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## Appeal Decision

Inquiry held on 11-14 and 17-21 December 2018

Site visit made on 20 December 2018

**by Michael Boniface MSc MRTPI**

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

**Decision date: 11<sup>th</sup> February 2019**

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**Appeal Ref: APP/N4720/W/18/3200471**

**Land east of Scholes, Leeds**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Barratt David Wilson Homes (Yorkshire West) and Scholes Development Company Ltd against Leeds City Council.
  - The application Ref 17/08451/OT, is dated 22 December 2017.
  - The development proposed is circa 300 dwellings, GP practice and pharmacy, A1 convenience store, public greenspaces and associated infrastructure.
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### Decision

1. The appeal is dismissed and planning permission is refused.

### Preliminary Matters

2. Evidence was heard at the Inquiry in relation to two appeals, the other being APP/N4720/W/18/3198312 (Land to the south of Selby Road, Garforth). A conjoined Inquiry was held given the common issues between the schemes. However, I have considered each appeal on its own merits and a separate decision is issued for each.
3. The application is submitted in outline with detailed access proposals. Matters of appearance, landscaping, layout and scale are reserved for subsequent approval.
4. The Council did not make a formal decision on the application but subsequently determined that it would have refused planning permission for the following putative reasons:
  - i) The site is a Protected Area of Search under (saved) Policy N34 of the UDP Review. The site also constitutes safeguarded land for the purposes of the National Planning Policy Framework, paragraph 139. The release of this PAS site for housing would be contrary to Policy N34 and also paragraph 139(d) (having regard also to sub-paragraph (c)). Planning permission for the permanent development of safeguarded land should only be granted following an update to the Local Plan, which proposes the development.
  - ii) Development of the appeal site would be premature, contrary to paragraphs 49 and 50 of the NPPF. The Development, taken alone or cumulatively, would mean that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location and phasing of new housing and/or employment development that are central to the emerging designation of safeguarded land under the (very advanced)

Submission Draft/Site Allocations Plan (SAP). The proposal would have a prejudicial effect on decision taking with regards to directing new development through the SAP and community involvement in the plan-making process.

- iii) The proposal fails to demonstrate that an acceptable level of accessibility can be achieved for the scale of development proposed as the appeal site does not meet the accessibility standards for housing. Given the scale of development proposed in relation to the scale of the settlement being within the lower end of the settlement hierarchy and lack of accessibility to a range of facilities and services, it is considered that the appeal proposals do not represent a sustainable form of development. As such, it is considered that the proposal is contrary to Policies SP1, H2 and T2 of the Core Strategy and the NPPF concerned with matters including the promotion of adequate and safe walking and cycling opportunities, the promotion of locations that offer genuine public transport opportunities, satisfactorily minimising the length of journeys to employment facilities and to adequate local services and facilities, and achieving growth within locations that are or can be made sustainable, pursuant to paragraphs 102-104 and 108-110 of the NPPF.
  - iv) The Local Planning Authority considers that the applicant has so far failed to demonstrate that the local highway infrastructure, including the wider network which would be affected by the additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic, cycle and pedestrian movements. The proposed development would have an unacceptable impact on highway safety and would have a severe residual cumulative impact on the road network. This is contrary to Core Strategy Policy T2, H2 and saved Policy GP5 of the Unitary Development Plan (Review 2006) and to Part 9 of the NPPF paragraphs 108-110. It is also contrary to guidance contained within the Street Design Guide and Mobility (Department for Transport 2002) that requires combined development not to create or materially add to problems of safety, environment or efficiency on the highway network.
  - v) In the absence of a signed Section 106 agreement the proposed development so far fails to provide necessary contributions for the provision of affordable housing, education, travel planning and off site highway works, contrary to Policies H5, and ID2 of the Leeds Core Strategy and the NPPF. The Council anticipates that a Section 106 agreement covering these matters could be provided in the event of an appeal but at present reserves the right to contest these matters should the Section 106 agreement not be completed or cover all the requirements satisfactorily.
5. During the course of the appeal, the Council and the appellant maintained dialogue so that, by the time of the Inquiry, the matters in dispute between the parties had significantly reduced.
  6. It was agreed for the purposes of this appeal that the Council could demonstrate a 4.3 year housing land supply<sup>1</sup>. As such, no evidence was presented in relation to this matter and the appeal proceeded on the basis of this agreed position.
  7. In response to the Council's highway related concerns, amended plans were produced during the course of the appeal which altered the proposed highway accesses and necessitated a minor revision of the site area shown on the location plan. All parties had an opportunity to consider the revisions and

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<sup>1</sup> Statement of Common Ground on Housing Land Supply and HLS Supplementary SoCG

having been satisfied that the amendments would not materially alter the proposal such as to cause prejudice to any party, I accepted the amended plans and the appeal proceeded on that basis.

