
Appeal Decision

Inquiry opened 23 May 2017

Site visit made on 24 May 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 17 July 2017

Appeal Ref: APP/G2435/W/17/3166865

Land at Sweystone Road, Heather, Leicestershire LE67 2RE

- 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 Nick Carr, (Rosconn Strategic Land) against the decision of North West Leicestershire District Council.
 - The application Ref 16/00832/OUTM, dated 7 July 2016, was refused by notice dated 15 December 2016.
 - The development proposed is described as outline planning application for residential development of up to 36 no. dwellings, access infrastructure and public open space, including means of access from Sweystone Road.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 36 no. dwellings, access infrastructure and public open space, including means of access from Sweystone Road at land at Sweystone Road, Heather, Leicestershire LE67 2RE in accordance with the terms of the application, Ref 16/00832/OUTM, dated 7 July 2016, subject to the attached schedule of conditions.

Procedural matters

2. The application is in outline, with all matters reserved for future consideration except for access. Notwithstanding the list of submitted plans set out in the agreed Statement of Common Ground, it was confirmed at the Inquiry that the relevant indicative Development Framework Plan is Ref 205_001 Rev E. I have had regard to the submitted plans in determining the appeal.
3. A completed Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (S106) was submitted at the Inquiry¹. The S106 includes obligations relating to affordable housing, open space provision, contributions in respect of children's play equipment, healthcare, education, libraries, civic amenities, travel packs and monitoring and a construction traffic routing scheme. At my request, the Council provided a Community Infrastructure Levy Regulations 2010 (CIL Regs) Compliance Statement².
4. During the Inquiry a round table discussion was held regarding the supply of deliverable housing sites and the objectively assessed need for housing. For reasons I explain later however, I do not make a finding on this matter.

¹ Document 13

² Documents 8 and 11

Main Issues

5. Having had regard to the above procedural matters and in light of all that I have read, heard and seen, I consider the main issues in the appeal are:
 - The effect of the appeal scheme on the character and appearance of the area; and
 - Whether there are material considerations sufficient to outweigh any conflict with the development plan and any other harm arising from the development.

Policy background

6. The appeal site is situated adjacent to but outside of the limits to development for Heather as defined in the adopted North West Leicestershire Local Plan 2002 (Local Plan). Saved Local Plan Policy S3 identifies land outside of the limits to development as countryside where development will only be permitted in specified circumstances. The appeal scheme does not fall within any of the specified circumstances set out in the policy and there is no dispute between the parties that the proposal conflicts with saved Policy S3.
7. The parties agree that in terms of paragraph 14 of the National Planning Policy Framework (the Framework) saved Local Plan Policy S3 is 'out of date' and that the 'tilted balance' in bullet point 4 applies. I agree with that view.
8. Paragraph 215 of the Framework advises that due weight should be given to relevant policies according to their degree of consistency with the Framework. In the case of Policy S3, the limits to development to which it relates were not based upon meeting the full objectively assessed housing needs for market and affordable housing as now is required by the Framework in paragraph 47.
9. Moreover, the explanatory text to saved Policy S3 is clear that the policy was based on former government policy to protect the countryside for its own sake. The Framework instead recognises the intrinsic character and beauty of the countryside within the overall context of achieving sustainable development.
10. I also consider that saved Policy S3 is not consistent with policies for housing in rural areas as set in the Framework, and takes a more restricted approach to housing in the countryside. I have had regard to the oral evidence of Mr Murphy for the Council who stated that saved Policy S3 is inconsistent with the Framework in that it seeks to protect the countryside for its own sake and includes some types of development which do not reflect the policies of the Framework. I agree, the criteria set out in the policy do not relate to heritage assets or development of exceptional quality or innovative design as set out in paragraph 55 of the Framework. In addition, it is clear that the emerging North West Leicestershire Local Plan (NWLLP) Policy S3 has adopted a much broader approach in terms of development which would be supported in the countryside.
11. For all these reasons, I find Policy S3 to be inconsistent with the Framework and in view of the above, and having had regard to the case law cited, I am satisfied that the 4th bullet point of paragraph 14 of the Framework (the 'tilted balance') is engaged. This is the case regardless of whether or not a 5 year housing land supply is in place.

12. The NWLLP is currently at examination and given the stage in its preparation and the evidence regarding unresolved objections, I give limited weight to these policies in the context of paragraph 216 of the Framework.

