November 2015.
- The development proposed is residential development of 60- 65 dwellings to include provision of 3.27 hectares of public open space and networks including details of access only.

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. Determination of the appeal was recovered by the Secretary of State by way of a direction dated 12 July 2016. The reason given for the recovery is that, *"it involves a proposal for residential development of over 25 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made¹."*
2. An application for costs was made by Mr N Hawley (Moore Family Trust) against Stafford Borough Council. This application is the subject of a separate Report.
3. The application is in outline with only access to be determined. I have dealt with it this way, and on the basis that layout, scale, appearance and landscaping are matters for future consideration.
4. The application was refused for two reasons. The first, that the proposed development would take place on greenfield land outside the settlement boundary defined by the emerging Part 2 of the Plan for Stafford Borough (eP2PSB) and the emerging Colwich Neighbourhood Plan (eCNP) and that it would undermine the sustainable settlement strategy, set out in Policy SP4 of the adopted Plan for Stafford Borough (PSB)² through the disproportionate delivery of housing at a lower level of the settlement hierarchy, in the context of a five year supply of deliverable housing sites. The second reason for refusal related to the absence of a completed planning obligation. Following the refusal of the planning application, and the subsequent appeal, a S106 agreement has been submitted that addresses the Council's second reason for refusal. I consider this later in my report.
5. Since the application was dismissed the emerging Colwich Neighbourhood Plan and the emerging Part 2 of the Plan for Stafford Borough have both progressed: the Independent Examiner's Report into the eCNP has been received, and a referendum into whether the eCNP should come into force took place on September 15 2016. The outcome of this was that a majority voted in favour of bringing the eCNP into force. I went back to both parties requesting an update on whether the outcome in favour of the referendum materially altered their

¹ Letter to appellants and local planning authority dated 12 July 2016

² Adopted 19 June 2014

case, and have taken their responses into account in my consideration of the appeal.

6. The Council confirmed that the NP was likely to be adopted in late November and that in relation to the eP2PSB that the Examining Inspector had asked the Council to arrange for consultation to take place on main modifications. None of these modifications relate to the appeal site³. The appellant is of the view that the outcome of the referendum makes no material difference to the planning context and that the planning balance remains the same as that at the time of the consideration of the previous appeal and that the site is a sustainable location, appropriate for new housing and accords with the presumption in favour of sustainable development. I have considered the policies of both Plans in the light of advice set out in the Framework relating to the weight to be accorded to emerging Plans.
7. I am aware that the appellant has expressed concerns relating to the genesis of the Neighbourhood Plan, with specific reference to how the Parish Council has engaged with it as a major landowner⁴. However, consideration of these matters is not within my remit and therefore I have not taken them into account in coming to my recommendation.
8. It is clear from the evidence before me that the appellant has, in places, made reference to an earlier version of the PSB⁵, rather than the adopted plan. However, this oversight has not had a fundamental impact on my consideration of the appeal, as from what I have read the objective of the settlement strategy set out in Policy SP4 has remained broadly consistent⁷. Moreover, copies of the policies of the adopted plan attached to the Council's Questionnaire have been circulated to the appellant. Nonetheless, to be clear, I have made my recommendation on the basis of the most up to date policy position. Any differences between the versions of the Plan have not been determinative in the formulation of my recommendation.
9. In the interests of clarity I can confirm that the previous appeal⁸ was made in December 2014 rather than 2012 as referred to by a member of the public.

The Site and Surroundings

10. The appeal site of 6.7 hectares⁹ lies to the west of Little Haywood, on the northern side of Main Road within predominantly open countryside. The land includes the derelict Shenley Cottage, outbuildings, associated gardens and agricultural land, which at the time of my site visit was mostly being used for grazing. An avenue of trees leads to Shenley Cottage and there are a number of established trees and hedgerows on the site, a significant number of which are subject to a Tree Preservation Order¹⁰. Due to the topography of the site

³ Email from Stafford Borough Council 20 September 2016

⁴ Email from Les Stephan Planning 19 July 2016

⁵ Addendum to Design, Access and Planning Statement 02 10 2015 Paragraphs 2.11- 2.14 and Appellant's Statement of Case Paragraph 4.4 bullet points 7- 10

⁶ Ibid paragraph 5.1

⁷ Report to Stafford Borough Council 11 June 2014 Paragraphs 52 and 53.

⁸ APP/Y3425/W/15/3003745

⁹ Paragraph 3.12 of the Design and Access Planning Statement (revision E)

¹⁰ Tree Preservation Order no 14 1975

there are areas of steeply sloping land at the southeast of the site¹¹. Existing Public Rights of Way traverse the site linking to the wider network.

11. To the north of the site is more agricultural land. The land runs from Park View and the farm buildings at its rear, in an easterly direction towards Little Haywood, where it meets the rear gardens of The Orchard. There are fields between the housing and the village to the north east of the site.
12. To the south, the appeal site has three frontages to Main Road. It is interrupted by The Butts which is a small cul-de-sac development, the property known as Tree Tops, and skirts behind housing on Main Road where it meets the village of Little Haywood.
13. The Great Haywood and Shugborough, and Colwich and Little Haywood Conservation Areas lie to the south and east of the site. The Cannock Chase Area of Outstanding Natural Beauty is to the south of the site as is the boundary wall to the Grade I Shugborough Hall.

Planning History

14. A previous appeal for an identical proposal¹² was dismissed solely on the basis that there was an unacceptable risk that the proposed planning obligations, which were considered to be necessary to make the development acceptable, would not be delivered. The Inspector concluded that the proposed development would not have a significant effect on either the Colwich and Little Haywood or the Great Haywood and Shugborough Conservation Areas. Partial costs were awarded against the Council on the grounds of unreasonable behaviour.
15. The site has been promoted through the Local Development Framework¹³ by the Moore Family Trust, which has substantial local land holdings.

Planning Policy

16. The development plan for the area comprises the adopted Plan for Stafford Borough (PSB) which sets out the strategic policies for the area.
17. In addition, there are two relevant emerging plans:
 - The emerging Colwich Neighbourhood Plan has been examined and was the subject of a referendum on 15 September 2016. The majority of those who voted were in favour of the eCNP coming into force.
 - Hearings began into the emerging Part 2 Plan for Stafford Borough¹⁴ on 19 July 2016. There are a number of unresolved representations relating to the appeal site. As set out above, the Examining Inspector has written to the Council requesting that main modifications be consulted upon.