8. Additional evidence was produced in respect of highway matters which resolved the Council's concerns in relation to highway capacity and safety (as expressed in putative reason for refusal 4), with the exception of a safety concern at the junction between Rakehill Road and Station Road<sup>2</sup>.
9. Before the Inquiry closed, two S106 agreements were completed to secure a range of planning obligations in the event that planning permission is granted. This overcame putative reason for refusal 5. Despite this, it became clear during the Inquiry that the appellant did not consider all of the financial contributions met the tests set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010. I will return to this matter later in this decision.

### **Main Issues**

10. In light of the above, the main issues are:
  - (a) The extent to which the proposal would accord with the development plan and other planning policies;
  - (b) Whether the development would be premature and prejudicial to plan-making;
  - (c) Whether the highway junction between Rakehill Road and Station Road would operate safely following the development;
  - (d) Whether the development would be suitably located in terms of accessibility to services and facilities.

### **Reasons**

#### *Policy*

11. The development plan, so far as it is relevant to this appeal, comprises the Leeds Core Strategy (2014) (CS); saved policies of the Leeds Unitary Development Plan Review (2006) (UDPR); and the Barwick in Elmet and Scholes Neighbourhood Plan (2017) (NP).
12. The appeal site was first designated as a Protected Area of Search (PAS) in the Leeds Unitary Development Plan (2001) (UDP), having previously been allocated as Green Belt. The PAS designation was carried forward in the UDPR. Policy N34 applies in such areas and development will be restricted to that which is necessary for the operation of the existing uses together with such temporary uses as would not prejudice the possibility of long term development.
13. The purpose of Policy N34 was to provide a reserve of land for longer term development beyond the plan period. The accompanying text states that it is not envisaged that there will be a need to use any such safeguarded land during the Review period. However, that period came to an end in March 2016.

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<sup>2</sup> See Highways Statement of Common Ground (November 2018)

14. The policy is 'saved' and retains its status as part of the development plan despite the plan period having ended. Furthermore, the principle of safeguarding land outside of the Green Belt to meet longer-term development needs is consistent with paragraph 139 (c) and (d) of the National Planning Policy Framework (the Framework).
15. That said, it is highly pertinent that the plan period has ended and that housing needs are not being met, nor is there currently an adopted plan in place that identifies sites for development in order to meet identified needs. A sizeable shortfall of housing land exists and this should be made up as quickly as possible to ensure that the Framework's objective to significantly boost the supply of housing is met. The lack of a sufficient housing land supply renders Policy N34 out of date according to the Framework. This is a significant and material change in circumstances since the Secretary of State came to a contrary conclusion in respect of an appeal at Tingley<sup>3</sup> in the context of the former iteration of the Framework.
16. This is not simply a notional title as the Council argues, it is a characterisation to be applied to policies which are most important for determining the application. It is relevant where policies are inappropriately restricting the delivery of housing. The weight to be attached to policy conflicts in these circumstances is a matter for the decision maker.
17. The PAS land was safeguarded to meet future development needs. In my view, the current situation at a time beyond the relevant plan period, where housing needs are not being met, and where there is no alternative plan in place to accommodate needs, is the time to make use of such land. After all, the PAS land has been identified as suitable for development in principle and specifically removed from the Green Belt accordingly. To restrict much needed development due to a conflict with Policy N34 would serve no useful or logical purpose, it would simply frustrate development. For this reason, I attach very limited weight to the conflict with Policy N34 in this case.
18. The Council suggests that the appeal should fail having regard to paragraph 139(d) of the Framework alone. However, this is not a restrictive policy of the Framework contained in the closed list footnoted to paragraph 11 and which seeks to protect areas or assets of importance. Furthermore, paragraph 139 is clearly framed with reference to plan-making as opposed to decision-taking. It is nonetheless a material consideration to which I have had regard in reaching the above conclusion. For the reasons I have set out, it would not be appropriate to withhold planning permission in this case pending an update to a plan. The Council's point is, in essence, a point about prematurity, a matter that I will come to later in this decision.
19. It is argued that the proposal is contrary to the spatial strategy, including Policy SP1 of the CS. Policy SP1 sets out the spatial development strategy based on the Leeds settlement hierarchy. Its aim is to concentrate the majority of new development within and adjacent to urban areas, taking advantage of existing services, high levels of accessibility, priorities for urban regeneration and an appropriate balance of brownfield and greenfield land, in accordance with nine principles. One of the principles of the policy is that the largest amount of development will be located in the Main Urban Area and Major Settlements. Smaller Settlements will contribute to development needs,

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<sup>3</sup> APP/N4720/W/17/3169594 – Land at Dunningley Lane, Tingley

with the scale of growth having regard to the settlement's size, function and sustainability. Scholes is defined as a Smaller Settlement.

