



Department for
Communities and
Local Government

Mr Christopher James Lewis
Hunter Page Planning
Thornberry House
18 High Street
Cheltenham GL50 1DZ

Our ref: APP/U3935/W/16/3147902
Your ref: JL/3724

13 July 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MR CONOR LEE OF HANNICK HOMES AND DEVELOPMENTS
LAND TO THE EAST OF MARLBOROUGH ROAD, WROUGHTON, SWINDON,
WILTSHIRE SN4 0RX
APPLICATION REF: S/OUT/15/0192/JABU**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Neil Pope, BA (Hons), MRTPI, who held a public local inquiry on 10-12 January 2017 into your client's appeal against the decision of Swindon Borough Council to refuse planning permission for up to 103 dwellings (101 net), including up to 30% affordable housing units, landscaping and a new access from Marlborough Road, in accordance with application ref: S/OUT/15/0192/JABU dated 3 June 2015.
2. On 5 January 2017, this 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.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters arising since the close of the inquiry

5. The Secretary of State received correspondence on behalf of the appellant on 10 and 12 May 2017.

6. On 26 May 2017 the Secretary of State referred back to the parties to invite representations on the implications, if any, of the following matter for the above appeal: the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk DC v SSCLG, which was handed down on Wednesday 10 May 2017.
7. The Secretary of State has taken all correspondence into account but as it was circulated to the parties does not consider it necessary to reprint it here. Correspondence received is listed at Annex B of this letter. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

8. 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.
9. In this case the development plan consists of the Swindon Borough Local Plan 2026 (LP) and the Wroughton Neighbourhood Plan 2016-2026. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR122. The Secretary of State has also had regard to the Landscape Character Areas Supplementary Planning Guidance (SPG), the North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2014-2019 (MP) and the Wroughton Conservation Area Appraisal and Management Plan (WCAP).
10. 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'), as well as his Written Ministerial Statement of 12 December 2016 on Neighbourhood Planning.
11. In accordance with section 72(1) of the LBCA, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main issues

12. The Secretary of State agrees with the Inspector that the main issues are those set out at IR121.

Housing land supply

13. The Secretary of State agrees, for the reasons given at IR126, that a 20% buffer should be applied to the requirements and the shortfall. He further agrees, for the reasons given at IR127, that there is no evidence to demonstrate C2 provision is clearly set out in the LP. He further agrees that if 158 of these units were treated as C3 units, the headroom on the Council's supply figures would be very much reduced.
14. For the reasons set out by the Inspector at IR128, the Secretary of State agrees with the Inspector that 454 units should be discounted from the Council's claimed housing supply. He also discounts a further 547 units from the claimed quantum of supply, for the reasons given by the Inspector at IR129.
15. On delivery from strategic sites, the Secretary of State agrees with the Inspector in adopting the Council's predictions, for the reasons given at IR130.

16. For the reasons set out above, the Secretary of State agrees with the Inspector at IR131 in concluding that the Council has a housing land supply of less than 2.5 years. He has also had regard to the fact that even if a 20% buffer was not applied to the backlog, the supply would still be significantly below three years. As such he agrees that considerable weight should be afforded to this shortfall. He also agrees that Paragraph 14 of the Framework is engaged.

Planning policy

17. For the reasons given at IR123, the Secretary of State agrees that LP policy TR1 is not determinative to the outcome of this appeal. While he agrees that policies SD2 and RA2 and Policies RH3 and RH6 should not be ignored or given no weight, he affords them limited weight, given his conclusions as to the extent of the shortfall in housing land supply (IR124 and IR131).
18. The Secretary of State notes the Inspector's view at IR125 that his Written Ministerial Statement on Neighbourhood Planning can be given considerable weight. However, given his findings on housing land supply, one of the main criteria of the WMS is not met, and the Secretary of State thus concludes that the WMS is not engaged. However, he agrees for the reasons given that moderate weight can be afforded to the MP, the WCAP and SPG (IR125).

Benefits

19. For the reasons set out at IR132, the Secretary of State agrees that the provision of affordable housing is a benefit which can be afforded considerable weight in the planning balance, and would accord with NP policy RH1. He gives further moderate weight to the benefits of increasing the supply of market housing and the increase in choice and range of housing, in agreement with the Inspector at IR133. He gives limited weight to the benefits of support for the construction industry and to facilities in Wroughton. He affords very little, if any, weight, to the benefits of money derived from the New Homes Bonus or CIL, for the reasons given by the Inspector at IR133.

Strategy for housing growth

20. The Secretary of State has had regard to the fact that the proposed development is not within the settlement boundary or on land that is allocated or identified for housing within the development plan, and as such would be contrary to LP policies SD2 and RA2 and NP policies RH3 and RH6. However, given his conclusions as to the extent of the shortfall in housing land supply, he agrees with the Inspector that these policies should only be given limited weight (IR134). For the reasons given at IR135-136, the Secretary of State agrees that the Council's Strategy for housing growth does not preclude a further contribution at Wroughton. While he has had regard to the fact that the proposal would, in combination with NP allocations and existing permissions, be in excess of the number of new dwellings provided for at Wroughton under LP policy SD2, and the expectations of the local community as contained in the NP, he agrees with the Inspector at IR137 that the scale of the proposal would be proportional to the size and function of the settlement and it would not prevent brownfield land coming forward for development elsewhere in the Borough.
21. Given the above and having regard to his conclusions as to housing land supply, the Secretary of State agrees (IR138) that the proposal would accord with the broad aim of the Strategy for housing growth. He further agrees that even were the proposal to be in

breach of the Strategy, the proposal would not undermine the spatial distribution of housing in the development plan or lead to an unsustainable level of growth at Wroughton, for the reasons set out by the Inspector at IR138.

Loss of a greenfield site

22. For the reasons given at IR139, the Secretary of State agrees that the proposal would relate well to existing development, and that the visual impact of the scheme would be limited. He notes that the trees subject to Tree Preservation Orders would be retained and that there would be no harmful loss to any distinctive or important features of the local landscape. He further agrees, in agreement with the Inspector, that the development would not disrupt or intrude into any important public views, including those to and from the Area of Outstanding Natural Beauty. As such, and having regard to his duties under the Countryside and Rights of Way Act 2000, the Secretary of State concludes that the proposal would not harm the special qualities of the designated landscape or be at odds with the objective of conserving and enhancing the natural beauty of the AONB. As such he concludes, in agreement with the Inspector, that there would be no conflict with the MP.

23. The Secretary of State agrees that the development would not bring about settlement coalescence, for the reasons given at IR140. He further agrees that the loss of the greenfield site would not have any significant effect upon the countryside setting of the village or the qualities of the Wroughton Vale Landscape Character Area. As such he finds that there would be no harm to a “valued landscape” and that there would only be a very limited adverse impact upon the character and appearance of the area, and that it would accord with LP policy EN5 and the SPG.

Highway safety

24. For the reasons given at IR146-150 the Secretary of State agrees with the Inspector that the proposed development would provide a safe and suitable access to the site and would be unlikely to compromise highway safety issues along Marlborough Road. As such he agrees (IR151) that the proposal would accord with LP policy TR2, NP policy RH4 and the highway/transport provisions of the Framework.

25. The Secretary of State has had regard to the Inspector’s comments at IR152. However, as he has determined this appeal on the basis of the amended plans, he has not taken them into consideration in reaching his decision.

Other issues

26. For the reasons given at IR153, the Secretary of State agrees that the proposed works would not affect any important view as identified in the WCAP, or detract from the special qualities of the Wroughton Character Area (WCA). He agrees that as such it would preserve the character and appearance of the WCA, and thus accord with LP policy EN10 and the historic environment objectives of the Framework.

27. The Secretary of State agrees (IR154) that neither the LPA nor those with responsibility for land drainage matters or infrastructure raised objections regarding flood risk or the adequacy of existing services to accommodate the proposed development. He agrees that there is no technical or other cogent evidence to support concerns regarding these matters. He further agrees that planning conditions could be attached regarding drainage and water supplies.

28. The Secretary of State has had regard to the Inspector's analysis at IR155 regarding precedent and other appeal decisions elsewhere. He agrees for the reasons given that these other decisions do not set a precedent which must be followed in determining this case, and further agrees that the LPA would not be bound to approve any other applications at Wroughton in the event of other sites coming forward for development.

Planning conditions

29. The Secretary of State has given consideration to the Inspector's analysis at IR160-171, the recommended conditions set out at the end of the IR and the reasons for them, 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 and that the conditions set out at Annex A should form part of his decision.

Planning obligations

30. Having had regard to the Inspector's analysis at IR156-159, the planning obligation dated 9 January 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR157 that the obligation in relation to affordable housing and tenure (IR157) and open space provision (IR158) 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, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. For the reasons given at IR159, the Secretary of State agrees that the obligation in regard of off site sports facilities, does not comply with the tests of paragraph 204 of the Framework and Regulation 122 of CIL, and as such has not taken it into account in determining the appeal.

Planning balance and overall conclusion

31. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies SD2, RA2, RH3 and RH6 of the development plan, and is thus 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.

32. For the reasons stated above, the Secretary of State concludes that there is a lack of five year housing supply. Having considered the relevant material the Secretary of State concludes that the actual housing supply is less than 2.5 years. Given the lack of 5 year supply paragraph 14 of the Framework applies. He has therefore considered whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies as a whole.

33. Against the proposal he gives minor weight to the impact on the character and appearance of the countryside. He gives limited weight to the conflict with policies SD2, RA2, RH3 and RH6 of the development plan, for the reasons set out at paragraph 17 and 20 above.

34. In favour of the proposal, the Secretary of State concludes that the provision of affordable housing should be afforded considerable weight in the planning balance. He gives further moderate weight to the benefits of increasing the supply of market housing and

the increase in choice and range of housing. He gives further limited weight to the benefits of support for the construction industry and to facilities in Wroughton.

35. The Secretary of State therefore concludes that the adverse impacts do not outweigh the benefits of the proposal, and as such that the appeal should be allowed.

Formal decision

36. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for up to 103 dwellings (101 net), including up to 30% affordable housing units, landscaping and a new access from Marlborough Road, in accordance with application ref: S/OUT/15/0192/JABU dated 3 June 2015, and revised access and pedestrian details as set out at IR7.

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

Right to challenge the decision

38. 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.

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

40. A copy of this letter has been sent to Swindon Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

ANNEX A – RECOMMENDED SCHEDULE OF PLANNING 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 begins and the development shall be carried out as approved.
2. Application for the approval of the reserved matters shall be submitted to the Local Planning Authority before the expiration of 3 years from the date of this permission.
3. The development hereby permitted shall begin no 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 drawings: 13.043.101 (site boundary plan), 65002-TA-003 Rev C (proposed access) and 65002-TA-004 Rev B (pedestrian infrastructure improvements).
5. No development shall commence until details of the means of accessibility within the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no dwelling shall be occupied until the roads, turning head(s), allocated private car parking and garage spaces for that dwelling, street lighting, drainage and footways that serve that dwelling has/have been completed to at least binder course and footways to surface course level.
6. The landscaping details required by condition 1 above shall include the retention of the group of beech trees within the site and the woodland along eastern boundary that are the subject of Tree Preservation Order No.5 2016, the means of protecting these trees and boundary hedgerows during the construction phase, the submission and approval of Landscape Management Plan and a timetable for undertaking the approved details. The development shall be undertaken in accordance with the approved details and any tree or shrub planted in accordance with the approved scheme / Plan which is removed, dies or becomes diseased within 5 years of planting shall be replaced by one of a similar size and species.
7. No development shall commence until: i) a written programme of archaeological investigation, which shall include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and ii) the programme of archaeological work has been carried out in accordance with the approved details.
8. No development or works other than the demolition of numbers 1 and 2 the Old Bakery and the creation of a construction compound and turning area for construction vehicles, shall be carried out until the access to the site has been constructed to at least base course in accordance with the details shown on drawing no. 65002-TA-003 Rev C.
9. Prior to the occupation of the first dwelling all of the pedestrian infrastructure improvement works shown on drawing number 65002-TA-004 Rev B shall be undertaken.
10. Before the access hereby permitted is first brought into use, the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 43m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 1.05m above

the nearside carriageway level, and thereafter retained free of obstruction at all times.