¹¹ Drawing 799 02 A

¹² APP/Y3425/W/15/3003745 dated 7 July 2015

¹³ Paragraph 7.1 of the Appellant's Design, Access and Planning Statement (Rev E)

¹⁴ Statement of Stafford Borough Council Response to Appellant's comments paragraph 6.6

The Plan for Stafford Borough

18. Policy SP1 sets out the presumption in favour of sustainable development.
19. Policy SP2 sets out the level of housing to be provided within the Borough, based on objectively assessed needs, at 500 dwellings per annum. Policy SP3 provides a sustainable settlement hierarchy for development within the Borough. The County town of Stafford is considered to have the greatest potential to take new development, followed by the market town of Stone and then a number of settlements which have good access to current and future services and which are defined as Key Service Villages (KSV). Although, there is considered to be potential for development within all the KSVs, due to the particular circumstances of the different KSVs, levels are expected to vary. Great Haywood, and Little Haywood together with Colwich, are defined as two individual Key Service Villages¹⁵, with explicit reference made to the nearby environmental designations¹⁶.
20. Policy SP4 attributes, on an annual basis, a percentage target for housing development for each level of the development hierarchy. Key Service Villages are expected to provide 12% of the annual number of houses delivered. This proportion has been set as a means to influence the distribution of future development, so that it does not follow past historic trends where a significant number of new developments were outside of the County Town of Stafford and the market town of Stone¹⁷, thereby undermining the sustainable distribution of development set out in the PSB. This requires 537 additional dwellings to be provided over the plan period within the KSV element of the hierarchy, in addition to those which have already been committed¹⁸.
21. Policy SP6 relates to rural development. A different approach to development is taken within and outside the settlement boundary.
22. Policy SP7 states that settlement boundaries are to be set through the Site Allocations Development Plan Document (now known as eP2PSB) or established in Neighbourhood Plans¹⁹ but also shown in the Site Allocations Development Plan Document. In the absence of a defined settlement boundary, Policy SP7 includes reference to the settlement hierarchy and the proportion of development intended by Policies SP2, SP3 and SP4, the need to maximise the use of brownfield land and provides a criteria based approach to determining the acceptability of development. The supporting text makes clear that once a settlement boundary has been drawn there would be a presumption in favour of sustainable development within the boundary. Conversely, in line with the Plan's policies, only small scale development would be accepted outside the boundary.
23. Policies N1, N2, N4, and Policies N6- N9 relate to design matters including design principles and requirements relating to climate change, sustainable urban drainage systems, the natural and built environment, designated heritage

¹⁵ Paragraphs 6.25 and 6.26 of PSB.

¹⁶ Paragraph 6.31 of PSB.

¹⁷ Paragraph 6.41 to 6.44

¹⁸ Page 29 the PSB.

¹⁹ Paragraph 6.63

assets, the Cannock Chase Special Area of Conservation (SAC) and the Cannock Chase Area of Outstanding Natural Beauty.

24. Policies T1 and T2 seek to achieve the objective of providing a safe and sustainable transport system through a number of relevant criteria relating to the location of development, parking, access, public transport and traffic generation.
25. Policies C1 and C2 relate to the mix of housing and the level of affordable housing to be provided within the settlements. Developments over 12 dwellings within the KSVs of Great Haywood and Little Haywood are expected to contribute 30% affordable housing.
26. Policy I1 sets out how developments will be expected to provide appropriate levels of physical, social and environmental infrastructure.

Emerging Part 2 of the Plan for Stafford

27. No policies have been provided. However, the settlement boundary contained within the eCNP has been attached to the Council's questionnaire²⁰.
28. Subsequently, it has been confirmed by email²¹ that the settlement boundary remains the same within the eP2PSB.

The emerging Neighbourhood Plan

29. The introductory text to the emerging Colwich Neighbourhood Plan sets out the wider planning policy context within which the Plan has been produced. This includes the need to be in general conformity with the PSB, the requirement to have regard to the Framework and, European obligations. It also makes explicit the presumption in favour of sustainable development²².
30. Following the adoption of the PSB the former settlement boundaries that had been defined by the previous plan no longer had any status. Policy SP7 of the PSB provides that settlement boundaries are to be defined through the Site Allocation Plan (now known as the eP2PSB) or through a Neighbourhood Plan. The emerging NP has identified settlement boundaries for Great Haywood and Little Haywood/ Colwich which are shown on Map 7. Emerging Policy CC1 supports development within the settlement boundaries. Policy CC3 supports developments of under 15 dwellings within the settlement boundary.
31. Emerging Policy CE2 defines nine areas of Local Green Space. One²³ of these takes up a substantial area of the appeal site and roughly corresponds to the parcel of land identified as Phase 3²⁴, to be delivered around the period 2026-2031. Development within the defined areas of green space is ruled out other than in very special circumstances.

²⁰ The Council has clarified that the settlement boundary was the same within both policy documents and the appellant has been copied into this correspondence.

²¹ Email in response to Inspector's query 1 September 2016

²² Colwich Neighbourhood Development Plan 2011- 2031 Map 7 page 38

²² Colwich Neighbourhood Development Plan 2011- 2031 pages 8-9

²³ Ibid Map 16 Site LGS6 page 47

²⁴ Drawing no. 799 07

32. The Neighbourhood Plan has been independently examined and the Inspector's report received. A referendum took place on 15 September 2016. Consequently, whilst the eCNP has yet to be made, the outcome of the referendum has further progressed the eCNP and I have therefore accorded its policies significant weight.
33. Specific reference to the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) are set out throughout the report.

The Proposal

34. The application proposes a development of between 60- 65 dwellings, of a mix of house types to be confirmed at reserved matters stage, to be built on a phased basis with 3.27 hectares of open space. The scheme would include affordable housing at the rate of 30%; financial contributions for on and off site open space and recreation provision, as well as financial contributions to the local primary school, and the Cannock Chase Area of Special Conservation.
35. The proposal was accompanied by supporting documentation, including plans and reports relating to drainage and flooding, ecology, heritage, landscape and visual matters, the Cannock Chase Special Area of Conservation, zoning, phasing, open space and accessibility, wildlife mitigation, tree constraints, highway and access reports. Due to the indicative nature of the plans I have considered them to set out how the proposal could be developed. However, it is clear from the appellant's case that, whilst a number of the plans are marked indicative, all matters other than access to the site are to be considered as reserved. Therefore, whilst the plans and documents which have been provided give a useful indication of how the proposed development could be implemented I am mindful that all matters are reserved other than access.
36. The existing vehicular access to the site is proposed to be closed and to become a pedestrian access and a new access constructed off Main Road. Accepting that all matters other than the access point are reserved it is indicated that a swathe of open land is to front Main Road and that there would be buffers of open land at the boundary of the development parcels. In addition, the existing public rights of way network is proposed to be extended to provide greater access to the site.

The Case for the Appellants

37. Policy SP1 focuses on the presumption in favour of sustainable development and approving applications wherever possible where they accord with the provisions of the Framework and the emerging Local Plan²⁵. The appeal site is surrounded by housing on its boundaries and is well located to the village and could be considered to provide large infill housing. It enhances and makes significant contributions to the local green network and open space.
38. The proposed development accords with the criteria within Policy SP7 of the PSB and is appropriate to the size and current needs of the village and County. It is in keeping with the surrounding landscape and would enhance the local green network and open space and would provide an array of community benefits as

²⁵ Addendum to Design, Access and Planning Statement 02 10 2015

described by the previous Planning Inspector²⁶, including a 30% contribution to affordable housing. The phasing of the site would ensure that the development would be delivered in smaller parcels and therefore overcome the objections of the community to the size of the development, as well as providing the Council with a steady stream of housing growth over the development plan period to ensure appropriate levels of growth across the County.