20. According to Policy SP1, priority for identifying land for development will, amongst other criteria, be given to key locations identified as sustainable extensions to the Main Urban Area/relevant settlement. However, no such key locations or indeed any housing allocations have been identified in the development plan to date, pending progression of the emerging Site Allocations Plan (SAP). Furthermore, development in other locations beyond those prioritised is not precluded by the policy. Policies SP6 and SP7 of the CS clearly envisage growth in the Smaller Settlements, identifying that they will accommodate some 7,500 dwellings during the plan period to 2028.
21. In addition, Policy H2 is clear that new housing development will be acceptable in principle on non-allocated land subject to a range of criteria being met. No in-principle conflict can arise in this context and the only issue that is identified is in respect to compliance with Accessibility Standards. This is a matter that I will go on to consider later in this decision.
22. The CS approach to housing delivery is incomplete until such time as the SAP is adopted and sites are identified to accommodate the necessary levels of housing. Given that the development plan has proved ineffective over a number of years in delivering the needed quantum of housing, the weight to be attached to any conflict that was identified should be reduced. Again, Policy SP1 is rendered out of date in the absence of a sufficient housing land supply. In any case, for the reasons I have set out I find that the proposed development would accord with the spatial strategy of the CS, including Policy SP1, and I find no material conflict.
23. I have had regard to the Council's position that the current housing requirement, contained within the CS, is excessive and likely to be reduced in the near future. I note that application of the Framework's Standard Method would result in a much reduced local housing need but that is not applicable whilst the CS is less than five years old. I have had regard to the Council's Core Strategy Selective Review which also pursues a lower housing requirement but this has not yet been fully tested or found sound through independent examination and may change. For the time being, the CS housing requirement is the adopted, applicable and most reliable figure. Indeed, it is the figure used by the parties in calculating the current housing land supply position. As such, I attach little weight to this matter.
24. Overall, I have found a conflict with Policy N34 but attribute this only limited weight. I have found no conflict with the spatial policies of the CS, including Policy SP1. The NP is broadly in favour of new residential development subject to certain detailed design criteria and considerations that would be a matter for any subsequent reserved matters applications. No specific conflict with any of the NP policies has been identified.

#### *Prematurity*

25. The Council is currently producing the SAP which will identify sites for development pursuant to the CS. It has not progressed as quickly as anticipated and has been subject to delays. It was first submitted for examination in May 2017 and the Council subsequently advanced a revised version in March 2018, though it is now likely that this version will be

abandoned and the former document will be modified and progressed in response to the Examining Inspectors comments.

26. The initial hearing sessions took place in October 2017, with a second round, which included housing matters, beginning in July 2018. The Examining Inspectors issued correspondence including a 'Post Hearing Note' and 'Further Response' to the Council in October 2018 which raised a number of issues. Subsequently, the Council has provided further information and the Examining Inspectors responded with a 'Further Post Hearing Note' dated December 2018, as well as a list of 'Potential Main Modifications'. These are currently being consulted upon.
27. The position has progressed a little since considered by a previous Inspector in December 2018, who concluded that limited weight could be attached to the SAP at that time<sup>4</sup>. There is now some direction from the Examining Inspectors. However, there remains a great deal of uncertainty as to the final form of the SAP, not least because the Examining Inspectors will not issue their formal comments and binding decision on soundness for some time, necessarily having taken into account any responses to the current public consultation process. The latest notes from the Examining Inspectors do not resolve the significant outstanding objections or definitively deal with controversial matters such as potential Green Belt release.
28. In short, the examination is not concluded and the final form of the SAP remains unknown, particularly as further public consultation is underway. There remain significant unresolved objections and the plan is yet to be found sound. For all of these reasons, the SAP continues to attract only limited weight at this time.
29. The Council argues that development of the appeal site would be premature, and that it would have a prejudicial, pre-determinative effect on plan-making decisions in terms of the emerging SAP. Within this Plan, the site is identified under Policy HG3 as 'Safeguarded Land' to provide a reserve of potential sites for longer term development post 2028, in effect carrying forward its existing PAS status.
30. In preparing the SAP, the Council has carried out a Sustainability Appraisal of potential site allocations and considers that other sites are preferable to the appeal site. That is a matter for the SAP examination and does not preclude this site being found suitable for residential development on its own merits in the meantime. This is particularly the case in light of an overall housing land supply shortfall, a specific shortfall in the Outer North East Housing Market Characteristic Area (ONEHMCA) and in the context of the tilted balance. As set out above, there is a need to significantly boost the supply of housing now.
31. It was suggested that the proposed scheme might prevent emerging allocations from coming forward or undermine the delivery of wider infrastructure anticipated to come forward as part of the plan-making approach. However, no detail was provided as to why the proposed scheme of 300 dwellings should have such an effect on any other emerging allocation, none of which are at Scholes.