Reasons

Character and appearance

13. The appeal scheme relates to a field of about 1.91 hectares which I saw at the site visit was planted with an arable crop. The site adjoins the rear gardens of properties on Blackett Drive to the east and David Taylor Close to the south east corner. I observed the variety in rear boundary treatments to the properties on Blackett Drive and the post and rail fencing to the properties on David Taylor Close. The village edge is formed by rear gardens and the backs of dwellings and displays some variety in boundary treatments. This lack of uniformity and the nature of the boundary treatments provides for an abrupt transition between the village and countryside.
14. The appeal site is situated within the National Forest. There is no dispute however between the parties that the appeal site is not a designated or a valued landscape in terms of the Framework or subject to any development plan landscape designation.
15. The existing Landscape Character Assessments (LCAs) have been undertaken at national, regional and county levels and for the National Forest. There is some variety in the landscape characterisation of the area around the appeal site, with different landscape character area boundaries being drawn in the LCAs. The parties through their landscape and visual appraisals (LVA), have taken different approaches. Mr Williams for the appellant has adopted the existing LCAs for the landscape character baseline whilst Ms Marsh for the Council has also undertaken a more localised LCA.
16. Ms Marsh has in her LCA identified local landscape character areas (LLCA), with the appeal site as falling within the 'settlement fields' LLCA. It is clear from Ms Marsh's assessment that the edge of Heather typically has land of open agricultural character around it, unlike Ibstock, which has been developed out to the edge of the woodland to the west, to which I made an unaccompanied visit. I have had regard to the appellant's submissions about the number of LLCAs in Ms Marsh's study in relation to the district level LCA of Charnwood Borough and that it is predominately land use based. Whilst this may be the case, it does nevertheless assist, in providing a finer grain, local level detail of landscape character which is not available through the more strategic LCAs.
17. In terms of the landscape baseline, there is some agreement between the parties that Heather is situated on a higher plateau of land in relation to the surrounding area, that the landscape has a developing woodland character and that small fields and hedgerows are components of the landscape.
18. In respect of topography, Heather has developed from its historic core, both to the east down towards the Sense Valley and to the west onto the higher land of the plateau. Following my site visit and having regard to topography, I note that whilst the appeal site falls away from the edge of the village towards Ludlams Wood, it is nevertheless situated on the plateau. Located as per the proposed indicative layout, the proposed dwellings would not be on significantly lower land than those existing. Whilst the village does not extend down the

slope of the plateau to the west, given the layout of development to the east of the village, this would not necessarily be uncharacteristic. In addition, given the existing development of David Taylor Close which projects out from Blackett Drive, I do not consider that the appeal scheme would appear as an isolated 'tongue of development' in the countryside as it would be seen in the context of the existing dwellings.

19. It is clear that the appeal site has, due to the effects of screening by vegetation and topography, limited visibility within the wider landscape, with the greatest effects of the appeal scheme being upon areas in relative close proximity. The appeal scheme would be most apparent for occupiers of adjacent dwellings, users of the rights of way network across the site and nearby and also from Sweptstone Road.
20. The appeal site, whilst an enclosed field, has an open character which can be appreciated from the footpath running through it and it would also be apparent from adjacent dwellings in private views. During the site visit, I noted that whilst walking towards Ludlams Wood on the path through the site, although it is apparent that you are outside of the village, the development at David Taylor Close is nevertheless visible. I also noted that the appeal scheme would only directly affect part of the footpath route from Blackett Drive to Ludlams Wood, with the section to the north being outside of the appeal site.
21. The Council has referred to the definition of landscape in the Guidelines for Landscape and Visual Impact Assessment (GLVIA)³ to which I have had regard and the need to understand how the appeal site is perceived by local people. In respect of the specific receptors, the most significant long term effects would be to the users of the footpath through the appeal site. The proposed indicative layout shows that the site can be developed in a way which retains some open space between the developed area and Ludlams Wood, provides for additional woodland planting, and retains the footpath route. The effects on users of the footpath would be significant during construction, but should reduce over time as planting develops. Whilst the sense of openness would diminish, it would not be lost fully and I do not find that any sense of loss of openness or effect upon the transition from the village to the National Forest to be unacceptable.
22. I have had regard to comments by interested persons concerning the effect of the appeal scheme on outlook. Based on the submitted indicative plan, it appears to me that a scheme that would result in a reasonable outlook from neighbouring dwellings can be achieved as there is sufficient space within the site to ensure suitable separation distances. The details of how that would be achieved would depend on the reserved matters.
23. The Council has referred to a letter from the Minister of State for Housing and Planning, Brandon Lewis dated 27 March 2015, within which the Minister gave a reminder regarding one of the core planning principles at paragraph 17 of the Framework. In determining this appeal I have had regard to the core planning principles of the Framework, taken account of the role and character of the appeal site and the intrinsic character and beauty of the countryside in assessing whether the development proposed is suitable for its context.