39. The Council agrees that the previous proposal was only dismissed at appeal as the accompanying planning obligation was not complete²⁷. The previous Planning Inspector who considered the appeal had concluded that the impact on the Conservation Area was negligible and that there were no planning reasons not to allow the previous proposed development as the site was deemed to be sustainable and in accordance with the adopted PSB.
40. The policy context, now, is no different as there remains a 5 year supply of deliverable housing and the only adopted plan is the PSB. There is no adopted development boundary for Little Haywood.
41. The technical issue with the planning obligation has been overcome. Therefore, as the scheme is identical in all respects to a previous proposal that had been refused against officer recommendation and allowed at appeal, in the interests of consistency, the current appeal should be allowed.
42. The previous planning officer had recommended that the previous planning application be approved. He had considered that the development was in accordance with the criteria of Policy SP7 of the PSB, which establish the acceptability of new development at the settlements, and concluded, as there were no brownfield sites within Little Haywood, that growth on green field land was inevitable²⁸.
43. The Framework seeks to promote housing growth without delay where a proposal is considered sustainable and specifically meets the three dimensions of sustainability:
 - The economic role is met through the provision of much needed housing and open space which correlates well with the existing green network and the work that would be made available to the construction industry during the building phase. A national builder is interested in the site.
 - The social role is met by providing housing of a standard, size and tenure appropriate to the community and in discussion with the Health & Housing Services Group. The site, in its outline form, provides a mix of 1-4 bedroom dwellings with some sheltered housing as requested by the Parish Council. The final mix and tenure can be discussed with the Parish Council prior to the submission of a reserved matters application. In addition, 30% affordable housing will be provided on site.

²⁶ APP/Y3425/W/15/3003745 Addendum to Design, Access and Planning Statement 02 10 2015 Para 2.17

²⁷ Addendum to Design, Access and Planning Statement 02 10 2015 Para 2.17

²⁸ Addendum to Design, Access and Planning Statement 02 10 2015 Paragraph 2.8

- The environmental role is met with the provision of open space and public rights of way to meet the local requirements identified and the provisions set out in adopted planning policy.
44. A different planning officer to that, who recommended the previous application for approval, was responsible for the most recent planning application, the subject of this appeal. At a meeting, prior to the refusal of the application, the appellants were informed that, as the Council's housing guidelines for the distribution of housing within the settlement hierarchy had already been met, the proposed development would be contrary to Policy SP4 of the PSB.
45. Paragraph 6.49 of the PSB refers to a situation where, *"if a level of development more than 25% greater than the SP4 proportion [in the case of KSV, 12%] is delivered by a particular level of the hierarchy over a 4 year period this could trigger restriction through a moratorium"*. At two years, it is too early in the Plan's lifetime to restrict development as the PSB was only adopted in July 2014. Moreover, any control on development relates to the percentage of all development²⁹ within the Borough at KSVs rather than a means of restricting numbers. Such an approach should not be used as a means of resisting development which accords with Policies SP1, SP7 and the provisions of the Framework. The table provided by the Council, clearly shows the most up to date information is that the KSVs provide 12.2% of the development within the Borough. This is only 0.2% more than the target set out in SP4 of the PSB, and cannot be considered to be a detrimentally disproportionate level of development so as to adversely affect the Development Plan vision as a whole.
46. Little Haywood/Colwich is one of eleven Key Service Villages identified in Policy SP3 and is one of five of the largest. The 12% level of housing growth referred to in Policy SP4 of the PSB should be treated as a guideline only, and should be distributed evenly amongst the Key Service Villages. However, if this was to be calculated using a mean average, this would equate to 109 dwellings for each KSV. This would be inappropriate, given that some KSVs would warrant larger numbers, such as Little Haywood and Colwich. In the supporting text to the policy reference is made to the good transport links, levels of community facilities and the sufficient levels of land to accommodate future growth. However, only one planning consent of 20 dwellings has been allowed³⁰. Without further development the facilities within the village could decline.
47. The Council erroneously refers to Little Haywood and Colwich, together with Great Haywood as one settlement, rather than the two discrete KSVs as set out in Policy SP3 of the PSB. Consequently, it together with the Parish Council, has amalgamated the number of houses which have been granted planning permission, instead of treating them as belonging to two separate entities. This has resulted in an inaccurate portrayal of how much development would have been allowed over the plan period in Little Haywood and Colwich as 26.6%, were the appeal site to be included³¹. In addition, housing which has been allowed adjacent to The Ring has been split between the two KSVs, when clearly it all falls within Great Haywood³². The Council has knowingly allowed

³⁰ Response to LPA Statement of Case Paragraph 2.14.6

³¹ Ibid 2.14.2

³² Appellant's Statement of Case Paragraph 5.10

developments to be approved in Great Haywood which would equate to 19% of the KSV³³.

48. If the percentage of the KSV requirement were to be recalculated this would show that development permitted in Little Haywood and Colwich only contributed 1.66% of the KSV requirement (expressed as KSV target divided by housing commitments). Were the proposed development to be approved it would rise to only 7.08% of the KSV requirement. Given Little Haywood has had little development; this proposal should be given serious consideration to boost housing growth in the settlement.
49. Consequently, were the appeal to be allowed it would not result in a disproportionate impact on the housing figures for Little Haywood and Colwich as a separate KSV, the KSV hierarchy or the Plan as a whole.
50. Previously, no reference has been made to the proposed development being contrary to criterion b) of Policy SP7 of the PSB, which relates to development being of an inappropriate scale to the existing settlement.
51. The appellant refers to the recent High Court Judgement³⁴ which explores two very important principles relevant to planning appeals. Firstly, that the presumption in favour of sustainable development not only relates to Paragraph 14 of the Framework but is the main thread running through it. Secondly, that paragraph 47 of the Framework referring to 'significantly boosting' housing growth relates to individual planning decisions as well as plan making. Both are relevant to development in Little Haywood as it is identified to provide growth to support Stone and Stafford, and has had limited growth.
52. The Council acknowledge their housing shortfall; when compared against the 500 per annum requirement³⁵. Paragraph 47 of the Framework urges Councils to boost the supply of housing and maintain a five year supply of deliverable sites (with appropriate buffers). The appellant has never argued that the Council has not been able to demonstrate a five year supply of deliverable housing in relation to the site and notes that the Council acknowledges that the housing requirement of 10 000 for the Borough is not a ceiling. The Strategic Development Locations by their very nature have a cap on the rate at which housing can be delivered.
53. Policy SP4 and the targets contained within it relate to the distribution of the proportions of development expressed as a percentage rather than as a maximum. They should not preclude development coming forward which accords with Policy SP1, SP4 and SP7 of the PSB. The approval of this site, and other appropriate sites throughout the Borough, would assist the Council with their shortfall and avoid a halt on growth³⁶.
54. Development outside of any defined settlement boundary should not be simply considered to be unacceptable as applications should be considered on the basis of a sustainability assessment. The existence of a five year supply should not

³³ Response to LPA Statement of Case Paragraph 2.14.7

³⁴ (Coulson J in Wychavon [2016] EWHC 592)

³⁵ Appellants Response to the LPA Statement of Case paragraph 2.11.1

³⁶ Ibid paragraph 2.11.3

restrict the delivery of sustainable development. Such an approach has been recently supported in Wem, in relation to development on the edge of a settlement where the Inspector concluded that where the proposal is judged acceptable against the main issues, the provision of housing, including affordable housing, is a positive factor whether or not there is a supply of five year housing land³⁷.

55. In the light of objective planning judgement and national policy, no evidence has been provided to support the Council's position to refuse the application on behalf of local residents.