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<sup>4</sup> APP/N4720/W/17/3186216 – Land at Ridge Meadows, Linton

32. Using up PAS or safeguarded land might lead to a requirement to identify compensatory provision elsewhere but this site represents a relatively small proportion of the overall area. The proposed development also represents a very small proportion of the expected housing distribution in the Smaller Settlements and the ONEHMCA. It is difficult to see how the proposed development would have any material impact on the plan-making process.
33. The Framework is clear that arguments that an application is premature are unlikely to justify a refusal of planning permission. There is very little evidence to suggest that the development would be so substantial or significant, even cumulatively with other schemes allowed on safeguarded land, as to predetermine decisions about the scale, location or phasing of new development that are central to the SAP. It has not been demonstrated how the plan-making process would be prejudiced. Furthermore, for the reasons I have set out, the SAP is not at a sufficiently advanced stage at the present time to be relied upon.

*Rakehill Road/Station Road junction*

34. The junction is currently substandard in a number of respects, notably that the give-way markings are in a very poor condition and unclear to highway users; there are tight radii on both sides of the junction, particularly to the north; visibility is restricted to the north due to the walls of a disused railway bridge and the topography of Station Road; the footway on the northern corner of the junction is very narrow due to a wall associated with the bridge; and the carriageway width on Station Road is also narrowed significantly over the bridge, close to the junction with Rakehill Road. In addition, cars currently park in the vicinity of the junction, likely visiting the shop on the corner of Rakehill Road and Station Road, further obscuring visibility and useable carriageway width.
35. The submitted Transport Assessment (TA) anticipates that the development would significantly increase the number of vehicles using the junction. The Council identifies, by reference to the TA, that the amount of turning traffic using the junction would increase by as much as 48% in the AM peak and 45% in the PM peak. This would be a significant intensification in use.
36. A range of mitigation measures are proposed by the appellant in an attempt to ensure safety at the junction but it has no control over the disused railway bridge or its parapet walls and this apparently acts as an impediment to achieving the optimum solution. To maximise the visibility available at the junction it is proposed to 'build-out' the give way marking into Station Road to allow views beyond the railway bridge parapet walls. However, there is disagreement between the parties as to the level of visibility this would facilitate, as well as what is necessary.
37. Station Road is one of the main roads through the village, providing access to York Road (A64) and the wider highway network. It is defined by the Council's adopted Street Design Guide (2009) (SDG) as a Distributor Road. Whilst noting the more relaxed visibility standards supported by Manual for Streets (MfS), the SDG is clear that these should only be used in appropriate circumstances and that access to Distributor roads are specifically excluded. Roads that have more of a 'movement function' than a 'place function' are also unsuitable for MfS standards and that is the case for Station Road as it leaves

the village north of Rakehill Road. As such, the Council requires use of the Design Manual for Roads and Bridges (DMRB).