11. No development shall commence or any works of site preparation until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) a temporary access to the site;
 - ii) the parking of vehicles of site operatives, construction traffic 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;
 - vi) construction traffic haul route and;
 - vii) the means of directing HGV traffic through the site access onto Marlborough Road by way of the use of a vehicle banksman or other alternative means of directing traffic through the site access.
12. Construction works associated with the development hereby permitted shall only take place between 0800 hours to 1800 hours on Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
13. No development shall take place until an updated Ecological Appraisal has been undertaken and submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with any recommendations contained within the approved updated Appraisal.
14. No development shall take place until impact studies of the existing water supply infrastructure including any requisite mitigation along with a timetable for its implementation have been submitted to and approved in writing by the Local Planning Authority. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. Any requisite mitigation shall be undertaken in accordance with the approved timetable.
15. Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by the Local Planning Authority. No discharge of foul water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed and these shall be fully implemented in accordance with the approved implementation timetable.
16. Development shall not begin until a surface water drainage scheme for the site, to deal with any on and off site flood risks arising from the proposed development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is completed. The scheme shall include, but not be limited to:
 - i) evidence that the proposed flows from the site would discharge at or below greenfield runoff rates, or as close as practical for any areas that have been previously developed;
 - ii) evidence that SuDS Source Control measures to manage water quantity and maintain water quality have been implemented wherever possible and throughout the management train so the development is not reliant upon large attenuation features close to the points of discharge;
 - iii) a detailed drainage plan showing the location of the proposed SuDS and drainage network with exceedance flow routes clearly identified;
 - iv) adequate measures to ensure any identified groundwater issues would be managed safely on the site and would not increase the flood risk elsewhere;

- v) evidence that existing flood flow routes through the site have been maintained or where they would be affected, adequate measures to intercept and safely control flows through the site have been provided to ensure flood risk is not increased elsewhere;
- vi) details to demonstrate the SuDS Scheme has been designed in accordance with best practice guidance including the latest SuDS Manual C753;
- vii) data collection surveys of all on and off site drainage systems serving the proposed development and the vicinity of the proposed site access off Marlborough Road, including a report confirming their condition and any mitigation works required to ensure they would be adequate to serve the proposed development;
- viii) evidence that adequate measures would be implemented during construction to control pollution to the existing drainage systems and the groundwater;
- ix) details of how the scheme should be maintained and managed after completion;
- x) details to confirm that any drainage systems offered for adoption would be designed to Sewers for Adoption 7th Edition and/or SBC Standards;
- xi) detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network could cater for the critical storm event for its lifetime; and
- xii) evidence relating to accepted outfalls from the site, particularly from any third party network owners.

17. Not less than 2% of the new dwellings constructed on the site pursuant to this permission shall provide wheelchair accessible housing. This requirement shall be implemented across the site and shall be provided in accordance with the technical specification for M4(3) as set out within National Planning Policy Guidance and in accordance with part M (2015 edition incorporating 2016 amendments).
18. No development above ground level shall take place until a scheme and specification for the provision and location of fire hydrants, has been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved scheme.
19. No dwelling shall be occupied until the recommendation contained in the Stage One Road Safety Audit dated September 2015, to provide a change in the surface treatment on the approach to the site access, such as a granite awareness strip, to increase awareness of the change in road layout has been provided.

Annex B – correspondence

Mr J Lewis, Hunter Page Planning	10 May 2017
Mr J Lewis, Hunter Page Planning	12 May 2017
Mr S Harcourt, Wroughton Parish Council	26 May 2017
Mr J Lewis, Hunter Page Planning	31 May 2017

Report to the Secretary of State for Communities and Local Government

by Neil Pope BA (Hons) MRTPI

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

Date: 13 February 2017

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

SWINDON BOROUGH COUNCIL

APPEAL BY Mr CONOR LEE OF HANNICK HOMES AND
DEVELOPMENTS

Inquiry held between 10 - 12 January 2017
Site visit undertaken on 9 January 2017

Land to the east of Marlborough Road, Wroughton, Swindon, Wiltshire, SN4 0RX.

File Ref: APP/U3935/W/16/3147902

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File Ref: APP/U3935/W/16/3147902

Land east of Marlborough Road, Wroughton, Swindon, Wiltshire, SN4 0RX.

- 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 Conor Lee of Hannick Homes and Developments against the decision of Swindon Borough Council (the LPA).
- The application Ref. S/OUT/15/0912/JABU, dated 3 June 2015, was refused by notice dated 16 October 2015.
- The development proposed is the provision of up to 103 dwellings (101 net), including up to 30% affordable housing units, landscaping and a new access from Marlborough Road.

Summary of Recommendation: the appeal be allowed.

Preliminary Matters

1. On 5 January 2017, the Secretary of State (SoS) issued a Direction recovering the appeal for his own determination. The reason for the Direction was because the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
2. Having considered the proposal in accordance with Regulation 12(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824), on 6 January 2017, another Direction was issued on behalf of the SoS stating that the proposal was not EIA development.
3. With the exception of the proposed means of access all matters of detail have been reserved for subsequent consideration.
4. Numerous Core Documents (CD) were submitted by the main parties prior to the Inquiry opening. These are listed towards the end of this report.
5. The LPA's decision notice relates, amongst other things, to the access details and pedestrian infrastructure improvements shown on plan refs. 65002-TA-003 and 65002-TA-004. *(These can be found within the Figures and Drawings section of the DTP Transport Assessment (TA) dated June 2015 – CD7.)*
6. Shortly before the LPA determined the application the appellant submitted revised access details and pedestrian improvements - plan refs. 65002-TA-003 Rev C and 65002-TA-004 Rev B. *(These are located within the 'Drawings' section of DTP's Designer's Response to Stage 1 Safety Audit dated October 2015 – CD23.)*
7. The LPA's proofs of evidence (PoE) are based upon the revised access/pedestrian details. The representative of Wroughton Parish Council (WPC) and other interested parties who appeared at the Inquiry informed me that they were aware of these revisions. Both main parties agree that no party would be prejudiced if the appeal was determined on the basis of the details shown on plan refs. 65002-TA-003 Rev C and 65002-TA-004 Rev B.
8. The proposed access details do not show the means of accessibility within the site. However, both main parties agree that these details could be secured by way of planning condition if the SoS was to allow the appeal.

9. There are some very minor discrepancies regarding the extent of the 'red line' site area shown on plan refs. 13.043.101 and 65002-TA-002 which are also specified in the LPA's decision notice. At the Inquiry, the appellant clarified that the correct site area is shown on plan ref. 13.043.101.
10. On 17 June 2016, the LPA advised that due to an administrative error, saved policies from the former 2011 Swindon Local Plan were included within reason for refusal (RfR) no.1 on its decision notice. The 'revised' wording of RfR no.1 is:

The proposed development occupies a greenfield site located within the countryside outside the defined settlement boundary of Wroughton and within the Wroughton Landscape Character Area that contributes to the setting of Wroughton. Development of this site fails to comply with policies SD1, SD2 and SD3 of the Swindon Borough Local Plan 2026 that seek to locate new housing development within the Swindon Urban Area and within the settlement boundaries of primary rural settlements and fails to comply with policy EN5 of the Swindon Borough Local Plan 2026 that seeks to protect the landscape character and setting of Wroughton.
11. In June 2016, the LPA informed the appellant that having considered supplementary highways and transport details submitted in October 2015 on behalf of the appellant (*this includes the above noted amended plans*) it would not seek to pursue highway and transport related RfR nos. 3, 5 and 6. Within its Statement of Case that was submitted in July 2016, the LPA also advised that it would not seek to pursue its objection on grounds of harm to the Wroughton Landscape Character Area (LCA).
12. The Statements of Case, PoE and the Statements of Common Ground (SoCG) that were agreed by both main parties were all submitted prior to the publication of the Written Ministerial Statement (WMS) made on 12 December 2016 entitled 'Neighbourhood Planning'. The Inquiry heard evidence in respect of the WMS (the appellant's planning witness also submitted a supplementary PoE in respect of this matter prior to the Inquiry being opened) and I was informed that as a result paragraph 6.3 of the planning SoCG (*this document has Hunter Page on its front cover*) was no longer agreed and should be 'struck out'.
13. The appeal site is outside but adjacent to the Wroughton Conservation Area (WCA). (*A plan showing the boundary of the WCA can be found in the LPA's Appeal Questionnaire and at the end of Document 16.*) Some of the proposed pedestrian infrastructure improvements (drawing ref. 65002-TA-004 Rev B) would take place within the WCA. As a consequence, both main parties agreed that the provisions of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 were relevant to the determination of the appeal. The LPA has not identified any harm to the WCA arising from the proposal.
14. At its closest, the appeal site is approximately 250m from the boundary of the North Wessex Downs Area of Outstanding Natural Beauty (AONB). Both main parties agree that the proposal forms part of the wider setting of the AONB and that section 85 of the Countryside and Rights of Way Act 2000 (CRoW) is relevant to the determination of the appeal. The LPA informed me that the proposal would not harm the setting of the AONB. (*A plan showing the boundary of the AONB in relation to Wroughton can be found in Document 17.*)

15. With the agreement of both main parties the Inquiry was closed in writing on 26 January 2017, following the receipt of an amended section 106 undertaking (*Document 25*).

The Site and Surroundings

16. The appeal site is approximately 4.5 km south of Swindon town centre and lies on the eastern edge of the village of Wroughton. This 5.71 ha site comprises five pasture fields with boundary hedgerows / fences and two dwellings (1 and 2 The Old Bakery). A section of woodland runs along part of the eastern boundary of the site and there is a corrugated metal sheet agricultural building towards the centre of the plot. A group of beech trees growing alongside this building and the woodland strip are the subject of a Tree Preservation Order (TPO).
17. The site is situated to the rear (east) of residential properties in Marlborough Road (B4005) and to the north of dwellings in Wanshot Close. There is an agricultural access into the site from Wanshot Close. To the north of the site is the Ridgeway Hospital, whilst to the east the open countryside continues. The gradient of the land slopes gently from approximately 120m AOD at the north eastern corner of the site to 135m AOD at the south western corner. (*Figures 3-11, 13 and 18 in the Landscape Appraisal: Baseline Report that was submitted in support of the application (CD13) show the site and its immediate surroundings.*)
18. The south western edge of the site adjoins the WCA. This comprises the historic core of the village with its narrow winding lanes with stone boundary walls, green spaces and a number of listed buildings. (*The photographs in Appendix 1 of Document 16 show some of the features / characteristics of the WCA.*)
19. The boundary of the AONB is to the south and east of the site. Wroughton and the appeal site form part of the lower lying land to the north of the distinctive northern scarp slope to these chalk downs. This scarp forms a dramatic backdrop to the village. (*VP 3 and VP7 in Figure 12 of CD13 are views from public rights of way within the AONB.*)
20. There is some on street parking along this section of the B4005 (opposite 1 and 2 The Old Bakery) and 'At Any Time' waiting restrictions. On the eastern side of the road and south of this on street parking there is a lay-by. This includes a bus stop and some additional parking. This section of the B4005 is subject to a 30mph speed restriction. In general, the footways in this part of the village are narrow. Plan ref. 65002-TA-001 in the 'Drawings' section of the TA shows the relationship of the site to local facilities. Regular bus services link Wroughton to Swindon. There are no public rights of way through or adjoining the appeal site.