³ Document 6

24. Undoubtedly, the character of the appeal site would change if it were to be developed. The development would also, through the proposed access, form a new opening onto Swepstone Road, which would give rise to new views out of the site. Given the appearance of the existing urban edge of Heather however, the appeal scheme as set out in the indicative masterplan would give rise to a softer edge to the village, would increase planting and retain some of the open character through the provision of open space.
25. Overall, I find that the appeal scheme would change the open character of the appeal site and the experience for people using the footpath, although the extent of harm would reduce over time as planting matures. Whilst I have had regard to the evidence of Ms Marsh, I do not find the loss of open character of the appeal site to be significant in terms of the wider setting of the village or in terms of the character of Heather. Although the scheme would also give rise to a small loss of countryside, I find that the appeal proposal would give rise to limited harm to the character and appearance of the area. As I have already concluded, the appeal scheme conflicts with saved Local Plan Policy S3.
26. In terms of the emerging NWLLP, the appeal scheme is not within the settlement of Heather and the proposal conflicts with Policy S3 which seeks to protect the intrinsic character and beauty of the countryside. In regards to emerging Policy EN3, the appeal scheme would contribute towards the creation of forest, but would give rise to some limited harm to the character and appearance of the wider countryside

Other considerations

Planning obligations

27. The S106 agreement contains obligations in respect of the provision of 30% affordable housing; provision for an open space scheme for the appeal site, financial contributions towards children's play equipment at the existing play area at Swepstone Road and towards the provision of additional consulting rooms and expanding the reception and car parking at Ibstock Surgery. Provision is also made for financial contributions for upper school education facilities, towards the provision of children's resources at Ibstock Library, the improvement of facilities at Coalville Civic Amenity Site and the provision of travel packs for future residents of the proposed dwellings.
28. Having had regard to the cited supplementary planning documents and consultation responses, I am satisfied that the tests set out in paragraph 204 of the Framework and Regulation 122 of the CIL Regulations are met in that the obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
29. In respect of the pooling of obligations, the Council confirmed during the discussion regarding planning obligations that monitoring was undertaken of contributions to ensure the no more than the limit of 5 obligations for each specific project has been entered into since 6 April 2010. Having had regard to the evidence before me, I see no reason under Regulation 123 of the CIL Regulations regarding the pooling of contributions, why I could not take the obligations into account. I therefore take the obligations into account as material planning considerations.

Affordable housing

30. The appeal scheme would provide 11 affordable homes secured through a S106 planning agreement. Whilst I have had regard to comments that affordable housing is not needed in the village, the statement of common ground nevertheless sets out that Heather Housing Needs Survey November 2016 identifies a need for 7 affordable houses and 5 open market houses for people with a local connection. The Council and appellant agree that the provision of affordable housing is a significant benefit of the appeal scheme. Whilst affordable housing could be provided through a rural exceptions type scheme, there is no evidence that such a scheme is planned.

Housing provision

31. The provision of housing is a benefit of the scheme, in line with the aim of boosting the supply of housing, as established by paragraph 47 of the Framework. This applies even if I were to accept the Council's position that there is a 5 year supply of deliverable housing sites, albeit it would need to be seen in that context.

Accessibility, services and facilities

32. I have had regard to the comments by interested persons about public transport, accessibility to medical facilities, availability of school places and provision of shops. I note that Heather is designated as a 'sustainable village' in Policy S2 of the emerging NWLLP which recognises that the village has a limited range of services and facilities, including a primary school, shop and recreational facilities. Given the range of services and facilities in Heather and the accessibility to higher order services, facilities and employment opportunities in Ibstock, I find that future residents would have reasonable access to services and facilities and employment opportunities.
33. I have taken into account comments concerning the capacity of the school and pre-school in Heather and medical facilities in Ibstock. The Education Authority is not seeking contributions towards primary education due to there being available capacity of school places in the area. The development would however through the S106 agreement make contributions to upper school provision and health facilities.
34. The appellant has through its sustainability appraisal⁴ identified that Heather has an aging population and that the population is declining. Whilst the village is said to have an active and thriving community and there is no evidence before me that services and facilities are in decline, additional housing should serve to enhance or maintain the vitality of the community in the longer term in accordance with paragraph 55 of the Framework. I do not consider that the proposed development would give rise to harm to the vitality of the village such as through an increase in commuting as had been suggested by interested parties.