38. The appellant seeks to apply a lesser standard having regard to MfS but does not fully justify why it would be appropriate to depart from the SDG in this case. Speed surveys were carried out in the vicinity of the junction to establish the required visibility splay based upon actual vehicle speeds. However, the Council identify that the Automatic Traffic Count equipment was not positioned in an appropriate location, being located close to the north side of the bridge, short of the requisite splay distance. This is not disputed by the appellant. As the bridge involves a significant narrowing of the carriageway it is likely that vehicle speeds would be reduced at this point and the results cannot be relied upon to justify a reduction in visibility requirements. Historic survey data held by the Council suggests higher speeds on other parts of Station Road and this further calls the results into question.
39. In any case, even if the speed survey data were relied upon, DMRB would require a visibility splay of 2.4 x 70.3m, which is not achievable given the constraints of the railway bridge. Even on the appellant's measurements, which the Council does not agree, the maximum achievable splay is substantially short at around 57.8m.
40. Asides from insufficient visibility, the mitigation measures provide no answer to the existing radius deficiency on the northern side of the junction and the tracking diagrams provided indicate that larger vehicles such as refuse and delivery vehicles would be forced to overrun the opposing lane. There is not likely to be a large increase in the number of pedestrians using the narrow footway on this side of the junction given that this is the edge of the village but this would remain a significant hazard for those that do walk past the junction, perhaps to access the bus stops beyond, particularly for those using wheelchairs, prams or with children. In addition, the proposed 'build-out' would unavoidably narrow the width of the carriageway on Station Road and whilst this would be similar to that passing over the bridge, a much larger pinch-point would be created where conflicts between larger vehicles are highly likely.
41. Existing accident records do not indicate a safety problem at the junction, with only one slight accident during the period between 2012-2018 and this is not attributable to any of the safety deficiencies identified. Even looking over a longer period, there is no pattern or significant number of accidents. However, the records only show accidents where injury has occurred and anecdotal evidence from local people suggests that there have been other incidents.
42. It was clear from my visits to the site that the junction is less than ideal from an operational and safety perspective. Increasing the amount of traffic through the junction would be likely to exacerbate this issue, albeit that visibility to the north would be improved compared to the existing situation. Notwithstanding the favourable findings of the Road Safety Audit provided by the appellant, I am not persuaded that the mitigation proposed would overcome the increased likelihood of conflict between vehicles and/or pedestrians that I have identified and, cumulatively, these deficiencies are a considerable safety concern.
43. For these reasons, I find that the proposal would be in conflict with Policy T2 of the CS and Policy GP5 of the UDPR, which seek to maximise highway safety;



and would have an unacceptable impact on highway safety in conflict with paragraph 109 of the Framework.

### *Accessibility*

44. Policy T2 of the CS requires that new development be located in accessible locations that are adequately served by existing or programmed highways, by public transport and with safe and secure access for pedestrians, cyclists and people with impaired mobility. Accessibility Standards to be used across Leeds are contained at Appendix 3 to the CS. With reference to the standards, there is no dispute between the Council and the appellant that the proposed development would have sufficient access to local services such as convenience shops; primary health and education facilities; and secondary education.
45. Concern is raised that future occupants would not have sufficient access to employment or town/city centres, two of the categories sought by the standards. In both respects, the failure to accord with the standards results from the infrequency of the bus services serving the village, meaning that a 15 minute service frequency is not achieved. Furthermore, the majority of the proposed dwellings would not be within a 5 minute walk of a bus stop.
46. Two bus services operate in the village. Service 11 passes through Scholes on the route between Pudsey and Cross Gates on a roughly hourly basis on weekdays, providing access to Leeds city centre, Seacroft and Cross Gates, the latter also benefiting from a railway station connecting to various urban centres. Service 64 runs between Leeds and Aberford, again providing access to Leeds and Cross Gates at a roughly 30 minute frequency.
47. Only a very small proportion of the proposed properties would be within a 5 minute walk (approximately 400m) of the bus stops on Leeds Road served by service 64. The majority of properties would, therefore, be beyond the accessibility standard to varying degrees but even the furthest property would be within around a 15 minute walk. All properties would be within a 10 minute walk of bus stops on Main Street and Station Road, served by service 11.
48. There is a clear conflict with the Accessibility Standards but it should be acknowledged that these standards are applied throughout the local authority area. The Framework recognises that the opportunities to maximise sustainable transport will vary between urban and rural areas. It will not always be possible to meet every Accessibility Standard, particularly in rural areas, and the Council accepts that a degree of flexibility is needed in their application.
49. In this case, the frequency of bus services and the walking distance involved in accessing them is likely to act as a disincentive to many people. This is particularly so as the journey times on the bus to major public transport interchanges such as Leeds, are also relatively long, beyond 40 minutes. Indeed, census data indicates that private vehicles are the predominant mode of travel in Scholes at present.
50. However, there are clearly opportunities to use public transport for those that are willing and able. It would be possible to plan journeys to and from work or to visit urban areas for other reasons. A Travel Plan would assist in promoting such usage and minimising reliance on private vehicles, along with the proposed improvements to bus shelters and real-time displays. For these

reasons, I consider that the development would be adequately served by public transport and a basic range of services and facilities are available within walking and cycling distance. Therefore, I find a considerable degree of compliance with the Standards and attach only limited weight to the conflict that I have identified with Policy T2 and the associated Accessibility Standards in this case.