Planning Policy

21. The development plan includes the Swindon Borough Local Plan 2026 (LP) and the Wroughton Neighbourhood Plan 2016-2026 (NP). (*CD59 and CD60.*)
22. Paragraph 5.2 of the planning SoCG identifies relevant LP policies. Under LP policy SD2 (sustainable development strategy) Wroughton is identified as one of two rural settlements which (of all the rural settlements) are the most accessible. There is a requirement within policy SD2 to review the sustainable development strategy by 2016 at the latest. (*Paragraph 211 of CD 62 refers to a 'rapid review' of the LP to ensure the development provisions look to the long term.*) The LPA's planning witness informed me that she was not aware that this review

- had been completed. The main parties agree that policy SD2 is a relevant policy for the supply of housing (*paragraph 6.1 of planning SoCG*). The appeal site lies outside the Rural Settlement Boundary as defined on the LP Policies Map. The LPA informed me that the proposal would comply with LP policy EN5 (landscape character).
23. The NP has been part of the development plan since July 2016. Amongst other things, it allocates sites for housing. (*Page 6 of the Plan identifies 5 allocations in and around the village.*) Paragraphs 3.49 – 3.69 of Ms Griffiths's PoE identify relevant NP policies. The site lies outside the village settlement boundary.
24. The National Planning Policy Framework (the Framework) is an important material consideration. It sets out the Government's planning policies for England. Amongst other things, it states that the purpose of the planning system is to contribute to the achievement of sustainable development. The policies in the Framework include boosting significantly the supply of housing, providing a plan-led system and not normally granting permission where an application conflicts with a neighbourhood plan that has been brought into force. The main parties agree that the site is not a valued landscape for the purposes of paragraph 109 of the Framework.
25. The above noted WMS is also an important material consideration. It states, amongst other things, that neighbourhood planning is an important part of the Government's manifesto commitment to let local people have more say on local planning and that recent analysis suggests that giving people more control over development in their area is helping to boost housing supply. Where specified conditions are met policies for the supply of housing in a neighbourhood plan should not be deemed 'out-of-date' under paragraph 49 of the Framework. The inquiry was advised that a group of house builders / developers had sent a Judicial Review Pre-Action Protocol Letter to the SoS regarding this WMS (*CD81*).
26. The Government's Planning Practice Guidance (PPG) is also a material consideration in the determination of the appeal. Amongst other things, it includes guidance in respect of housing supply.
27. The LPA's Landscape Character Areas Supplementary Planning Guidance (SPG) was adopted in 2004. This includes a description of various LCAs and guidelines for considering proposals. The appeal site forms part of the Wroughton Vale LCA. (*Appendix A to Mr Harris's proof of evidence contains extracts from this SPG.*)
28. Whilst not planning policy, the North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2014-2019 (MP) is a material consideration to the determination of this appeal. Amongst other things, the MP identifies the special landscape qualities of the AONB. (*Document 18 page 30*)
29. The Wroughton Conservation Area Appraisal and Management Plan (WCAP) was adopted by the LPA in 2009. Although not forming part of the development plan it is also a material consideration. Amongst other things, it identifies the special interest of the WCA. (*Pages 15-16 of the WCAP include reference to The Pitches and Marlborough Road and the map at the end of Document 16 identifies significant walls or boundaries, buildings of interest and important views.*)

Planning History

30. In June 2014, the LPA refused planning permission for a similar proposal on the appeal site (ref. S/OUT/13/1862). *(Document 15 contains the views of the AONB Management Board in respect of that previous application.)*
31. In January 2016, planning permission was granted on appeal for up to 100 dwellings on a 5.9 ha site at Berkeley Farm (Ref. APP/U3935/W/15/3035660). This site lies to the north of the land that is the subject of the current appeal. *(A copy of that decision can be found in Appendix 6 of Mr Lewis's PoE and Document 13 is a site plan.)*

The Proposals

32. The proposed access into the site would be off the B4005. Nos. 1 and 2 The Old Bakery would be demolished to provide a T-junction. This would include a tapered access carriageway with a central over-runnable area and visibility splays of 2.4m by 43m.
33. Footways and tactile paving would be provided, including a new section of footway on the east side of the B4005. This would afford access southbound from the development and space for passengers to wait or alight from the bus. *(Pages 2-3 of CD23 describe the amendments to the junction provided for in plan ref. 65002-TA-003 Rev C. This includes a reduction in width of the access road near the junction with the B4005.)*
34. The proposal would provide for the widening of some sections of the footway, a revised radius, new dropped kerbs, tactile paving and revised road markings along The Pitches, including works at the junction with Priors Hill.
35. The indicative masterplan ref. 13.043.SK5 shows 103 dwellings, including affordable housing, landscaping and associated infrastructure. Internal roads would be designed and constructed to meet the LPA's requirements and offered for adoption.
36. The Planning, Design and Access Statement (CD4) provides that the new dwellings would be predominantly detached and semi-detached, with a small number of short terraces. The dwellings would be primarily two storey in height with a small proportion of two and a half storey properties.
37. Materials would consist of a mixture of brick, render and stone. South facing roofs would have solar collectors alongside thermal insulation. The buildings would also be designed with water saving features and storage for recyclable waste. The affordable dwellings would be constructed to standards required by the Homes and Communities Agency.
38. An area of semi-formal public space overlooked by dwellings near the site entrance would be provided, as well as a larger, planted area of public open space along the eastern edge of the site. This would incorporate the woodland strip. There would also be new native tree planting and a wildflower meadow.
39. An equipped children's play area would be provided within the site. A buffer would be created along the southern boundary through an area of public open space and an internal roadway. Public spaces would be linked by footpaths.

40. Various reports, including the TA, RSA, ecological appraisal, archaeological assessment, flood risk assessment and landscape appraisal were submitted in support of the scheme. (CDs 5-7, 11-15)

Matters Agreed by the Main Parties in respect of Housing Land Supply (HLS)

41. The Objectively Assessed Need (OAN) figure for the Borough is not less than 22,000 new homes in the plan period 2011-2026 as contained within the LP.
42. The period over which the five year HLS should be measured is 2016-2021.
43. The annualised housing requirement for the period 2016-2026 is 1,625 dwellings. (Unadjusted requirement of 8,125 dwellings + any shortfall over the Plan period.) The shortfall is 1,556 dwellings. This leads to a requirement of 9,681 dwellings.
44. It is appropriate to use the 'Sedgefield method' and to apply a 20% buffer.
45. The LPA is unable to demonstrate a five year supply of deliverable housing sites against its housing requirement. As a consequence, the LP policies for the supply of housing are out-of-date.
46. A HLS of 3.04 years would have a 'headroom' of 85 units.
47. The LP requirement for at least 150 dwellings at Wroughton during the plan period is not a maximum figure.
48. Document 1 is a comparative housing land supply table. It identifies the differences in supply between the two main parties.

The Case for the Appellant

49. In summary, the development of any green field adjoining the settlement would result in some harm to the rural character and setting of the village. Due to the containment of the site on three sides by existing development and well established plantation, tree belt and boundary hedgerow, the proposal would form the new settlement edge with the open countryside. The harm to landscape character and visual amenity would be very limited.
50. Protected trees within the site would be retained and new landscape planting undertaken. The development would not involve the loss of any rare or distinctive elements that inform local landscape character. It would have little effect on the character of the Wroughton LCA. The proposal would not extend any ribbon of development that might threaten the distinctiveness and separation of Wroughton from Swindon. There would be no conflict with LP policy EN5.
51. In elevated views from the AONB the roofs of some of the proposed dwellings would be visible but would appear comfortable within the context of the village. There would be no harm to the special qualities or setting of the AONB. The off-site pedestrian improvement works would accord with the general strategy of the WCAP. These works would not harm the character or appearance of the WCA.
52. The proposed development would not have any adverse impact on the infrastructure of Wroughton and would provide benefits. It would support the economic dimension of sustainable development by helping to create and sustain jobs in, and associated with, the construction industry. Incoming residents would also support existing facilities at Wroughton. Considerable sums of money would

- be available to the LPA via the New Homes Bonus and about 25% of the CIL contribution would be payable to WPC. The proposal would accord with Government objectives for delivering wealth and prosperity.
53. The appeal scheme would support the social dimension of sustainable development by increasing the choice and range of housing, including much needed affordable housing. Significant weight should be given to the provision of affordable housing. The proposal would also assist in addressing the shortfall in the supply of housing in the Borough. The accessible location of the site would support the environmental dimension by helping to reduce travel by car. The benefits of the scheme should be given considerable weight.
54. When the LP was adopted and the NP made the LPA could demonstrate 5 years HLS. Since then there has been a dramatic and unforeseen fall-off in the HLS position. The LPA, on its own calculation, is markedly short of a 5 year supply. As a consequence, LP policies for the supply of housing are now out-of-date. These include SD1, SD2, SD3, RA2 and the settlement boundary. These provisions of the LP can only be given very limited weight.
55. The LPA has only 1.88 years HLS. The lack of even a 3 year HLS is important as it is serious. Swindon is an administrative area encompassing a major settlement with sub-regional effects. This 'Power House' of the South West should be punching above its weight in providing housing. The shortfall in supply, to put it at its mildest, is highly disappointing given that the LP was only adopted in 2015. Significant weight should be given to this shortfall.
56. The 20% buffer should be applied to the backlog. This would bring forward housing provision from later in the development plan period to allow the backlog to be dealt with effectively in the first 5 years. This approach is advocated by the Framework and the PPG. The buffer affects the supply side; it does not alter the requirement. This approach is to be preferred to the LPA's. *(Paragraph 6.17 of the planning SoCG implies this was an agreed matter before the Inquiry opened.)* When the buffer is applied to the backlog the LPA, on its own predictions, has less than 3 years HLS. *(The appellant predicts 1.93 years HLS if the 20% buffer is not applied to the shortfall.)*
57. The PPG allows C2 accommodation to be incorporated as part of the supply if it has been clearly considered within the LP. This had not been the case and it has not formed part of the OAN evidence base. It should therefore be omitted. Furthermore, it is not logical to include permissions post-April 2016 unless an appropriate adjustment is made by way of an increase to the requirement to take account of the year following April 2016. This has not been done and should also be omitted. There is no certainty that live applications, which have yet to be considered by the LPA, will guarantee delivery. Inclusion of such a supply does not accord with the Framework or the PPG and a windfall allowance is already claimed. Live applications should also be omitted.
58. The LPA is reliant on a number of strategic allocations to deliver housing. However, these are dependent upon the delivery of substantial components of infrastructure, in particular, upgrades to junctions 15 and 16 of the M4. This has stalled a number of planning applications and notwithstanding Government funding, private sector developer contributions are also required. There is no evidence to say when these contributions would become available and secure the