Economic benefits

35. The appeal scheme would also provide economic benefits, specifically additional jobs during construction and through the New Homes Bonus, which weigh in favour of the scheme to a small scale.

⁴ Rural Solutions April 2017

Best and most versatile agricultural land (BMV)

36. There is no dispute between the parties that the appeal site consists of BMV agricultural land, being grade 3a agricultural land as set out in the appellant's assessment⁵. The environmental role of sustainable development, as set out in the Framework, includes using natural resources prudently. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing (amongst other things) soils. The economic and other benefits of the BMV land should be taken into account by local planning authorities; and they should seek to use areas of poorer quality land in preference to that of a higher quality where significant development of agricultural land is demonstrated to be necessary.
37. Naturally, the loss of BMV land would be undesirable in view of the fact that BMV is a finite resource. But although the loss would be modest, it is one which would weigh against the development to a small degree in the planning balance.

Historic heritage

38. In accordance with the duty as set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have considered the effects of the proposed development upon listed buildings in the area. These are identified in the appellants Heritage Statement⁶ as the Grade II* listed Church of St John the Baptist and 'The Manor House' within Heather, the Grade II listed buildings on Main Street, on Sweptstone Road, at Hall Farm and to the east of Heather. I find that due to the separation distances involved and intervening land, the effects of topography, hedges and woodland, the proposed development would not give rise to harm to the significance of these buildings, nor have adverse effects upon their settings. For similar reasons, I do not find that the appeal scheme would give rise to harm to the significance of the parkland associated with Heather Hall situated to the west of the appeal site, which is a non-designated heritage asset.

Highway safety

39. I have had regard to the significant number of representations and oral evidence of Mr Marshall expressing concerns regarding the highway safety implications of the appeal scheme, including information regarding road traffic accidents and the width of the road outside the school. Although the proposed access point for the appeal site is located within the 30 mph speed limit, the appellant's Highways Report states that the 85th percentile speeds of traffic on Sweptstone Road is about 45 mph. The proposed junction design allows for adequate visibility for vehicles travelling at such speeds. The Highway Authority does not object to the scheme subject to certain planning conditions including that additional speed reduction measures should be provided on Sweptstone Road and on this basis I do not consider the scheme would be unacceptable in terms of highway safety on Sweptstone Road.
40. In addition to the Inquiry site visit, I made several unaccompanied visits to the village and observed the road outside of the school during the morning school drop off period. Whilst this existing activity may give rise to some delays to

⁵ Report by Land Research Associates 6 May 2016

⁶ Cotswold Archaeology July 2016

traffic, it has not been demonstrated that harm to highway safety would occur in this regard.

Other matters

41. I have had regard to the significant body of opposition to the appeal scheme. I note the comments regarding the incompatibility of the appeal scheme with industrial estate opposite on Sweptstone Road due to noise and disturbance arising from the businesses there. However, given the separation between the two by Sweptstone Road and in the absence of any technical objection or evidence, I am not convinced that any unacceptable harm would arise in this regard. I have also considered the comments raised in respect of the appellant's ecological surveys and effects of the appeal scheme on wildlife and the loss of a pond. Having considered the technical evidence before me, do not find the scheme unacceptable in this regard. The concerns raised about construction noise could be addressed by way of a planning condition.
42. I have considered the comments concerning a scheme for a larger development including the appeal site, however, such a scheme is not before me. Given the location of the appeal scheme, I do not consider that it would give rise to coalescence with Ibstock. I have also had regard to comments concerning water supply, sewerage capacity and drainage, lack of burial space, levels of unsold housing, potential increases in crime and effects on health. However, there is no technical evidence before me to demonstrate that the appeal scheme would give rise to harm in these respects.
43. The limits to development as set out in the Local Plan and emerging NWLLP are drawn closely around the edge of Heather. Whilst there may be some opportunities for development within the limits to development and from the redevelopment of brownfield sites adjoining the village, the evidence before me is that any such opportunities are limited.