Emerging Plans

56. The emerging Part 2 of the Plan for Stafford Borough (eP2PSB) has only recently been submitted for examination in April 2016, and the appellant has not been advised of any specific hearing dates. As such, the emerging policies may be subject to change. The Council has not justified why the appeal site, or land in this locality has not been progressed as a housing allocation and why the settlement boundary has remained the same, (with the addition of the Coley Lane site) as the Stafford Borough Local Plan adopted in 1998³⁸. As the principle of development of the site has been established by the previous appeal, the environmental constraints and the bypass make it the only realistic option for growth at the settlement³⁹. Of those who have made representations to the development strategy for Little Haywood, five were in support of the development of land to the west of Back Lane and therefore support the proposed development⁴⁰, and only one representor supported the settlement boundary. Moreover, the proposed development boundaries in the eP2PSB are to be established through a methodology based on the guidance set out in Policy SP7 of the PSB. Previously, both the Council's Planning Officer and the Planning Inspector considered that the development accorded with the policy.
57. The emerging Colwich Neighbourhood Plan (eCNP) has been examined. However, as at the time of writing, the eCNP is considered to have, "*some limited weight*"⁴¹. Nonetheless the Independent Examiner made a number of key points which are relevant to the appeal. These were that emerging Policy CC2 which related to a separation zone between Great and Little Haywood should be removed as it was inconsistent with the Framework and the strategic policies of the PSB, the eCNP should not place a cap on the levels of housing and, whilst agreeing with the settlement boundary as submitted, he reiterated the need for flexibility and future growth.
58. Irrespective of the eCNP, the case remains that the Council has accepted that there is insufficient land within the identified boundaries, the PSB identifies the Haywoods as KSVs where, "*the majority of future development will be delivered*" and that the site has been identified within the SHLAA as site ID64.

³⁷ APP/L3245/W/15/3029727

³⁸ Response to LPA Statement of Case Paragraph 2.5.2

³⁹ Response to LPA Statement of Case Appendix 2

⁴⁰ Response to LPA Statement of Case Paragraph 2.5.2

⁴¹ Response to LPA Statement of Case Paragraph 2.6.3

59. As the eCNP relates to both Great Haywood and Little Haywood and Colwich, which are both KSVs, there is an inaccuracy in how the figures for various approved developments are recorded. Specifically, each KSV should contribute to the housing requirement on an individual basis. Little Haywood is shown to make a disproportionately small contribution. Moreover, as both KSVs are amongst the largest settlements in the Borough, they should be subject to greater growth.
60. Part of the appeal site is proposed to be designated as Local Green Space as LGS6. Given that a large element of this particular area is already shown as open space on the application drawings it would be possible to integrate this into the design of the development as part of any reserved matters application. Moreover, the implementation of the amenity green space could not be realised without the cooperation of the landowner.
61. The proposal should be taken on its own merits, would not set a precedent for other development within the Borough and would accord with Policy SP7 of the PSB. It would not harm the settlement boundary, even with a five year supply of housing. The site has previously been considered to accord with adopted policy and no evidence has been submitted to demonstrate how it no longer does so, even with a five year supply of deliverable housing. The requirement to keep within the development strategy should not preclude development coming forward in appropriate locations.
62. In sum, the progression of the eCNP makes no material difference to the planning context and the planning balance has not changed since the previous appeal was determined. The site lies immediately adjacent to the settlement of Little Haywood which has enjoyed little growth (20 dwellings). There are no outstanding technical issues precluding development, including adverse impacts on the character, or appearance of the local area. The approach of constraining growth to ensure guidelines are not breached is contrary to the need to boost housing and the presumption in favour of sustainable development.

The Case for the Council

63. The Council accepts that the provision of a completed S106 agreement to provide 30% affordable housing, SAC, appropriate financial contributions to off-site open space, sport and recreation provision and education provision, would overcome the second reason for refusal⁴².

National Policy

64. At the heart of the Framework is a presumption in favour of sustainable development and a desire to support sustainable economic growth. There are three dimensions to sustainable development and it is fundamental that development strikes the correct balance between:
- environmental – the protection of our natural and built environment;
 - economic- the contribution to a strong and competitive economy and;
 - social- supporting strong, vibrant and healthy communities.

⁴² Statement of Stafford Borough Council Paragraph 9.67

65. Paragraph 14 states that the presumption in favour of sustainable development is the golden thread running through the Framework. This requires local planning authorities to approve without delay development proposals that accord with the development plan and, where the development plan is absent, silent or out of date, to grant permission unless adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or specific policies in the Framework indicate development should be restricted.
66. The Framework emphasises the Government's commitment to economic growth. However, it does not advocate economic growth at any cost: it must be sustainable.
67. The Framework sets out that local planning authorities and the communities they serve are to be afforded considerable freedom in the way in which they put into effect the principles of sustainable development. The object is to enable local people and their accountable Councils to produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.
68. Paragraph 49 of the Framework states that housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable sites.
69. Paragraph 47 sets out the need to provide 5 years' worth of housing in line with the Borough's housing requirements, having regard to a full and objectively assessed need, and states that there should be an additional 5% buffer, and where there has been a persistent record of under delivery of housing, local planning authorities should increase this buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply.
70. Environmental sustainability is also at the core of the Framework and Paragraph 7, when defining the dimensions which underpin sustainability, makes reference in bullet point 3 to the need to protect and enhance the natural, built and historic environment.
71. Paragraph 9 indicates that "pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment".
72. Paragraph 17 within the Framework sets out the core planning principles which should underpin both plan-making and decision taking. Bullet point 5 requires the decision taker/plan maker to: "take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it".
73. Paragraph 112 of the Framework indicates that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land.
74. Paragraph 159 of the Framework sets out the requirements to ensure that local planning authorities have a clear understanding of the housing needs in their

area. This includes the provision of a Strategic Housing Market Assessment (SHMA) and a Strategic Housing Land Availability Assessment (SHLAA).

75. As set out in Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and in Section 70 (2) of the Town and Country Planning Act 1990 and confirmed in paragraphs 11 and 12 of the National Planning Policy Framework an application should be determined in accordance with the approved development plan unless material considerations indicate otherwise.

Development Strategy

76. The Council has a development strategy based on a plan which has made provision for housing in line with its Objectively Assessed Needs. The Sustainable Settlement Hierarchy is set out in Policy SP3 of the adopted PSB. Policy SP4 of the PSB provides a planned distribution of housing set as a percentage of annual targets as a means to redress the balance of housing to focus on the more sustainable centres of Stafford and Stone and to move away from the previous trend of development at the smaller, less sustainable settlements. Less development is directed to the KSVs to alter the previously delivered patterns of development. The housing requirement set in the plan does not represent a ceiling or a maximum⁴³.
77. Circumstances have changed since the previous appeal was determined. Previously, the Council had been able to demonstrate a five year supply and continues to do so⁴⁴, and its position both in relation to a 5 year housing supply and its development strategy has been supported at appeal⁴⁵. Since the Council's Statement of Case relating to the previous appeal was written two Annual Monitoring Reports have been published. These demonstrate a disproportionate amount of commitments within the KSVs⁴⁶. Therefore, the potential conflict with the development strategy of the PSB has now been recognised. The most recent position is that the amount of development at KSVs as a proportion of the total housing supply made up of completed, committed and allocated sites was 12.2% in contrast to the 12% figure set in Policy SP4 of the PSB⁴⁷. As of 2016, over four years into the plan period, the requirement of 1200 houses to be provided in KSVs had already been exceeded by 13.2%. Of these developments 254 were within Great Haywood, Little Haywood and Colwich, or 21.2% of the 1200 figure set in the PSB. Were the appeal to be allowed the volume within the two KSVs would have increased to 26.6% of the 1200 figure. This would be disproportionate given that it is the intention of the PSB to distribute the total requirement through the KSVs.
78. The Council has refused other applications elsewhere to ensure that a disproportionate amount of development does not take place and has acted

⁴³ Statement of Stafford Borough Council Paragraph 9.2

⁴⁴ The Council has provided two calculations using the Liverpool and Sedgfield Methods respectively. Using either method the Council can demonstrate a five year supply (7.02 and 6.76) Source Statement of Stafford Borough Council Paragraph 9.35.