- delivery of housing. It would be conservative to deduct 1,000 dwellings from the LPA's claimed figure from this source. The LPA does not have 3 years HLS.
59. Wroughton and Highworth are the two largest villages in the LP settlement hierarchy. Policy SD2 recognises these as accessible and having a range of facilities. Neither the LP nor the NP place a cap or ceiling upon the number of residential units which may be delivered in Wroughton. This settlement is an appropriate location for development. Villages lower down the hierarchy are not intended to accommodate the residential development that Swindon has been unable to provide. It would not be a logical or rational outcome of the planning process if the effect of the NP was to ignore Wroughton and look only at villages lower down the hierarchy to appropriately meet the Borough's HLS.
60. Whilst Wroughton and Highworth should not be expected to meet the entirety of the shortfall arising in Swindon they should make a contribution to that shortfall. Although the appeal site is not an allocation, properly interpreted and read as a whole, the proposal would be in general alignment with the development plan and the LPA's strategy for growth which is directed at guiding development to the most sustainable locations. The WMS does not have the effect in policy terms of inhibiting the proposed development. *(The appellant's planning witness informed me that the proposal would be contrary to the housing policies of the NP and the NP formed part of the LPA's strategy for housing growth.)*
61. It is recognised that the NP has been the product of a conscientious piece of work undertaken by local residents. It has been specifically considered as part of the decision-making process. However, any sense of disappointment on the part of local residents that the NP would preclude development of the appeal site is insufficient to outweigh the enormous and rapidly arising HLS deficiency. This is a matter of utmost seriousness. *(The appellant's planning witness informed me that if the appeal was allowed it would not significantly undermine public confidence in the neighbourhood planning process but local people would be upset.)*
62. Given the Borough's HLS, if steps are not taken to address this it would represent an unfathomable dereliction of responsibility on the part of decision makers. This may be a critical case for the planning system. Elsewhere, the SoS has granted permission where there is a made neighbourhood plan and a lack of 5 years HLS. *(Appendix 12 of Mr Lewis's PoE)*
63. If the SoS was to conclude that, read as a whole, there would be conflict with the development plan there are a number of material considerations that otherwise weigh in favour of granting planning permission. These are: the lack of 5 years HLS; relevant LP policies for the supply of housing and the settlement boundary being out-of-date; the weight to be given to the shortfall; the presumption in favour of development; the absence of any adverse impacts from the development; the benefits of the scheme and; the Government's imperative to substantially boost the supply of housing.
64. The proposed access arrangements take account of the findings of the TA (CD6 and CD7) and the recommendations contained within the Road Safety Audit (RSA) (CD25). The LPA had not undertaken its own RSA. Although the LPA has expressed concerns regarding existing highway conditions, its relevant witness has not recommended removing / limiting on-street parking or precluding HGV movements along this section of the B4005.

65. The speed limit is generally observed with 62% of all drivers travelling at less than 26mph. The existing on-street parking would have the effect of not requiring drivers turning right into or out of the site to cross an opposing line of traffic. Forward visibility along this section of the B4005 would be adequate and northbound drivers would be aware of oncoming traffic. They would be able to stop and avoid any conflict. The process of negotiation between drivers would continue. Those emerging from the site access would have a clear line of sight and would give way to vehicles on the B4005. *(Appendices F, H, I and the Drawings in Mr Jenkinson's PoE show carriageway widths, sightlines and forward visibility and intervisibility along this section of the B4005.)*
66. Any new access involves an increase in risk. However, there have been no reported incidents involving the use of the numerous driveways along this side of the B4005 which have been in operation over a number of decades. *(Appendix J to Mr Jenkinson's PoE is the Personal Injury Accident Data for this part of the highway network.)* The level of impact from the proposed access would not meet the Framework criterion of severe (all three bullet points of paragraph 32 of the Framework need to be considered) nor would it result in an unsafe or unsatisfactory access. *(The appellant's highways witness informed me that 'severe' in paragraph 32 of the Framework would only be relevant in the context of impacts giving rise to death and serious injury.)* It is also difficult to understand how LP policy TR1 lends any weight to the LPA's concerns.
67. Vehicles traversing the proposed hatching would not result in any realistic harm and pedestrians would not seek to cross the access (and enter the hatched area) in two movements. *(Vehicle track plot drawings are included within CD23 and Appendix E to CD6.)* Whilst the bell mouth of the site entrance would not be designed to operate as a passing bay, even if it were to be used as an informal passing bay it would not give rise to a level of risk that would justify withholding permission. There would be no conflict with LP policies TR1 or TR2.

The Case for the LPA

68. In summary, the proposed development would entail the loss of a greenfield site outside the settlement boundary of Wroughton. This would cause some harm. The proposal would also harm the LPA's strategy for housing growth and set a precedent for the release of further greenfield sites to the overall detriment of the development strategy as set out in the development plan. The proposed access would create additional hazards to all road users along the B4005.
69. The residents of Wroughton have prepared, approved and made a neighbourhood plan which provides considerably more housing than the LP requires. They have identified sites and made the hard decisions, including considering and rejecting the appeal site. That approach should be upheld. The decision by the local community should be respected. Considerable weight should be given to the NP. *(The LPA's planning witness informed me that the proposal would be a significant addition to the NP provision but would not be out of proportion to the size and function of Wroughton and would not give rise to an infrastructure issue.)*
70. The NP allocates 173 dwellings. These are in addition to planning permissions which have already been granted. The total of planning permissions and allocations is 343 dwellings. The NP is permissive of further development within the settlement boundary so more dwellings can be anticipated in the plan period.

The local community has made a major contribution to the social and economic needs for housing. They should not simply be applauded but defended.

71. The issues in this appeal strike at the heart of the effectiveness of the neighbourhood plan process. Wroughton is an exemplar. It has gone above and beyond the expectations on it in terms of the amount of housing to be provided. A community which offers far more than anyone asks of it would be aggrieved if it finds development is simply imposed. This decision is critical to the neighbourhood plan process.
72. The LPA has an ambitious programme of housing development concentrated in the Swindon area and the strategic sites. Only an 'at least' total of 450 dwellings are envisaged in the villages, including Wroughton. Substantial urban extensions and new settlements are required to meet Swindon's aspirations. These are being brought forward, often with the Council's own resources and Government money. This includes £45 million from the Infrastructure for Growth Fund and funding for the M4 junction 15 improvements which has been announced by the SoS for Transport. *(Document 2)* In determining the appeal the Secretary of State can have confidence that the spatial strategy will be delivered and the housing built. Swindon does large scale delivery and does it well. The Secretary of State can be confident that strategic sites will come forward.
73. The appeal site is outside the settlement boundary and does not appear in the hierarchy of the very recently adopted spatial strategy as provided by LP policy SD2. Building any amount of housing, anywhere, is not a spatial strategy and more importantly is not the spatial strategy of the LP. Excessive growth at villages would undermine the spatial approach of the LP. *(The LPA's planning witness informed me that LP policy SD2 comprised the LPA's Strategy for housing growth and the proposal would accord with this Strategy. I was also informed that the proposal would not prevent brownfield land coming forward for development.)*
74. The Borough has 3.04 years HLS with the 20% buffer applied to the requirement. There is no need to apply this buffer to the shortfall which provides more than the necessary catch-up. *(Table 4 on page 32 of Ms Griffiths's PoE is a summary of the LPA's HLS. This witness informed me that significant weight should be given to the shortfall in HLS based on its predictions and greater weight if using the appellant's predictions.)*
75. The evidence to support the LPA's HLS is robust. The predictions are mainly based on developer estimates of outputs and the figures are conservative. Several sites are owned by the LPA or are backed by Government funding for infrastructure. This includes improvement works to junction 15 of the M4. The Highways Agency would not start such works if it had to await contributions from elsewhere. A planning obligation in respect of one of the strategic sites requires that developer to provide all the necessary funding for these junction improvement works if no other sources arise. *(Document 2)*
76. A modest part of the supply would come from C2 accommodation (223 dwellings) although the majority of this is C3 use class. *(I concur with the appellant that the oral evidence at the Inquiry did not categorise any of these units as C3 accommodation.)* This would provide homes and free up unrestricted housing.

77. Permissions granted after 1 April 2016 (454 dwellings) would also contribute to house completions by 31 March 2021. This reflects the up-to-date position and should be added to the supply. There is no reason to add any extra requirement.
78. The supply also includes live applications where there is no policy objection (547 dwellings). The PPG supports the inclusion of suitable sites which are neither allocated nor have planning permission. The figure is based on not all live applications being approved and is informed by trajectories provided by applicants.
79. The proposal is contrary to the policies on the location of housing within the development plan. In looking at the plan as a whole these are critical policies for this appeal. The proposal would be contrary to the development plan. This should be given considerable weight in the planning balance. The conditions of the WMS are met and the policies for the supply of housing in the NP are not out-of-date. This is a decisive consideration. Some weight should be given to the provision of housing on the appeal site and to the benefits that would accrue from short term construction jobs and spending by new residents. Significant weight should also be given to the proposed affordable housing. However, these material considerations are insufficient to override the plan. The appeal should therefore be dismissed. The Secretary of State has dismissed other appeals where there has been conflict with a neighbourhood plan.
80. Even if both the LP and NP policies are out-of-date the development plan would be contravened. Policies which are out-of-date do not carry no or limited weight. Considerable weight should be given to the NP and significant weight to the LP housing policies. Whilst significant weight should be given to the housing shortfall this has to be considered in the light of the ongoing delivery of Swindon's strategy and the NP's decision that this is not the right place. If the presumption in favour of sustainable development in paragraph 14 of the Framework was to apply, the conflict with the development plan, including harm to the NP process, and the harm to the countryside would significantly and demonstrably outweigh the benefits.
81. The proposal would introduce a major access on a narrow road, on a curve and directly opposite parked cars. Existing visibility is poor and there is conflict between vehicles, resulting in traffic having to reverse. There are also local reports of stationary vehicles being hit or written off. (*The LPA's highways witness informed me that the road accident records indicate that this section of the B4005 has a good road safety record.*) The LPA objects to the principle of an access at this section of the B4005.
82. The proposed access would cause distraction and confusion. The bell mouth entrance would provide an inappropriate passing place along this section of the B4005. It would also be a danger to pedestrians as the central hatching would be over-run by vehicles. Hatching that would be designed to separate and guide vehicles would be ignored by most drivers. The appellant's response to the RSA would not overcome these problems. (*The LPA's highways witness informed me that the RSA was adequate, not deficient and could be relied upon.*)
83. The access would be in the wrong place and would be unsafe. It would conflict with LP policies TR1(criterion a, bullet point 2, sub-criterion d) and TR2(b) and paragraph 32 of the Framework. Permission should therefore be withheld regardless of any other merits. (*The LPA's highways witness informed me that*

he had not assessed whether the impact would be severe in the context of paragraph 32 of the Framework.)

Case for Wroughton Parish Council (*Document 8 , letter dated 7 July 2016 in red folder and comments attached to the Council's Appeal Questionnaire*)

84. In summary, the NP has been through independent examination, was the subject of a Strategic Environmental Assessment and was found to be sound. At the referendum 87.3% of the electors voted in favour of the Plan and there was a 40% turnout. This is one of the highest turnouts for a neighbourhood plan. The Plan was made in July 2016.
85. The Plan was developed by the Parish Council working with other village organisations and residents over a period of nearly three years. It allocates 160 dwellings mostly on brownfield land and is likely to deliver a greater number of units. In this regard, permission has already been granted for windfall schemes, including 100 dwellings on appeal at Berkeley Farm.
86. The appeal site was considered and rejected during the NP process. If neighbourhood plans are to maintain credibility it is important that they are given considerable weight in the decision making process. This was recognised by the WMS. This confirms that where an application conflicts with a NP permission should not normally be granted. All the conditions of the WMS are met and the local community should be supported by giving considerable weight to the NP.
87. The proposal would be contrary to the provisions of the LP, the NP and the Strategic Housing Land Availability Assessment 2013. It would create a precedent for further development on greenfield sites outside the settlement boundary. There are also objections regarding the proposed access, flood risk and archaeology. The provision of affordable housing was always a benefit but, in this instance, it could be better provided elsewhere.