The planning balance

44. I have found conflict with saved Local Plan Policy S3. I have had regard to the parties submissions concerning conformity with other development plan policies and regarding case law⁷. Given that saved Local Plan Policy S3 is the key policy in the plan concerning the location of development in the countryside, I consider that the appeal proposal through the identified conflict with saved Local Plan Policy S3 does not accord with the development plan as a whole. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.
45. Nevertheless, I must consider the weight to be attached to Policy S3. Due to the degree of inconsistency identified with the Framework, I afford the policy moderate weight.
46. Whilst the limits to development mark the edge of the urban area, I have come to the view that the particular development proposed would cause only limited harm in terms of character and appearance. I also give some limited weight to the harm which would arise from the loss of BMV land. The proposal conflicts

⁷ City of Edinburgh Council V Secretary of State of Scotland [1977]1 WLR 1447; R V Rochdale MBC ex p. Milne [2001] 81 P&CR 365

with saved Local Plan Policy S3 which I afford moderate weight and also with emerging NWLLP Policies S3 and EN3 to which I afford limited weight.

47. As I have already indicated, even if the Council is right about the housing land supply, the tilted balance as set out in Paragraph 14 of the Framework nevertheless applies. This indicates that where relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The Framework is an important material consideration.
48. The appeal scheme would provide market and affordable housing which are significant benefits and would help to boost the supply of housing in the area. The provision of 11 affordable houses would meet the locally identified need and contribute towards meeting need in the wider area. The contribution that the scheme would make to enhancing and maintaining the vitality of the rural community in accordance with paragraph 55 of the Framework and the economic benefits of development which would arise also weigh in favour of the scheme.
49. Overall, even accepting at face value the Council's case that there is a 5 years' supply of housing land in place, the adverse impacts identified above do not significantly and demonstrably outweigh the social and economic benefits of the appeal scheme. Consequently the proposal would represent sustainable development as defined in the Framework. In these circumstances it is not necessary for me to consider the question of the housing land supply further. Overall, taking account of the Framework and the benefits of the development, I find that material considerations indicate that planning permission should be granted for the development, despite the conflict with the development plan.

Conditions

50. The agreed list of conditions provided by the parties was discussed at the Inquiry. I have made some changes to these having regard to the tests set out in the Framework and the guidance contained in the Planning Practice Guidance and omitted the condition proposed regarding a Building for Life 12 Assessment, as design is a reserved matter. A condition relating to an updated badger survey was sought by the Council. Given that the original survey was undertaken in May 2016 with no evidence of badgers found and that there is no other technical evidence before me regarding the presence of badgers at the site, I do not consider that there is a reasonable likelihood of badgers being present. Consequently, I do not find the condition to be necessary.
51. I have imposed conditions in respect of timescale and specifying the approved plans, to specify that the development shall consist of no more than 36 dwellings and regarding finished floor levels, as this provides certainty. In the interests of highway safety, I have attached conditions regarding the vehicular access to the site and to secure adequate visibility splays and off site speed reduction measures.
52. A condition is attached concerning surface water drainage and to ensure existing culverts beneath Swepstone Road are adequate to accommodate any additional run off from the site. A condition is also attached requiring a construction method statement to ensure that development is undertaken in a satisfactory way. In addition, a condition is attached regarding the preparation

and implementation of a biodiversity management plan to protect protected species and birds. A condition is also attached requiring a scheme for the provision of public rights of way to improve the network.

Conclusion

53. For the above reasons, the appeal is allowed

Philip Lewis

INSPECTOR

Schedule of 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site location Plan Drg No.205_009.
- 5) A total of no more than 36 dwellings shall be erected.
- 6) The reserved matters application shall include details of existing and finished ground levels and the proposed floor levels of the dwellings in relation to an existing datum point off the site. The development shall then be carried out in accordance with the approved details.
- 7) Prior to first occupation of any dwelling hereby permitted, the vehicular access to the site shall be provided in accordance with ADC Infrastructure drawing reference: ADC1353/001 to include the provision of visibility splays of a minimum of 2.4 metres by 98 metres to the east and 2.4 metres by 96 metres to the west at the junction of the site access with Sweptstone Road. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.
- 8) Prior to first occupation of any dwelling hereby permitted, details of the design for off-site highway works, being the speed reduction measures on Sweptstone Road, Heather, shall be submitted to and be approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of any dwelling.
- 9) No development shall take place until a surface water drainage scheme has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include:
 - i) the utilisation of holding sustainable drainage techniques with the incorporation of sufficient treatment trains to maintain or improve the existing water quality;
 - ii) the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features;
 - iii) a capacity assessment of the existing culverts beneath Sweptstone Road to demonstrate whether the existing culverts can accommodate run-off from the entire upstream catchment it serves as well as any additional surface water run-off resulting from development of the site. Where the culverts cannot accommodate this volume of run-off, it must be demonstrated, that any flooded

volume, as a result of the proposed development; can be retained on-site;