⁴⁵ Statement of Stafford Borough Council Paragraph 9.36

⁴⁶ Statement of Stafford Borough Council Response to Appellant's Comments Paragraph 1.1

⁴⁷ Statement of Stafford Borough Council paragraph 9.43

quickly to ensure that the situation does not escalate out of control⁴⁸ to ensure that the unsustainable historic trends are not able to continue⁴⁹.

79. The Council's delivery mechanism is heavily dependent on four major Strategic Development Locations. The speed of delivery is affected by the rate at which they can deliver new housing. This means that the Council may take slightly longer to offset its accumulated shortfall. However, the shortfall is accounted for and planned into the strategy.
80. The increase in development available at KSVs, outside that which has already been allocated, would mean that the scale of development is no longer consistent with the proportion of development envisaged through the settlement hierarchy. Therefore, the proposed development would skew the balance of development away from that set in Policy SP4 and it would no longer accord with criterion b) of Policy SP7.
81. The Council accepts that Great Haywood, and Little Haywood with Colwich, are two KSVs. However, there is nothing within Policies SP3 or SP4 of the PSB to require housing within KSVs to be distributed equally.
82. It is important to consider the harm that would be caused to the The Haywoods and to its residents of a further 60- 65 houses.
83. Due to the availability of preferable sites to deliver housing growth the proposed development would result in the unnecessary loss of greenfield land contrary to Policy SP7 of the PSB. Such an approach was accepted when an Inspector considered the development of green field land to be contrary to Policy SP7 of the PSB, in the context of there being no need to provide additional housing to satisfy the Plan's housing requirements⁵⁰.

Emerging Plans

84. To support the settlement hierarchy and to ensure that the levels of growth remain consistent with the proportions of SP4 of the PSB, the eP2PSB establishes the boundaries for the settlement boundaries of Stafford, Stone and the KSVs. The boundaries accommodate more than enough land needed to meet the housing growth required by the Plan. The boundaries for Little Haywood, Colwich and Great Haywood are aligned with the boundaries set in eCNP.
85. The boundaries of the settlements have been established, primarily, by a methodology based on Policy SP7 of the PSB. In addition, the following have been considered:
 - Recognised physical features
 - Completed sites and sites with extant planning permissions (see below)
 - Previous residential development boundaries (from the now superseded Stafford Borough Local Plan 2001)

⁴⁸ Ibid paragraph 11.4

⁴⁹ Ibid paragraph 9.38

⁵⁰ APP/Y3425/A/14/2217578

- Environmental and landscape designations
 - Scale of new development for which provision needs to be made in the Plan
 - Extent of domestic garden land on the edge of settlements
 - Neighbourhood plan proposals for new development
 - Strategic Development Locations.
86. The future of housing growth in the Haywoods needs to have regard to the eCNP given that it is at a reasonably advanced stage and that a large amount of time and effort has been put into the preparation of the eCNP. It should be given more than 'some limited weight' as the plan has now been amended in line with the recommendations made by the Independent Examiner.
87. Paragraph 216 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision making, and as the PSB Part 2 is now at Examination it must be afforded more 'weight' . In respect of Neighbourhood Plans, the Planning Practice Guidance 07 states the following: "Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals".
88. Policies in the eCNP support development within the settlement boundaries (Policy CC1), and encourage small infill development of fewer than 15 houses (Policy CC3). Clearly the current proposal does not meet the guidelines suggested in this document. The appeal site is also designated in the Colwich Neighbourhood Plan as local greenspace (Policy CE2).
89. Allowing development outside of the settlement boundary set by both the emerging CNP and the eP2PSB would irreversibly harm the settlement boundary and would set a precedent. As the emerging eP2PSB is now at Examination it should be afforded more weight, consistent with Paragraph 216 of the Framework.
90. Allowing the appeal would harm the plan-led system and the ability for the Colwich Parish Council and its residents to plan for their village appropriately. The cumulative, substantial increase in dwellings the development would deliver is grossly out of scale to the existing village, when considered alongside the dwellings that are committed to be delivered during the Plan period. Not only is the appeal proposal contrary to the emerging Neighbourhood Plan , but it is also contrary to facet (b) of SP7 and the thrust of Policy SP4 that seeks to disperse new housing growth appropriately throughout the sustainable settlement hierarchy.
91. The proposal conflicts with the plan led system as set out in Paragraph 17 of the Framework and policies of the emerging Colwich Neighbourhood Plan; results in the unnecessary loss of a green field site where more preferable sites can deliver housing growth as established by SP7 of the PSB; and would run contrary to the settlement strategy set out within the adopted plan.

Other issues

92. Notwithstanding concerns raised in relation to the impact on Cannock Chase Area of Outstanding Natural Beauty, together with the submitted Design and Access Statement and the Landscape and Visual Impact Assessment that was provided with the application, it would be possible, subject to careful consideration being given to the reserved matters to provide for the level of development proposed whilst responding to the existing natural features and respecting the rural character of the area⁵¹.
93. The previous Inspector concluded that the development of the site would not have a significant impact on the designated heritage assets adjacent to the site, which include the Colwich and Little Haywood, and the Great Haywood and Shugborough Conservation Areas, and the curtilage wall of the listed Grade 1 Shugborough Estate which forms a boundary to the Registered Parkland. Therefore, it would not be possible to substantiate a reason for refusal relating to heritage matters⁵².
94. Three trees and an area of hedgerow would be lost were the indicative access to be implemented. However, the majority of the remaining trees and hedgerows would be retained and protected. Whilst the Arboricultural Officer objected to this loss, and there may be issues of shading of houses and gardens these would be able to be addressed as part of the detailed design of the scheme and, given that 50% of the site would remain undeveloped, there would be opportunities for new planting. Given the outcome of the previous appeal, a refusal on arboricultural grounds could not be substantiated.
95. The development would be acceptable on highway grounds subject to the provision of a footway across the site frontage with a 2.4 metre x 90 metre visibility splay at the access and construction of raised platform bus stops on both sides of Main Road. The internal road layout and parking is a matter for reserved matters⁵³.
96. The proposed development would be acceptable, subject to the provision of a Sustainable Urban Drainage System. Photographic evidence of existing surface water flooding in Coley Lane and Back Lane could not be fully addressed by the scheme other than through a reduction in surface water from the application site as part of the SUD⁵⁴ scheme.
97. The Ecological Assessment only identifies issues with bats and nesting birds. The removal of Shenley Cottage would not have a detrimental impact on the bat population. It would be possible via condition to provide adequate mitigation, including the provision of new bat roosts and bird boxes and the retention of a number of trees within the development⁵⁵.
98. The appeal proposal includes a large area of informal open space with the creation of new footpath links. This provides an additional local recreational resource, which together with financial contribution to the management of the

⁵¹ Statement of Stafford Borough Council paragraph 10.4

⁵² Statement of Stafford Borough Council paragraph 10.7

⁵³ Statement of Stafford Borough Council paragraph 10.10

⁵⁴ Statement of Stafford Borough Council paragraph 10.12

⁵⁵ Statement of Stafford Borough Council paragraph 10.14

Cannock Special Area of Conservation would accord with the provisions of Policy N6 of the PSB⁵⁶.