The Case for Cllr B Ford (*Document 9*)

88. In summary, Wroughton has experienced significant growth over the last ten years. This has put severe strain on local services, especially the doctors' surgery. WPC and local councillors have spent huge amounts of time and effort producing the NP. This is the first one in Swindon and was one of the best supported plans in the country. It is clear that the people of Wroughton do not want this development.
89. Very many minor accidents occur along Marlborough Road. The proposed development would increase the risk of accidents and could result in major or fatal accidents. The pavements are very narrow and if you increase the widths there would be severe problems on the roads. The site is within an area of natural springs and until recently a watercress bed was adjacent to the site.

The Case for Mrs A Woodhead (*Document 10*)

90. In summary, the local community has done all that has been asked of it by the Government with regards to shaping the future provision for new housing in the village. The NP provides for adequate sites to fulfil Wroughton's quota for housing. This is a robust and well supported NP. When the appeal was allowed for the Berkeley Farm development the Plan had not been made. The local

community should not be punished and prospective developers rewarded when the local community has followed the rules.

91. There are also serious concerns regarding road safety and congestion. Lorries regularly mount the kerbs and wing mirrors overhang the pavement. There have been numerous accidents and near misses along this busy road. The proposal will only exacerbate this situation.

The Case for Cllr C Martyn (*Document 11*)

92. In summary, there was considerable local involvement and support for the NP. This democratic process gave the local community a voice to be heard. The local community has planned its future as required by the Government. This should not be ignored or sidelined. The local community is not against development but believes this should take place on sites allocated through the NP process. The NP allocates sufficient suitable sites for housing. The appeal site is not one of them.
93. The water table is high in this part of the village and there are concerns regarding surface water drainage. Marlborough Road is also very narrow and in 2015 there were two accidents involving drivers losing control of their vehicles. It is used as a diversion route when the M4 is closed. The proposal would increase congestion and the risk of accidents. It would also reduce pedestrian safety along the narrow footways as vehicles attempt to pass one another.

The Case for Cllr Crabbe

94. In summary, on average six houses/day have been built in Swindon since 1948. The Council accepts the need to build houses but this is the wrong site to develop. Several residents have had cars written off by vehicles hitting them at the bottom of this hill. Drivers are going too fast. The highway reason for refusal should prevail. The appeal site also lies along a HGV test route and is used by learner drivers practising for their HGV test. The land conditions are also unsuitable as the site adjoins former watercress beds. There have been a number of incidents of flooding in this part of the village.

Written Representations

95. At appeal stage approximately 40 representations were made. (*These are contained within the red folder on the file.*) The planning officer's report to committee states that at application stage 81 letters of objection were received by the LPA, together with a further 398 'pre-printed' objection letters. Paragraph 13 of that report summarises the issues that have been raised in the written representations. These include concerns regarding access and highway safety, the loss of greenfield land, conflict with the LP and NP, the impact on local services and flood risk. (*A copy of the officer's report is included within the Council's Appeal Questionnaire.*)

Section 106 Planning Obligations (*Document 25*)

96. A completed undertaking (agreement) under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. This includes provision for 30% affordable housing the site, a locally equipped area of play and off-site contributions towards allotments (£51,663.50) and outdoor sports facilities (£45,245.48) in the parish of Wroughton. Although the appellant is willing to pay these off-site financial contributions it does not consider them

necessary. Document 20 is the LPA's justification for the planning obligations. The LPA also relies on Documents 21 and 22 to support its argument on the need for these contributions.

97. At the Inquiry, the LPA informed me that the off-site outdoor sports facility contribution was intended to address the 'under standard' provision at Boness Road, Maunsell Way and Maunsell Way Basketball Court and those improvements identified in the Design and Access Statement that accompanied an application to undertake works to the Maunsell Way Playing Fields. The calculation for this contribution is set out on page 1 of Document 21.
98. In respect of the off-site allotment contribution, I was informed that at present there are 115 plots in Wroughton of which 15 were vacant. The LPA stated that there was much demand for plots in Wroughton and the proposed development would generate a demand for 6 plots. The calculation for this contribution is set out on page 2 of Document 21.
99. I was informed by the LPA that none of the obligations would exceed the five obligation limit to which Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL) apply. The appellant informed me that it did not have any evidence to the contrary.
100. Those acting on behalf of the appellant informed me that with the exception of the off-site financial contributions this section 106 agreement accorded with the provisions of paragraph 204 of the Framework and Regulation 122 of the CIL. The LPA argued that all the obligations accorded with the Framework and CIL.

Suggested Planning Conditions (*Document 19*)

101. The suggested planning conditions were discussed at the Inquiry. The condition numbers below relate to those set out in the list provided by the LPA. (There is no condition 24.) The following paragraphs relate to those conditions in dispute between the main parties and the matters I raised at the Inquiry.
102. Conditions 1 and 3. The LPA contends that the development should begin within 12 months of approving the last of the reserved matters to ensure the prompt delivery of housing from this site. The appellant has suggested a period of 2 years. The LPA also suggested that application for the approval of reserved matters should be before the expiration of 18 months. The appellant argued for a three year period. Both main parties informed me that they would have no objection if these conditions incorporated the 'standard' time limits.
103. Condition 4. The appellant contends that it is unnecessary to specify the accompanying documents as part of an 'approved drawings' condition. In response, the LPA informed me that it was content for these not to be specified.
104. Conditions 5, 14, 16, 18, 19. Both main parties agreed that these were unnecessary as the details could be addressed at reserved matters stage.
105. Condition 6. The main parties agreed that elements of this condition could be dealt with at reserved matters stage. It was also agreed that there was a need to protect trees and hedgerows within the site during the construction phase, possibly combining this with condition 7, and that it would be desirable to specify that the protected trees within the site should be retained.

106. Condition 8. Both main parties informed me that this condition was unnecessary and should be deleted from the list.
107. Condition 10. The main parties agreed that it would be inappropriate to refer to other consents or orders in a planning condition.
108. Condition 11. It was agreed that for the purposes of a planning permission the details of the off-site highway improvement works that had been submitted were adequate. Any additional details could be sought under the highways legislation.
109. Conditions 12 and 13. To ensure the dwellings were served by adequate roads within the site and space was available for the parking and turning of vehicles it was agreed that elements of these conditions could be combined.
110. Condition 15. The main parties informed me that this duplicated condition 12.
111. Condition 20. It was agreed that if the Secretary of State considered it necessary a Construction Method Statement could include a requirement to provide a vehicle banksman during the construction phase to direct HGV traffic through the site access. This would reduce the risk of congestion during construction works.
112. Condition 22. In the interests of biodiversity, it was agreed that it would be necessary to require the development to be undertaken in accordance with the recommendations of an updated Ecological Appraisal.
113. Condition 23. It was agreed that this conditions could be merged with other suggested conditions.
114. Conditions 28 and 29. I was informed that these conditions would not duplicate any other regulations and that the request for details of fire hydrants had been made by those with responsibility for providing fire safety services (CD43).
115. The main parties informed me that if the SoS considered it necessary a condition could be attached requiring a change in the surface treatment on the approach to the site access as recommended in the appellant's Stage 1 Road Safety Audit. This would assist in safeguarding highway safety.
116. Where the main parties agreed on the need for a condition I was informed that such conditions accorded with the provisions of paragraph 206 of the Framework.

(The next paragraph in this report is numbered 118)

Inspector's Conclusions

The numbers in brackets [] below refer to preceding paragraphs in this report.

Preliminary Matters

118. The amended plans, refs. 65002-TA-003 Rev C and 65002-TA-004 Rev B, do not change the size or scale of the proposed development and do not involve repositioning the proposed access. They amount to minor changes that have been in the public domain for a considerable period of time, including the period between the LPA's decision to refuse permission and the submission of the appeal. The LPA has considered the amendments in reviewing its case and in preparing its evidence. WPC and other interested parties that appeared at the Inquiry also confirmed that they were aware of the revisions. [5-7, 11, 33]
119. Having regard to the need for efficiency in the planning system and the Wheatcroft principles¹, no party would be likely to be prejudiced if the appeal was determined on the basis of the access details / highway works shown on the amended plans. If the SoS was to disagree and find that the appeal should be determined on the basis of the access details to which the LPA's RfR relate (i.e. plan refs. 65002-TA-003 and 65002-TA-004 in CD7) the conditions in *italics* in the attached Annex could be included as part of a permission if the appeal was to succeed. [7]
120. The interpretation of "access" within the Town and Country Planning (Development Management Procedure) (England) Order 2015² means the accessibility to and within the site. In this instance, no concerns have been raised regarding the absence of information (illustrative or otherwise) in which to assess the highway implications or accessibility of the proposed development. I therefore concur with both main parties that the means of accessibility within the site could be addressed by way of a planning condition and / or the layout details which have been reserved for subsequent consideration. [8]

Main Issues

121. There are two main issues. Firstly, whether three or more years supply of housing exists within the Borough, and if not, whether any adverse impacts of the proposed development, having particular regard to the LPA's strategy for housing growth and the loss of a greenfield site would significantly and demonstrably outweigh the benefits of the proposal. Secondly, whether the proposal would compromise highway safety interests along Marlborough Road, having particular regard to the proposed junction arrangement.

Planning Policy

122. The most relevant development plan policies to the determination of this appeal are: LP policies SD1 (sustainable development principles), SD2, SD3 (managing development), HA2 (affordable housing), EN5, EN10 (historic environment), TR2 (transport and development), RA2 (Wroughton); and NP policies RH1 (affordable housing), RH3 (windfall sites) and RH4 (access arrangements). [21, 22, 23]

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

² SI 2015 No.595 Part 1 2(1)

123. Amongst other things, the LPA relies on LP policy TR1 (sustainable transport networks). I share the appellant's scepticism about the relevance of this policy which involves the use of planning and transport powers to secure strategic objectives. It is not determinative to the outcome of this appeal. [22, 66, 83]
124. As the LPA is unable to demonstrate 5 years HLS, having regard to the provisions of paragraph 49 of the Framework, LP policies SD2 and RA2, which are relevant policies for the supply of housing, are out-of-date. The LP Policies Map, insofar as it relates to these policies and defines a settlement boundary for Wroughton, is also out-of-date. Such policies must not be ignored or given no weight. However, given the extent of the shortfall in HLS, these policies have only limited weight in determining this appeal. [45, 54, 80]
125. Notwithstanding the Judicial Review Pre-Action Protocol letter sent to the SoS, the WMS, like the Framework, can be given considerable weight. The AONB Board is required to produce a MP. This Plan has been through a process of public consultation and can be given moderate weight. Moderate weight can also be afforded to the WCAP and the SPG. [25, 27, 28, 29]