- iv) measures to ensure surface water does not drain onto the public highway; and
- v) the limitation of surface water run-off to equivalent greenfield rates;

The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme. Full details for the drainage proposal should be supplied, including but not limited to, headwall details, pipe protection details (e.g. trash screens), long sections, construction details and full model scenario's for the 1 in 1, 1 in 30 and 1 in 100 year + climate change. Where discharging to a sewer, this should be modelled as surcharged for all events above the 1 in 30 year, to account for the design standards of the public sewers.

- 10) No development shall commence on site, until a Construction Method Statement, which shall include the following has been submitted to, and approved in writing by, the Local Planning Authority.

- i) The parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) measures for the protection of the natural environment including noise mitigation; and
- ix) hours of construction, including deliveries.

The approved statement shall be adhered to throughout the construction period.

- 11) The first reserved matters application shall provide for a biodiversity management plan in respect of protected species and breeding birds for all retained and created habitats, including surface water storage areas, together with a timetable for its implementation. The development shall be carried out in full accordance with the approved biodiversity management plan. Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive to ensure that breeding birds will not be adversely affected by any works.
- 12) No development shall take place until a scheme for the provision of public rights of way has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include provisions for the

treatment of the public rights of way, their surfacing, width, structures, signing and landscaping. The approved scheme shall be implemented in full prior to the occupation of any dwelling on site and be maintained thereafter.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Timothy Leader	Of Counsel Instructed by Mrs Sima Odedra, North West Leicestershire District Council
He called	
Andrew Murphy	Stansgate Planning
BA(Hons) MSC MRTPI	
Christine Marsh	Hankinson Duckett Associates
BA(Hons) DipLA CMLI	
Paul McColgan	GL Hearn (took part in round table discussion on OAN/5 year HLS)
Greg Boyd	GL Hearn (took part in round table discussion on OAN/5 year HLS)

FOR THE APPELLANT:

Mr Choongh	of Counsel Instructed by Mr Hatcher
He called	
Mr Andrew Williams	Define
BA(Hons) DipLA DipUD CMLI	
Mr Mark Rose BA(Hons) MA DipUD MRTPI	Define
James Donagh,	Barton Willmore (took part in round table discussion on OAN/5 year HLS)

FOR LEICESTERSHIRE COUNTY COUNCIL (Rule 6 Party)

Andrew Tyrer	Development Contributions Officer
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INTERESTED PERSONS:

Mr Roger Marshall	Local Resident
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DOCUMENTS

- 1 Opening submissions by appellant
- 2 Opening submissions by North West Leicestershire District Council
- 3 Addition evidence submitted by the Council relating to Supreme Court Judgement [2017] UKSC 37 and Hall Lane Whitwick appeal decision
- 4 Figure 2.3 Landscape Character Assessment Spatial Hierarchy
- 5 North West Leicestershire Landscape Character Assessment Figure 014 Ibstock Urban Fringes
- 6 Guidelines for Landscape and Visual Impact Assessment Third edition 'what does landscape mean'
- 7 Leicestershire County Council letter dated 21 April 2017 regarding S106 contributions
- 8 North West Leicestershire District Council Statement in respect of planning obligations
- 9 Rebuttal Proof by Nick Ireland, GL Hearn for Hall Lane appeal
- 10 North West Leicestershire District Council table regarding housing land supply sites
- 11 North West Leicestershire District Council Statement in respect of planning obligations Version II
- 12 Letter dated 25 May 2017 from EFM regarding postcode areas used
- 13 Signed S106 agreement
- 14 Sale particulars relating to land at Standard Hill, Hugglescote
- 15 Email correspondence Standard Hill, Hugglescote
- 16 Email correspondence regarding Butt Lane, Woodville site
- 17 Council's closing submissions
- 18 Gladman Developments Ltd v Daventry DC [2016] EWCA Civ 1146
- 19 East Staffordshire BC v SSCLG [2016] EWHC 2973
- 20 Documents submitted by the Council relating to 5YHLS
- 21 Appellant's closing submissions
- 22 Tables submitted by appellant summarising the respective 5YHLS positions