Written Representations

99. Seventeen representations were received from technical and statutory consultees⁵⁷. The Parish Council referred to development falling outside of the settlement boundary, which is overwhelmingly supported by local residents, and defined within the emerging NP which is to proceed to referendum, and the emerging P2PSB. There is no need for further development within the Parish as three developments have already been approved. They are enough to satisfy the requirement of the PSB. The proposed development will result in more journeys than forecast due to the difficulties of pedestrian access and the distance from housing to the nearest bus stop. The development would not enhance or better reveal the two Conservation Areas, nor the Grade 1 listed park, and would therefore be contrary to the provisions of the Framework. Were the development to be allowed, mitigation should be sought through the provision of Local Green Spaces in accordance with the eCNP, the provision of allotments within the Parish, the resurfacing of Jubilee Playing Fields to enable the playing of football, improved play equipment for young children and recreation facilities, and the provision of a new burial ground within the Parish.
100. Similar representations were made on behalf of the Committee of the Haywood Society. Reference was made to the serious harm to the character and amenity of the area through the coalescence of the villages of Little Haywood and Colwich, with Great Haywood; the conflict with the policies of the eCNP which has been the result of extensive consultation and the hard work of both the Parish Council and the Haywood Society; the already disproportionate contribution of over 200 dwellings within the area, and the delivery of the requirement of the key villages in the context of a 5 year supply of deliverable housing, which includes a 20% buffer. The appeal site is on high ground. If it is built on it will increase flood risk locally, and further along the Trent Valley. Recent trials relating to SUDs systems have failed. This makes flooding more likely. In addition, the Society expressed unhappiness at the way that the previous appeal had been determined. There were conflicts with planning policies. Environmental matters, and heritage principles, should not be able to be mitigated and put in the 'balance' in exchange for financial gain. The CPRE also made a detailed objection on similar lines.
101. Over 150 representations were made by interested parties. These raised similar issues to those referred to above. However, concerns were also cited relating to the timing of the consultation, infrastructure constraints, such as doctors, parking and education provision, impact on wildlife, loss of land for food production, and loss of peace and quiet, albeit reference is made to the appeal site being used as a location for practising the saxophone away from neighbours. In addition, reference was made to the appellant's objective to develop the land between the two settlements, and that the proposed development would presage further development. Reference was also made to a High Court judgement relating to a challenge by Gladman Developments Ltd

⁵⁶ Statement of Stafford Borough Council paragraph 10.15

⁵⁷ Statement of Stafford Borough Council paragraph 8.1

relating to a similar plan to build 100 dwellings in the neighbouring village of Hixon.

Conditions and Obligations

The Undertaking

102. The parties have completed a Section 106 Agreement in conjunction with Staffordshire County Council which includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. They relate to the following matters:

- Affordable Housing: Policy C2 of the PSB seeks a minimum 30 per cent of the units to be affordable housing. The Agreement provides for these to be provided.
- Education Contribution: Policy I1 relates to the delivery of appropriate infrastructure to support additional residential development. The Agreement provides for a contribution of £154, 434 index linked directly related to the provision of an increase in school capacity at Colwich CE (VC) Primary School.
- On Site Open Space Provision: Policy I1 relates to the delivery of appropriate infrastructure and on- site maintenance to support additional residential development pursuant to the Council's Open Space Strategy and Public Open Space and Play Provision Scheme. The Agreement provides for this at a pro rata rate.
- Off Site Open Space Contribution- Policy I1 relates to the delivery of the provision or enhancement and/or maintenance of off- site open space at Jubilee Fields, Great Haywood, Staffordshire Council's Open Space Strategy and Public Open Space and Play Provision Scheme. The Agreement provides for this at a pro rata rate.
- Cannock Chase Special Area of Conservation Contribution- Policy N6 of the PSB requires development to make appropriate mitigation. The Agreement provides for a pro rata fee to be paid towards the review of the access network and signage.

103. The above obligations meet relevant tests. However, in relation to the fee of £437.50 payable to the County towards the costs of administering and monitoring the obligation no specific justification has been put forward to demonstrate its necessity since such activities are a routine aspect of their duties. Therefore, the collection of money to provide a monitoring service would not be necessary to make the development acceptable. The obligation therefore fails the test set out and I do not consider it would be lawful to take into account as a reason for granting planning permission.

Conditions

104. If the Secretary of State is minded to disagree with my recommendation, Annex A lists the conditions that I consider should be attached to any permission granted. However, for the avoidance of all doubt, I do not consider that the imposition of the conditions would overcome the harm which I outline below.

105. I have based the conditions on those submitted by the Council, but have made amendments to them to provide certainty, to tighten the wording where necessary, as well as to ensure that detailed conditions were not placed on matters that were the subject of reserved matters, and which could be subject to change following the submission of a detailed layout. Numbers relate to conditions set out in Annex A

Conditions 1-4, and 7

106. Conditions are required to provide certainty as to the timing of the submission, and the subject of reserved matters. I have altered the conditions by extending the time period for submission of reserved matters and the beginning of development by one year. There was no justification for such a short time period. As such it was unreasonable.

107. For clarity I have added a condition setting the upper limit of the proposed development consistent with the planning application, and similarly have included reference to a minimum of 3.27 hectares of public open space.

Condition 5, 6

108. I have only referred to the location and site access plan within the condition 5. All other matters other than access are reserved matters. Therefore, amended plans and studies will be required to reflect detailed designs.

109. Access is the only matter not reserved. In the interests of clarity, details relating to the technical aspects of the access and junction are required, as is control over its retention.

Conditions 9 and 17

110. Although access is not a reserved matter, further details of the proposed internal highway links are required to include reference to parking and street lighting, as is detailed technical consideration of the construction methods.

111. In order to ensure that future occupants of the proposed development have a choice of transport, new bus stops are required.

Conditions 7, 8, 13

112. I have removed detailed conditions relating to landscaping and tree protection matters as these would be better considered at reserved matters. Nonetheless, given the significance of the existing shrubs, trees and hedgerows and the landscaping of the site to the character and appearance of the appeal site, I have imposed conditions protecting existing hedgerows, trees and shrubs, and require an overarching landscape plan to be provided before development commences to include those to be retained.

Conditions 10, 11, 12

113. In order to protect bats, and nesting birds, conditions are required to control their potential habitat from damage.

Conditions 14 and 15

114. These conditions are required to protect nearby residents' living conditions.

Conditions 16, 18, and 19

115. The appellant has submitted technical information relating to drainage and flooding. However, full details are still required to be provided relating to foul and surface water drainage to ensure satisfactory provision.
116. To prevent flooding of properties, the height of ground floor levels must be controlled.

Inspector's Conclusions

117. Figures in square brackets [] refer to paragraphs relating to the parties' cases earlier in my report.

Main considerations

118. Given that a signed and completed S106 obligation has been received, the main considerations in this appeal are as follows:
- (a) Whether, the proposal would accord with the objectives of the PSB's settlement hierarchy, and
 - (b) Whether the proposal would accord with the policies of the emerging Colwich Neighbourhood Plan and the emerging Part 2 Plan for Stafford Borough.