First Main Issue

Housing Land Supply

126. I concur with the appellant that to allow the backlog to be dealt with effectively in the first five years the 20% buffer should be applied to the requirement and the shortfall. When this is undertaken there is less than 3 years HLS. Even if the buffer was not to be applied in this way, on the LPA's claimed supply, there is only a very small 'headroom' and margin for error. [44, 46, 48, 56]
127. Although the PPG allows C2 accommodation to be included as part of HLS, in this instance, there is no evidence to demonstrate C2 provision is clearly set out in the LP. Notwithstanding how the evidence was presented at the Inquiry, if 158 of these units are treated as C3 units, the 'headroom' on the LPA's own supply would be very much reduced. [26, 48, 57, 76]
128. To avoid distortion, through the inclusion of post-April 2016 permissions, any assessment of HLS should be adjusted to allow for an increase in the requirement for the period over which such permissions have been counted. The LPA has not adjusted the requirement accordingly and its approach is inconsistent with Government guidance for assessing HLS. I concur with the appellant that 454 units should be discounted from the LPA's claimed supply. [57, 77]
129. Footnote 9 of the Framework states that, to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on site within five years and in particular that development of the site is viable. Whilst the LPA's officers have identified proposals where they do not perceive there to be a policy objection, interested parties and/or Members could disagree. It is very far from certain that the quantum of housing predicted by the LPA to come forward from live applications would be delivered. Moreover, there is no cogent evidence to demonstrate that development of these sites is viable. This source of supply also runs a risk of double-counting with the claimed windfall allowance. The

claimed 547 units should also be discounted from the calculation of HLS. [24, 57, 78]

130. There have clearly been delays in the delivery of housing on the strategic sites. This is in no small part due to issues regarding the provision of necessary infrastructure. However, the LPA has considerable experience of delivering such housing and both it and its partners are committed to ensuring that necessary supporting infrastructure is provided in a timely manner. Government funding has also been secured to assist in bringing about improvement works to junction 15 of the M4. On balance, the evidence is more supportive of the LPA's predictions for the delivery of housing from the strategic sites. [58, 72]
131. I find that the LPA has less than 2.5 years HLS. Even if the 20% buffer was not applied to the backlog the LPA would still have a HLS that is significantly below 3 years. Considerable weight should be given the extent of the shortfall in HLS. The lack of 3 years HLS also has the effect, in the context of the WMS, of rendering the relevant NP policies for the supply of housing (RH3 and RH6) and the NP settlement boundary out-of-date. Paragraph 14 of the Framework is engaged. [24, 25, 55, 74]

Benefits

132. The proposed development would provide benefits, not least the provision of a significant number of affordable dwellings. These new homes would help meet the shortfall in affordable housing within the Borough and secure a mixed and socially integrated community, as recognised within the supporting text to LP policy HA2. The provision of affordable homes in Wroughton would also accord with NP policy RH1. This can be given considerable weight in the planning balance. [53, 79, 87]
133. Moderate weight can be given to the benefits of increasing the supply of market housing on the site and to the increase in choice and range of housing. The support for the construction industry and to facilities in Wroughton can be given limited weight. However, there is nothing to demonstrate that monies derived from the New Homes Bonus or CIL would be used to address the impacts of the appeal scheme. Very little, if any, weight should be given to these claimed benefits. [52, 53]

Strategy for Housing Growth

134. The proposed development of this part of the countryside, which is not within a settlement boundary or on land that is allocated or identified for housing within the development plan, would be contrary to the above noted LP and NP policies for the supply of housing. However, these recently adopted policies were incorporated into the development plan on the basis that the LPA was able to demonstrate 5 years HLS. As I have found above, this is no longer the case and there is considerably less than 3 years HLS. Given the extent of the shortfall in HLS within the Borough these policies should be given only limited weight. [22, 23, 54, 80]
135. LP policies SD2 and RA2 and NP policies RH3 and RH6 form part of the LPA's Strategy for housing growth. Conflict with these policies suggests that the proposal would be at odds with the Strategy. However, the Strategy identifies Wroughton as one of two settlements that are capable of accommodating a

higher level of growth than other rural settlements within the Borough. It does not contain a 'ceiling' on the amount of new housing, including any cap for Wroughton. [59, 60, 73]

136. This does not mean that Wroughton should provide for all the housing which cannot be delivered at Swindon. Nevertheless, it does not preclude a further contribution at Wroughton in fulfilling its role as a 'higher level' settlement and an accessible location for new housing. [20, 47, 53, 60, 73]
137. The appeal scheme would, in combination with the NP allocations and existing permissions, be in excess of the approximate number of new dwellings provided for at Wroughton under LP policy SD2. It would also far exceed the expectations of the local community as contained within the NP. However, the scale of the proposal would be proportional to the size and function of the settlement and it would not prevent brownfield land coming forward for development elsewhere in the Borough. The rapid review of the Strategy for housing growth that was expected by the LP Inspector and which is embodied within policy SD2 does not appear to have been completed. [22, 23, 69, 70, 73]
138. Given the above and the HLS situation, the proposal would accord with the broad aim of the Strategy which is to deliver new homes at accessible locations whilst protecting the most important assets. If the conflict with the policies for the supply of housing renders the proposal in breach of the Strategy, the scale of housing would not be so significant as to undermine the spatial distribution of housing in the development plan or lead to an unsustainable level of growth at Wroughton. [60, 73]

Loss of a Greenfield Site

139. The proposal would relate well to existing development. The low lying nature of the site and boundary screening, in the form of neighbouring buildings and woodland, would limit the visual impact of the appeal scheme. The TPO trees within the site would be retained and there would be no harmful loss of any distinctive or important features of the local landscape. The development would not disrupt or intrude into any important public views, including those to and from the AONB. Having regard to the duty in the CRoW, the proposal would not harm the special qualities of this designated landscape or be at odds with the objective of conserving and enhancing the natural beauty of the AONB. There would be no conflict with the MP. [6, 14, 16, 17, 19, 28, 30, 38, 49, 51]
140. The development would be a considerable distance from the northern edge of the village and would not bring about settlement coalescence. Wroughton would retain its independent identity from Swindon. The loss of this greenfield site would not have any significant effect upon the countryside setting of the village or the qualities of the Wroughton Vale LCA. There would be no harm to a 'valued landscape' and only a very limited adverse impact upon the character and appearance of the area. The proposal would accord with the provisions of LP policy EN5 and the SPG. [22, 24, 27, 50, 95]

Planning Balance / Conclusion on First Main Issue

141. I have found that there is less than three years supply of housing within the Borough. Any loss of countryside is likely to have some adverse impact and the LPA's Strategy for housing growth involves releasing such land for development.

The loss of this greenfield site would not significantly and demonstrably outweigh the benefits of the proposal. Whilst there would be conflict with development plan policies for the supply of housing, given the HLS situation, these are out-of-date and have limited weight. The proposal would accord with LP policy SD3.

142. I have also found that the proposal would accord with the provisions of the development plan and SPG which are aimed at protecting landscape character. No important assets would be harmed and the broad aim of the Strategy would not be offended. Even if the Strategy was breached, the extent of the shortfall in HLS, the benefits to be derived from the appeal scheme and the compliance with LP policy HA2 and NP policy RH1, weigh heavily in favour of an approval.
143. Planning should be plan-led. WPC and local residents, who have put considerable resources into producing the NP, would undoubtedly feel aggrieved and upset if a decision was taken at variance with the provisions of this Plan. This would result in some conflict with the social dimension of sustainable development. The Government attaches considerable importance to the NP process and planning permission should not normally be granted where conflict would arise with such a Plan. [24, 25, 61, 69-70, 80, 84-86, 88, 90, 92, 95]
144. However, the Government also attaches importance to keeping plans up-to-date and to providing a supply of housing to meet the needs of present and future generations. The extent of the shortfall in HLS within the Borough, the benefits of the appeal scheme and the compliance with other development plan policies, including those for protecting the environment, are compelling grounds for not determining the appeal in accordance with the out-of-date LP and NP policies for the supply of housing. The provision of housing to meet the needs of society in accessible locations satisfies the social dimension to sustainable development. Wider public confidence in the planning system could be undermined where delays in delivering the planned supply of homes at important regional centres like Swindon frustrate the housing needs of society.
145. The proposal would contribute to the achievement of sustainable development and would accord with the Framework when read as a whole and LP policy SD1. In this instance, the weight of other material considerations in support of the proposal justifies granting planning permission contrary to development plan policies SD2, RA2, RH3 and RH6.

Second Main Issue

146. Any new access and additional traffic along the highway network could increase the risk of an accident. In this instance, the proposed access would be onto a section of the B4005 that is used as an HGV test route and where cars park on the opposite side of the carriageway. There is anecdotal evidence to indicate numerous instances of damage to car wing mirrors/minor scrapes, some parked cars being written off due to collision and lorries mounting the narrow footway. However, vehicles moving along this section of the B4005 are generally observing the 30 mph speed restriction and the recorded accident data indicate that this section of the highway has a good road safety record. There is no evidence of accidents arising in respect of the use of neighbouring driveways which have operated safely for many years. [65, 66, 81, 87, 89, 91, 93, 94, 95]
147. As I noted during my site visit, the existing on-street parking on the opposite side of the road to the proposed access has the effect of slowing traffic speeds

from vehicles approaching from the south. These parked cars also effectively restrict this section of the carriageway to single width. I understand that on occasion this has resulted in some reversing along this section of the B4005 and note that it has also caused congestion if larger vehicles meet and drivers fail to successfully negotiate with oncoming traffic. Whilst not ideal, such situations are not uncommon in historic settlements such as Wroughton. Furthermore, this existing situation has not caused the highway authority to propose or undertake any alterations to this section of the B4005, including changes to on-street parking or restrictions on HGV traffic. [20, 65, 81, 91, 93, 94, 95]

148. The proposed access has been designed in consultation with the LPA. The amended plans also largely take account of the recommendations contained within the RSA. (A planning condition could be attached to an approval requiring the recommended change to the surface treatment on the approach to the junction. This would assist in securing a safe access.) The RSA can be relied upon for the purposes of assessing the road safety implications of the appeal scheme. [64, 82, 115]
149. There would be adequate visibility for drivers at the site access when emerging onto the B4005. Drivers would be able to safely negotiate the junction and, in all likelihood, join the single flow of traffic where it passes alongside the parked cars on the western side of the carriageway. Drawings submitted in support of the appeal also demonstrate that there would be adequate forward visibility for vehicles approaching the new access. Whilst the vehicle track plot drawings indicate that the proposed carriageway hatching at this junction would, in part, be crossed, especially by larger vehicles entering and leaving the site, there is no cogent evidence to demonstrate that this would result in an unsafe access or compromise highway safety. Road hatching exists elsewhere in Wroughton and there is no evidence to indicate it does not operate successfully. Evidence from elsewhere also suggests that such markings do not diminish road safety. [20, 32, 65, 67, 81]
150. The proposed junction would not be so wide and the flow of traffic would not be so great that pedestrians would seek to cross in two movements and remain in the hatched zone whilst drivers negotiated the junction. Although some drivers travelling southbound along the B4005 could use the bell mouth as an informal passing bay there would be a clear line of sight between any vehicles approaching from within the site and those moving along on the B4005. In the event of this occurring there is unlikely to be any significant risk of vehicles colliding. [6, 32, 40, 64-67, 82]

Conclusion on the Second Main Issue

151. The proposed development would provide a safe and suitable access to the site and would be unlikely to compromise highway safety interests along Marlborough Road. It would accord with the provisions of LP policy TR2, NP policy RH4 and the highway / transport provisions of the Framework. [40, 64-67]
152. If the appeal was not determined upon the basis of the amended plans, the risks to pedestrian and driver safety identified within the RSA would need to be addressed. Should the SoS find that this could not be dealt with by way of planning conditions then the identified risks along the B4005 would tip the balance against an approval on highway safety grounds. Irrespective of the

findings in respect of the first main issue, this would amount to a 'showstopper'. [7, 64, 81, 82]

Other Matters

153. The proposed pedestrian improvement / highway works would be very modest in scale and would have a limited impact upon the character and appearance of the WCA. These works would not significantly alter the character or layout of the historic streets and the materials to be used could be sympathetic to the appearance of this designated heritage asset. The proposed works would not affect any important view as identified in the WCAP or detract from the special qualities of the area. Mindful of the duty regarding conservation areas, the proposal would preserve the character and appearance of the WCA. It would accord with LP policy EN10 and Government objectives for the historic environment as set out in the Framework. [13, 34, 51]
154. Neither the LPA, nor those with responsibility for land drainage matters or infrastructure providers raised objections regarding flood risk or the adequacy of existing services to accommodate the proposed development. There is no technical or other cogent evidence to support the concerns of some interested parties regarding these matters. Planning conditions could be attached to a permission regarding drainage and water supplies. [52, 87, 89, 93, 94, 95]
155. I note the arguments regarding precedent and the findings of the SoS and some other Inspectors in appeal decisions elsewhere. Each case must however be determined on its own merits. In these other appeals there were material differences in HLS and the development plan. The WMS has also been published since these other appeals were determined. (Following the Berkeley Farm appeal decision the HLS situation in the Borough has deteriorated and the WMS has been issued.) These other decisions do not set a precedent that must be followed in determining the case now before the SoS. If this appeal was allowed the LPA would not be bound to approve any other applications at Wroughton in the event of other sites coming forward for development. [31, 62, 68, 79, 87]

Section 106 Planning Obligations – Document 25

156. I am not a lawyer and am unable to report on the legality of the agreement.
157. In making necessary provision to help address the shortfall in affordable housing provision within the Borough and to provide an appropriate tenure split, the agreement accords with the provisions of LP policy HA2 and NP policies RH1 and RH2. It satisfies the tests set out in paragraph 204 of the Framework and Regulations 122 and 123(3) of the CIL. It should be taken into account in determining the appeal. [99, 100]
158. To ensure occupiers of the proposed dwellings have adequate on-site open space provision, including a locally equipped area of play, and to secure the proper management of this open space, the S106 agreement includes necessary provision for meeting the recreational needs of incoming residents. This on-site obligation would also satisfy the tests set out in paragraph 204 of the Framework and Regulations 122 and 123(3) of the CIL. It should also be taken into account in determining the appeal. [99, 100]
159. Whilst occupiers of the proposed dwellings would increase the pressure on off-site outdoor sports facilities within Wroughton, such as those at Maunsell Way

Playing Fields and the allotments at Moormead Road, there is no cogent evidence to demonstrate that these facilities are inadequate to cater for the needs of incoming residents or that the scale of contributions sought by the LPA fairly and reasonably relates in scale and kind to the proposed development. Although the contributions would not exceed the 'five obligation' limit to which Regulation 123(3) of CIL applies they would not meet the tests of paragraph 204 of the Framework and Regulation 122 of CIL. They should not therefore be taken into account in determining the appeal. [96, 97, 98]

Planning Conditions

160. Conditions would be necessary requiring the submission of the reserved matters and the commencement of development. There is no exceptional reason to justify different time limits to those set out in section 92(2) of the Town and Country Planning Act 1990 (as amended). [102]
161. In the interests of certainty a condition would be necessary specifying the approved plans. It would not be necessary to identify the documents submitted in support of the application as part of a 'plans' condition. [103]
162. To ensure adequate means of accessibility within the site and provision for the parking and turning of vehicles, a condition would be necessary requiring such details to be submitted for approval and the works undertaken. [8, 109]
163. To safeguard the character and appearance of the area a condition would be necessary requiring the retention of those trees within the site that are the subject of the TPO, as well as measures for the protection of trees and hedgerows that are to be retained and the submission / approval of a Landscape Management Plan. [105]
164. A condition would be necessary to safeguard archaeological interests.
165. In the interests of highway safety conditions would be necessary that require: the site access and facilities for construction traffic to be provided from the outset; the off-site pedestrian infrastructure improvements to be undertaken before the occupation of the first dwelling; the provision of the of the visibility splay at the site entrance; the submission and approval of a construction method statement, including provision of a vehicle banksman; and a change in the surface treatment on the approach to the site access as recommended in the appellant's Stage 1 RSA. [111, 115]
166. To safeguard the living conditions of neighbouring residents a condition would be necessary controlling the hours of construction.
167. In the interests of biodiversity a condition would be necessary requiring the submission and approval of an updated ecological appraisal. It would also be necessary to require the development to be undertaken in accordance with any recommendations in an updated appraisal. [112]
168. A condition would be necessary to ensure that there was adequate water supply / existing supplies were not adversely affected. Separate conditions would also be necessary to ensure that there was adequate land drainage and no significant increase in flood risk.

169. To ensure inclusive design and access for all sections of society a condition would be necessary requiring a proportion of the buildings to comprise wheelchair accessible housing. [114]
170. In the interests of fire safety a condition would be necessary requiring details of fire hydrants throughout the site. [114]
171. Conditions to the above effect would accord with the provisions of paragraph 206 of the Framework. The other suggested conditions would be unnecessary. [103, 104, 106, 108, 110, 113, 116]

Overall Conclusion

172. Given my findings in respect of the two main issues and the other matters above, I conclude that the appeal should succeed.

Inspector's Recommendations

173. I recommend that the appeal should be determined on the basis of the amended access / highway details and that it should be allowed. Outline planning permission should be granted for the provision of up to 103 dwellings (101 net), including up to 30% affordable housing units, landscaping and a new access in accordance with the terms of application ref. S/OUT/15/0912/JABU, dated 3 June 2015, on land east of Marlborough Road, Wroughton, Swindon, Wiltshire, SN4 0RX. The permission should be granted subject to the schedule of planning conditions set out in the Annex below.
174. If the SoS is unable to determine the appeal on the basis of the amended plans and considers that conditions could not be attached to address highway matters, the appeal should be dismissed on the grounds that the proposed development would be likely to compromise highway safety interests along the B4005.

Neil Pope

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Harwood QC	Instructed by the Solicitor to Swindon Borough Council
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He called

Mr R Turner BSc (Hons), MSc, FIHE, CMILT, MCIHT, MSoRSA, AMRSGB, SIIRSM	Managing Director, BT Highways Consulting Limited
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Ms S Griffiths BSc (Hons), DipTP, MSc, MRTPI, MRICS	Director, RCA Regeneration Ltd
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Miss S Screen³ and Mrs J Busby⁴ gave evidence during the discussions in respect of the planning obligations and the suggested planning conditions

FOR THE APPELLANT:

Mr P Goatley of Counsel	Instructed by Hunter Page Planning LLP
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He called

Mr P Harris BA, Dip LA, CMLI	Director, MHP Design Limited
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Mr A K Jenkinson B.Eng (Hons), MCIHT	Director, Development Transport Planning Limited
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Mr C J Lewis DipTP, MRTPI	Associate, Hunter Page Planning
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INTERESTED PERSONS:

Cllr S Harcourt	Chairman, Wroughton Parish Council
Cllr B Ford	Member of Swindon Borough Council (SBC)
Mrs A Woodhead	Member of WPC but appeared as a local resident
Cllr C Martyn	Member of SBC but appeared as a local resident
Cllr Crabbe	Member of SBC

DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	Comparative Housing Supply Table
Document 2	Note on upgrade to M4 Junction 15
Document 3	Email trail Tadpole Garden Village

³ Section 106 and CIL Manager

⁴ Senior Planning Officer

Document 4	Extract from the PPG
Document 5	Section 106 Planning Agreement
Document 6	Opening Submissions on behalf of the appellant
Document 7	Opening Submissions on behalf of the LPA
Document 8	Cllr Harcourt's Statement
Document 9	Cllr Ford's Statement
Document 10	Mrs Woodhead's Statement/Notes
Document 11	Cllr Martyn's Statement/Notes
Document 12	Colour copy of plan in Appendix J of Mr Jenkinson's PoE
Document 13	Site plan Berkeley Farm planning appeal
Document 14	Amendments to paragraphs 3.45-3.46 of Mr Jenkinson's PoE
Document 15	Consultation response from the North Wessex Downs AONB Board in respect of previous similar application on the appeal site
Document 16	The WCAP
Document 17	Supplementary Note from Mr Harris in respect of AONB boundary
Document 18	The AONB MP
Document 19	Suggested planning conditions
Document 20	S106 Justification and CIL Compliance Statement
Document 21	The LPA's S106 off-site cost calculations
Document 22	Design and Access Statement – Maunsell Way Playing Fields
Document 23	Closing Submissions on behalf of the LPA
Document 24	Closing Submissions on behalf of the appellant
Document 25 (<i>submitted whilst the Inquiry was adjourned</i>)	Amended S106 Agreement

Core Documents List

	Planning application documents and plans	Author	Date
CD1	Application covering letter	Hunter Page Planning (HPP)	03/06/15
CD2	Application form	HPP	12/06/15
CD3	Site location drawing 13.043.101	HPP	June 2015
CD4	Planning design and access statement	HPP	June 2015
CD5	Ecological appraisal	AD Ecology Limited	08/05/15
CD6	Transport Assessment	Development Transport Planning	June 2015
CD7	Transport Assessment figures and drawings	Development Transport Planning	June 2015
CD8 to	Core Documents removed as they are		

CD10	contained within CD7		
CD11	Archaeological assessment	Foundations Archaeology	May 2015
CD12	Archaeological evaluation	Foundations Archaeology	April 2015
CD13	Landscape appraisal baseline report (Also repeated at CD74)	MHP Design	June 2015
CD14	Flood Risk Assessment	Enzygo Limited	Dec 2013
CD15	Ecological appraisal updated	AD Ecology Limited	07/09/15
CD16	Drawing 65002 LAND-001 rev B proposed access and land ownership	Development Transport Planning	Oct 2015
CD17	Drawing 65002 TRK 009 rev A Devizes road existing access turning movements	Development Transport Planning	Oct 2015
CD18	Drawing 65002 TRK 012 rev A Priors Hill Turning Movements (refuse vehicles)	Development Transport Planning	Oct 2015
CD19	Core Document removed as is a duplicate of CD18		
CD20	Drawing 65002 TRK 017 The Pitchens with Marlborough Road turning movements	Development Transport Planning	Oct 2015
CD21	Drawing 65002 VIS 001 intervisibility	Development Transport Planning	Oct 2015
CD22	ATC summary	Development Transport Planning	Oct 2015
CD23	Designer's response to stage 1 road safety audit	Development Transport Planning	Oct 2015
CD24	Parking survey results (ref 17812)	Development Transport Planning	Oct 2016
CD25	Stage 1 Road safety audit	Development Transport Planning	Sept 2015
CD26 to CD31	Core Documents removed as they are contained within CD25		
CD32	Response to comments raised by Swindon Borough Council Highways Officers' Memo dated	Development Transport Planning	11/08/15
CD33	Core Document removed as it is contained within the SoCG		
CD34	Thames Water correspondence (letter and	Hannick	26/04/14