Settlement Hierarchy

119. Policy SP2 of the PSB sets out a housing target of 500 dwellings per annum. In absolute terms, from the evidence before me, it appears that the existing commitments provide for, and exceed, the requirement of 10,000 dwellings set out in SP4 of the PSB [19, 45, 77]. However, both parties are in agreement that this figure should not be seen as a ceiling and national policy in the Framework has, as a central tenet, the need to boost significantly the supply of housing [51, 76].
120. Policy SP3 of the PSB sets out the strategic policy for the settlement hierarchy for development within Stafford. It provides for the majority of development to take place in Stafford, then the market town of Stone, and then the settlements referred to as Key Service Villages (KSV). After Stafford and Stone, these villages which include Little Haywood and Colwich, are considered to have the most capacity for sustainable development with good access to current and future services [19].
121. Historically, there has been a disproportionate amount of development in the lower order settlements. Therefore, as a means of broadly controlling the distribution of the housing development Policy SP4 of the PSB sets out annual targets framed in terms of percentages [20]. So as to keep development within the broad proportions set out in Policy SP4 of the PSB, for every additional dwelling in the KSVs around 5.8 additional dwellings would need to be provided within Stafford. I am aware that, following the Inspector's Report into the Plan for Stafford, the original mechanistic approach was amended to provide more flexibility [78]. Nonetheless, KSVs are expected to provide 12% of the annual housing target. The most recent figures demonstrate 12.2% of housing commitments are within the KSVs [77]. This is 0.2% above the target.

122. Whilst only marginally over the housing supply target for KSVs the proposal would threaten the successful achievement of the planned broad distribution of housing growth. This is particularly the case, bearing in mind that historic and current trend for development to be attracted to settlements that are lower in the sustainable settlement hierarchy, and that a number of other developments have already been refused. The development of an additional 65 dwellings would be major in this context and have a significant impact on the overall location of housing. Although it would be phased over the life time of the Plan, the proposal would undermine the Sustainable Settlement Hierarchy set out in Policy SP3 of the PSB. This seeks to avoid the historic problem of development being attracted to the lower order settlements to such an extent that it resulted in unsustainable patterns of development. It would therefore be contrary to Policy SP4 of the PSB.
123. Policy SP7 of the PSB sets out that settlement boundaries will be established through the Site Allocations Development Plan, or in the meantime may be established through Neighbourhood Plans as a means of clearly differentiating how development will be considered either side of the settlement boundary. In the absence of a defined settlement boundary within an adopted local plan, Policy SP7 provides a number of criteria relating to the acceptability of any development proposal [22].
124. However, it is clear from Policy SP7, prior to considering the acceptability of a particular development with reference to detailed criteria, that in the case of housing proposals the development should be consistent with the delivery of the proportions of development intended by Spatial Principles SP2, SP3 and SP4 [22]. As I have already concluded above that the proposed development of 65 dwellings would not accord with the proportionate approach to the Sustainable Settlement Hierarchy set out in SP4 the proposal would also be, by definition, contrary to Policy SP7 of the PSB.
125. In case the Secretary of State were not to agree with my conclusion set out above, that the proposed development was contrary to Policy SP4 of the PSB, I have also considered the appeal proposal in the context of criterion b) of Policy SP7 and whether the release of greenfield land would be in accordance with the last paragraph of Policy SP7.
126. The Council has clearly treated The Haywoods and Colwich as one entity, rather than as the two Key Service Villages as set out in the PSB. Relatively limited development has been permitted at Little Haywood and Colwich [38, 50, 80, 82]. Consequently, I consider that the proposed development would not be of an inappropriate scale to Little Haywood and Colwich and would accord with that element of the Policy.
127. The majority of the proposed development would be on green field land. Policy SP7 is unambiguous. It requires that green field sites should only be released in the context of insufficient brownfield sites being available in sustainable locations [22]. I have had regard to the agreed shortage of suitable brownfield sites within Little Haywood and Colwich, and that Little Haywood and Colwich have been designated at a strategic level as being appropriate for housing growth [42]. Nonetheless, there is no dispute that sufficient land is committed within the KSVs to provide for the levels of housing set within the PSB, and indeed that the proportion is greater than that set in Policy SP4 of the PSB [45-

48, 77]. Therefore, as there is no evidence of insufficient sites being available to meet new development requirements, the release of greenfield land would be contrary to Policy SP7.

Emerging Neighbourhood Plan and Part 2 Plan for Stafford Borough.

128. Policy SP7 provides for settlement boundaries to be established either in Site Allocations Development Plan Documents or Neighbourhood Plans. If adopted, the eCNP and the eP2SB would, together with the adopted PSB and any other Neighbourhood Plans, comprise the development plan for Stafford [221].
129. The eCNP has been the subject of Independent Examination and a referendum took place on 15 September 2016, the result of which is that the majority of those who voted wished the emerging plan to proceed to adoption [6]. Taking into account Paragraph 216 of the Framework and Paragraph 007 of the Planning Practice Guidance⁵⁸ and the very advanced stage of the Plan, I accord the policies of the eCNP significant weight.
130. The exact settlement boundary is shown within the emerging Part 2 Plan for Stafford Borough Council [27]. I understand that the examining Inspector has recommended that consultation take place on main modifications, none of which relate to the appeal site [6]. As such, I accord considerable weight to the significance of the boundary within the emerging Plan. Map 7 of the eCNP sets a settlement boundary within which the principle of development is supported by emerging Policy CC1. The appeal site falls outside of the proposed settlement boundary and therefore would be subject to the restrictive provisions of national and local policy relating to development within the open countryside [30].
131. In addition, a considerable part of the eastern element of the appeal site is on land identified as Local Green Space by emerging Policy CE2 of eCNP [31]. Paragraph 76 of the Framework sets out that in such circumstances local communities will be able to rule out new development other than in very special circumstances.
132. I note that a significant section of that part of the appeal site is earmarked as open space within the appeal proposal. The appellant has also stated that, if the eCNP were to be adopted, at the reserved matters stage the design of the development could be altered to accommodate the Local Green Space and that the development would provide the opportunity to facilitate additional access on site [60]. However, it would not be appropriate to allow an appeal for outline permission for housing on land where all matters are reserved other than access, where part of the site is designated as Local Green Space. This is particularly the case as the proposed development illustrates some housing on the designated area and I am not persuaded that the proposed number of houses could be accommodated in an acceptable layout whilst maintaining open space. Therefore, in the absence of very special circumstances the proposed development would be contrary to emerging Policy CE2.

⁵⁸ Planning Practice Guidance Paragraph 007 Reference ID: 41-007-20140306

Benefits

133. There is a national builder interested in the site. The proposed development would provide up to 65 dwellings. I understand that these are to be of a mix of house types, including social housing, to be agreed at reserved matters stage. In addition, 30% of the units would be affordable housing. There is no argument between the parties that the Council is able to demonstrate a five year supply of deliverable sites. Therefore, in the absence of a pressing shortage of housing, though conscious of the Framework's support for the boosting of the housing supply generally, I give the benefits to housing provision moderate weight [43, 52, 77].
134. In respect of the financial contributions to the SAC, education and open space I have accorded these no benefit as for a planning obligation to be considered lawful it can only mitigate against an impact [102].
135. The proposed scheme would provide new areas of public open space and improve access through the site and improve links to Jubilee Playing Field. I have accorded this moderate weight [43, 60].
136. The construction of the housing would have a positive direct impact on the local economy through employment of workers on the site. However, in the context of a healthy supply of housing there is no evidence before me that construction jobs would not be provided elsewhere within the Borough [43]. Therefore, I have accorded this moderate weight.

Other matters

137. In line with the policies of The Framework I have had specific regard to the desirability of preserving the setting of the wall to the estate of the Grade 1 Listed Shugborough Hall. In addition, I have considered the impact of the proposed development on both the Colwich and Little Haywood, and the Great Haywood and Shugborough Conservation Areas. However, the Council has not raised any substantive matters and from what I have seen and read I concur with this view, and conclude that the proposed development could be implemented without impacting on the setting of nearby heritage assets [93].
138. I have also considered that the Council has raised no technical objection to the proposed development relying on the policy harm [41, 63].
139. I have noted the representations made by interested parties [99-101]. However, the Council has not raised any objections on technical matters, such as highways or drainage matters. Having considered the supporting documentation, and evidence before me, including the planning obligation, and having seen the site and the surrounding area I concur with this conclusion [92-98].

Overall Planning Balance and Conclusion

140. Paragraph 14 of the Framework states that the presumption in favour of sustainable development should be seen as the golden thread running through both plan making and decision taking. S38 (6) of the Planning and Compulsory Purchase Act and Paragraph 2 of the Framework is clear that planning law requires that applications for planning permission must be determined in

accordance with the development plan unless material considerations indicate otherwise.

141. Policy SP1 of the PSB sets out the presumption in favour of sustainable development where applications accord with the policies in the Local Plan, unless material considerations indicate otherwise. This is consistent with the provisions of the Framework which sets out a plan led system.
142. I have concluded above that the appeal scheme would conflict with the distribution of housing growth set out in Policy SP4 of the PSB. It would also be contrary to Policy SP7 as the levels of development proposed would not accord with the proportion of development intended by Spatial Principle SP4. Moreover, in the absence of a need for additional housing the loss of green field land would be contrary to Policy SP7.
143. In addition, the proposed development would fall outside the settlement boundary set within the eP2PSB, which whilst at examination, is at an advanced stage. Therefore, I accord this significant weight as a material consideration.
144. Whilst the eCNP has yet to be adopted, it has been prepared in line with strategic policy SP7, which encourages that settlement boundaries be set within Neighbourhood Plans and then included within non-strategic Site Allocations Development Plan Documents, and following a recent referendum is close to adoption. Policy CC1 of eCNP sets a settlement boundary within which development would be acceptable in principle, and conversely, development outside would not be. The development would fall outside of this boundary. In addition, the proposal would be contrary to Policy CE2 which identifies part of the appeal site as Local Green Space. I give significant weight to the conflict with the policies in the emerging Neighbourhood Plan.
145. I have considered the moderate social benefits of the proposal of market, and affordable housing, the economic benefits of the proposed development from employment and housing growth, and environmental benefits of increased accessibility within and across the site.
146. Nonetheless, notwithstanding that the previous Inspector considered that an identical proposal was acceptable in principle; I have found that due to the substantive changes in circumstances of the distribution of housing that the proposal is contrary to both Policies SP4 and SP7 of the PSB.
147. Moreover, the advanced stage of the emerging plans means that the policy conflict with the proposed development is a further significant material consideration that weighs against the proposal.
148. I have been referred to a number of appeal decisions, including that on this site, and a legal judgement. However, whilst I have considered these carefully, I consider that the proposed development would be contrary to the development plan as a whole, and that the material considerations in favour are not of such weight to indicate that the development should be allowed. In sum, it would not result in sustainable development.

Recommendation

149. I recommend that the appeal be dismissed.

150. In the event that this recommendation is not accepted, and planning permission is granted, I recommend that the conditions at Annex A be imposed.

L. Nurser

INSPECTOR

ANNEX A: RECOMMENDED CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall comprise no more than 65 dwellings.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans: 799 01 A; and Dwg no A5142/1.
- 6) Notwithstanding condition 5, development shall not otherwise commence until details of the vehicular access serving the development and the junction between the proposed access road and the highway shall have been submitted to and approved in writing by the local planning authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details. The visibility splays shall be designed to be of a minimum of 2.4 metres x 90 metres. Once provided the visibility splays shall be maintained and kept free of all obstructions over a height of 0.6 metres above carriageway level. The junction shall thereafter be retained.
- 7) No development shall take place until a scheme outlining the phasing of the development, including a site layout plan identifying land uses such as formal and informal open space of at least 3.27 hectares and infrastructure has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.
- 8) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 9) Notwithstanding the site access details on drawing no A5142/1, no development shall commence until a detailed scheme for the internal highways including roads, footways and cycleways, service verges and with detail of how these fit into the surrounding access network, together with full details of the access and off-site highway works have been submitted to and approved in writing by the local planning authority, and no dwelling shall be occupied until the works have been constructed in accordance with the approved details. The scheme shall include full design details, specifications, road markings/signage, street lighting and a programme of implementation for the following highway works:
 - i) provision of pedestrian facilities on the site frontage;

- ii) the permanent closure of the existing vehicular access and reinstatement of redundant access on site frontage with full height kerbs;
 - iii) provision of bus stops, including flag signs and raised platforms on both sides of Main Road;
 - iv) construction details of bell mouth
 - v) casual parking
 - vi) vehicle turning spaces.
- 10) No development shall begin until a bat habitat enhancement plan/ method statement to include the retention of 'The Stables' is submitted and approved, in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with an agreed timetable.
- 11) No development shall begin until details of a wildlife sensitive lighting scheme for any external areas to be illuminated (to be informed by an assessment of areas on the site that are particularly sensitive in terms of wildlife interest) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
- 12) No development (including any works of demolition and site clearance, and removal of trees, shrubs and hedgerows approved pursuant to condition 2 above) shall begin during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated, following inspection by a suitably qualified ecological consultant, that affected buildings, trees, shrubs or hedgerows are not in active use by nesting birds. If nested birds are located, work shall cease on that part of the site until nesting is completed and fledged and young have departed the site.
- 13) No trees, shrubs or hedgerows shall be removed other than those whose removal is directly required to accommodate the development and has previously been approved as part of the details to be submitted pursuant to condition 1 above.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the location and design of site compound with associated temporary buildings;
 - ii) the parking of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 15) Demolition or construction works shall take place only between hours of 08:00 to 18:00 Monday to Friday, and shall not take place at any time on Saturdays, Sundays or on Bank or Public Holidays.
- 16) No development shall take place until full details of the finished levels, set at a minimum of 150 mm above ordnance datum, of the ground floors of

the proposed dwellings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 17) No development shall take place until details of the standards to which the roads serving the development are to be constructed shall have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until that part of the service road which provides access to it shall have been constructed in accordance with the approved plans. The service road as constructed shall be retained thereafter.
- 18) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority
- 19) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, to include the storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) demonstrate if there is to be discharge to an existing culverted watercourse or surface sewer, that it must be fully assessed and only permitted if it will cause no increase in flood risk;
 - iii) if discharge from the site is required, be restricted to 5l/s per hectare to impermeable area, for all rainfall events up to the 100 year plus 30% for climate change critical rain storm to ensure there will be no increase in flood risk downstream;
 - iv) include plans illustrating flooded areas and flow paths in the event of the exceedance of the drainage system;
 - v) include a timetable for its implementation; and,
 - vi) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.



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 for permission 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

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.