	email)	Homes/HPP	and 12/12/16
CD35	Sketch plan accompanying Thames Water email 12/12/16	Hannick Homes/HPP	12/12/16
	Consultation responses		
CD36	Landscape Officer	SBC	06/07/15
CD37	Forward Planning Officer	SBC	21/08/15
CD38	Transport Development Management (Highways) Officer (first response)	SBC	11/08/15
CD39	Transport Development Management (Highways) Officer (second response)	SBC	18/09/15
CD40	Wroughton Parish Council (first response)	SBC	26/06/15
CD41	Wroughton Parish Council (second response)	SBC	24/07/15
CD42	Thames Water	SBC	24/07/15
CD43	Wiltshire Fire and Rescue Service	SBC	26/06/15
CD44	Housing Enabling Officer	SBC	26/06/15
CD45	Natural England (FW previous 21/01/14)	SBC	29/06/15
CD46	Campaign to Protect Rural England (North Wiltshire and Swindon)	SBC	06/07/15
CD47	Archaeological consultant (first response)	SBC	29/06/15
CD48	Archaeological consultant (second response)	SBC	16/07/16
CD49	Highways England	SBC	09/07/15
CD50	Environment Agency	SBC	21/07/15
CD51	NHS England	SBC	18/08/15
CD52	Drainage Officer	SBC	25/09/15
CD53	Landscape Officer (second response)	SBC	24/08/15
CD54	Conservation Officer	SBC	24/06/15
CD55	Drainage Officer (email)	SBC	12/12/16
	Officer committee report and decision		
CD56	Officer committee report	SBC	Oct 2015
CD57	Decision notice dated	SBC	Oct 2015
CD58	Letter corrected decision notice	SBC	June 2016
		SBC	
	Appeal decision core documents		
CD59	Swindon Borough Local Plan 2026	SBC	March 2015
CD60	Wroughton Neighbourhood Plan	SBC	April 2016
CD61	Wroughton Neighbourhood Plan Examiner's report	SBC	April 2016
CD62	Swindon Borough Local Plan; Inspector's report and modifications	SBC	Feb 2015
CD63	Housing Monitoring report 2016	SBC	April 2016

CD64	National Planning Policy Framework		2012
CD65	Swindon Borough SHLAA	SBC	2013
CD66	Community Infrastructure Levy Charging Schedule	SBC	March 2015
CD67	Swindon Borough Council Landscape Character SPG	SBC	2004
CD68	Swindon Residential Design Guide SPD	SBC	June 2016
CD69	Council's Statement of Case	SBC	14/07/16
CD70	Appellant's Statement of Case	HPP	March 2016
CD71	Laying the Foundations: A Housing Strategy for England	HM Government	November 2011
CD72	Fixing the Foundations: Creating a more prosperous nation	HM Treasury	July 2015
CD73	Manual for Streets	Department for Transport	2007
	Landscape matters		
CD74	Landscape appraisal baseline report (Also repeated at CD13)	MHP Design	June 2015
CD75	Appeal Decision: APP/C1625/A/13/2207324 Land off Bath Road, Leonard Stanley	Planning Inspectorate	21/7/2014
CD76	Appeal Ref: APP/P1615/W/15/3003662 Land North of Gloucester Road, Tutshill, Chepstow	Planning Inspectorate	14/1/2016
CD77	Guidelines for landscape and Visual Impact Assessment Third Edition (Landscape Institute and Institute of Environmental Management & Assessment)	Landscape Institute	
CD78	Approved Judgement Case CO/4082/2014 Stroud District Council v SoS and Gladman	Mr Justice Ouseley	6/2/2015
CD79	Approved Judgement Case CO/978/2016 Forest of Dean District Council v SoS and Gladman	Mr Justice Hickinbottom	4/10/2016
	Additional Docs		
CD80	Written Ministerial Statement 12 Dec 2016		12/12/16
CD81	Judicial Review Pre-Action Protocol Letter	Eversheds	30/12/16
CD82	The Council of the Borough of Swindon Tree Preservation Order (No 5 2016)	SBC	22/06/15

LIST OF ABBREVIATIONS USED IN THIS REPORT

AOD – Above Ordnance Datum

AONB – Area of Outstanding Natural Beauty

CD – Core Document

CIL - Community Infrastructure Levy Regulations 2010 (as amended)

CRoW – Countryside and Rights of Way Act 2000

EIA – Environmental Impact Assessment

HLS – Housing Land Supply

LP – Swindon Borough Local Plan 2026

LPA – Local Planning Authority

MP - North Wessex Downs Area of Outstanding Natural Beauty Management Plan
2014-2019

NP - Wroughton Neighbourhood Plan 2016-2026

OAN – Objectively Assessed Need

PoE – Proof of Evidence

PPG – Planning Practice Guidance

RfR – Reason for Refusal

RSA – Road Safety Audit

SoCG – Statement of Common Ground

SoS – Secretary of State

SPG - Landscape Character Areas Supplementary Planning Guidance

TA – Transport Assessment

The Framework – The National Planning Policy Framework

TPO – Tree Preservation Order

WCA – Wroughton Conservation Area

WCAP – Wroughton Conservation Area Appraisal and Management Plan

WMS – Written Ministerial Statement

WPC – Wroughton Parish Council

ANNEX – RECOMMENDED SCHEDULE OF PLANNING 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 begins and the development shall be carried out as approved.
2. Application for the approval of the reserved matters shall be submitted to the Local Planning Authority before the expiration of 3 years from the date of this permission.
3. The development hereby permitted shall begin no 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 drawings: 13.043.101 (site boundary plan), 65002-TA-003 Rev C (proposed access) and 65002-TA-004 Rev B (pedestrian infrastructure improvements).
5. No development shall commence until details of the means of accessibility within the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no dwelling shall be occupied until the roads, turning head(s), allocated private car parking and garage spaces for that dwelling, street lighting, drainage and footways that serve that dwelling has/have been completed to at least binder course and footways to surface course level.
6. The landscaping details required by condition 1 above shall include the retention of the group of beech trees within the site and the woodland along eastern boundary that are the subject of Tree Preservation Order No.5 2016, the means of protecting these trees and boundary hedgerows during the construction phase, the submission and approval of Landscape Management Plan and a timetable for undertaking the approved details. The development shall be undertaken in accordance with the approved details and any tree or shrub planted in accordance with the approved scheme / Plan which is removed, dies or becomes diseased within 5 years of planting shall be replaced by one of a similar size and species.
7. No development shall commence until: i) a written programme of archaeological investigation, which shall include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and ii) the programme of archaeological work has been carried out in accordance with the approved details.
8. No development or works other than the demolition of numbers 1 and 2 the Old Bakery and the creation of a construction compound and turning area for construction vehicles, shall be carried out until the access to the site has been constructed to at least base course in accordance with the details shown on drawing no. 65002-TA-003 Rev C.
9. Prior to the occupation of the first dwelling all of the pedestrian infrastructure improvement works shown on drawing number 65002-TA-004 Rev B shall be undertaken.

10. Before the access hereby permitted is first brought into use, the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 43m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 1.05m above the nearside carriageway level, and thereafter retained free of obstruction at all times.
11. No development shall commence or any works of site preparation until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) a temporary access to the site;
 - ii) the parking of vehicles of site operatives, construction traffic 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;
 - vi) construction traffic haul route and;
 - vii) the means of directing HGV traffic through the site access onto Marlborough Road by way of the use of a vehicle banksman or other alternative means of directing traffic through the site access.
12. Construction works associated with the development hereby permitted shall only take place between 0800 hours to 1800 hours on Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
13. No development shall take place until an updated Ecological Appraisal has been undertaken and submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with any recommendations contained within the approved updated Appraisal.
14. No development shall take place until impact studies of the existing water supply infrastructure including any requisite mitigation along with a timetable for its implementation have been submitted to and approved in writing by the Local Planning Authority. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. Any requisite mitigation shall be undertaken in accordance with the approved timetable.
15. Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by the Local Planning Authority. No discharge of foul water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed and these shall be fully implemented in accordance with the approved implementation timetable.
16. Development shall not begin until a surface water drainage scheme for the site, to deal with any on and off site flood risks arising from the proposed development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is completed. The scheme shall

include, but not be limited to:

- i) evidence that the proposed flows from the site would discharge at or below greenfield runoff rates, or as close as practical for any areas that have been previously developed;
- ii) evidence that SuDS Source Control measures to manage water quantity and maintain water quality have been implemented wherever possible and throughout the management train so the development is not reliant upon large attenuation features close to the points of discharge;
- iii) a detailed drainage plan showing the location of the proposed SuDS and drainage network with exceedance flow routes clearly identified;
- iv) adequate measures to ensure any identified groundwater issues would be managed safely on the site and would not increase the flood risk elsewhere;
- v) evidence that existing flood flow routes through the site have been maintained or where they would be affected, adequate measures to intercept and safely control flows through the site have been provided to ensure flood risk is not increased elsewhere;
- vi) details to demonstrate the SuDS Scheme has been designed in accordance with best practice guidance including the latest SuDS Manual C753;
- vii) data collection surveys of all on and off site drainage systems serving the proposed development and the vicinity of the proposed site access off Marlborough Road, including a report confirming their condition and any mitigation works required to ensure they would be adequate to serve the proposed development;
- viii) evidence that adequate measures would be implemented during construction to control pollution to the existing drainage systems and the groundwater;
- ix) details of how the scheme should be maintained and managed after completion;
- x) details to confirm that any drainage systems offered for adoption would be designed to Sewers for Adoption 7th Edition and/or SBC Standards;
- xi) detailed drainage calculations for all rainfall events up to and including the 1 in 100 year plus climate change event to demonstrate that all SuDS features and the drainage network could cater for the critical storm event for its lifetime; and
- xii) evidence relating to accepted outfalls from the site, particularly from any third party network owners.

- 17. Not less than 2% of the new dwellings constructed on the site pursuant to this permission shall provide wheelchair accessible housing. This requirement shall be implemented across the site and shall be provided in accordance with the technical specification for M4(3) as set out within National Planning Policy Guidance and in accordance with part M (2015 edition incorporating 2016 amendments).
- 18. No development above ground level shall take place until a scheme and specification for the provision and location of fire hydrants, has been submitted to and approved in writing by the Local Planning Authority. The development shall take place in accordance with the approved scheme.
- 19. No dwelling shall be occupied until the recommendation contained in the Stage One Road Safety Audit dated September 2015, to provide a change in the surface treatment on the approach to the site access, such as a granite

awareness strip, to increase awareness of the change in road layout has been provided.

The following conditions are recommended (as alternatives to conditions 4, 8, 9 and 19) if the SoS was to determine the appeal on the basis of the plans that were considered by the LPA when it determined the application. Such conditions would be required in the interests of highway safety along the B4005 and The Pitches.

- 4A. The development hereby permitted shall be carried out in accordance with the following drawings: 13.043.101 (site boundary plan), 65002-TA-003 (proposed access) and 65002-TA-004 (pedestrian infrastructure improvements).*
- 4B. Notwithstanding the details shown on the approved plans, no development shall begin until details of alterations to the proposed access into the site and the pedestrian infrastructure improvements, which take into account all of the recommendations contained within the Stage One Road Safety Audit dated September 2015, have been submitted to and approved in writing by the Local Planning Authority. The approved access arrangements and pedestrian infrastructure improvements shall be undertaken prior to the occupation of the first dwelling.*
- 8A. No development or works other than the demolition of numbers 1 and 2 the Old Bakery and the creation of a construction compound and turning area for construction vehicles, shall be carried out until the access to the site has been constructed to at least base course in accordance with the details approved under condition 4B.*
- 9A. Prior to the occupation of the first dwelling all of the pedestrian infrastructure improvement works approved under condition 4B shall be undertaken.*



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.