## **Other Matters**

### *Planning Obligations and CIL*

51. In the event that planning permission was granted, a range of planning obligations would be secured. These include the provision of land to extend the existing primary school in Scholes; 35% affordable housing; on-site greenspace; construction of a local centre comprising a GP surgery, pharmacy and retail unit; off-site highway works, or a financial payment in lieu; training and employment initiatives; a Travel Plan; the transfer of land associated with the existing cricket club; and various financial contributions towards bus stop improvements, greenspace maintenance, a Travel Plan fund, a culvert maintenance contribution and various monitoring and legal fees.
52. With the exception of the financial contributions associated with two junction improvements, A64 York Road/Scholes Lane and A64 York Road/Thorner Lane, there is agreement between the parties that the obligations accord with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010. This is demonstrated in the CIL Compliance Statement submitted by the Council. In light of my decision in this case, I need not consider these matters further.
53. With respect to the obligations relating to the junctions in dispute, there is no disagreement that the proposed works would be necessary in the absence of East Leeds Orbital Road (ELOR) and it is clearly appropriate that the scheme mitigates its impacts. However, in the event that ELOR is delivered ahead of the proposed development some works to the junctions in question would be carried out as part of that scheme and the mitigation required as a result of this development would be somewhat different. It has not been demonstrated by the Council that the financial contributions sought are necessary as a result of the development or that they reflect the cost involved in carrying out the necessary mitigation in a post-ELOR world. As such, I cannot determine that the contributions would be reasonable in scale and kind or that they are directly relevant to the proposal. ELOR seeks to facilitate development planned through the East Leeds Extension (ELE) and is not required in any way as a result of the proposed scheme. In the event that planning permission was granted, I would not have taken these financial contributions into account on the evidence before me.
54. In addition to the above planning obligations, the Council has adopted a Community Infrastructure Levy. The proposed development would be liable for CIL payments which could be used by the Council and/or the Parish Council to fund local infrastructure improvements.

## **Planning Balance**

55. The appellant has outlined a number of benefits that would arise from the proposed development. These include the provision of market and affordable

housing in the context of the Framework's objective to significantly boost supply and the sizeable identified need. Various economic benefits would arise locally from construction, expenditure and revenue benefits for the Council such as the New Homes Bonus. Additional publicly available open space would be provided, along with improvements to local walkways that the wider community could make use of. The provision of a GP Surgery, pharmacy and retail unit would increase local services and benefit local people, provided occupiers are found and funding is available. Cumulatively these benefits weigh heavily in favour of the proposal and I attach them significant weight.

56. I have found that the development is in accordance with the spatial policies of the CS and I attach only limited weight to the harm that would arise from conflict with Policy N34 of the UDPR, which is out of date. I have also found that the development would achieve adequate accessibility to services and facilities in accordance with Policies T2, H2 and the Accessibility Standards.
57. However, the development would result in an unacceptable highway safety issue at the junction of Rakehill Road/Station Road, in conflict with the Framework, Policy T2 of the CS and Policy GP5 of the UDPR. I attach the harm arising in this respect substantial weight such that it would significantly and demonstrably outweigh the benefits of the proposal. Whilst there are a considerable number of material considerations that weigh in favour of the proposal, particularly in the context of the Framework's tilted balance, these do not indicate a decision other than in accordance with the development plan in this case.

### **Conclusion**

58. In light of the above, and having considered all other matters, the appeal is dismissed and planning permission is refused.

*Michael Boniface*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Juan Lopez of Counsel

He called:

Steven Wilkinson BSc (Hons) DipTP	Senior Planning Officer
Adrian Hodgson MICE	Principal Highway Development Control Officer
Glen Allen BSc (Hons) DipTP	Principal Planning Officer

### FOR THE APPELLANT:

Sasha White QC

He called:

Mark Johnson MRTPI RICS	Managing Director, Johnson Mowat
Vanessa Eggleston CEng MICE	Partner, i-Transport LLP

### FOR BARWICK IN ELMET AND SCHOLES PARISH COUNCIL (RULE 6 PARTY):

Cllr Philip Maude

He called:

Clair Hassell	Councillor
Stella Walsh PG Cert RM M.ed B.ed (Hons) Cert Ed CMktr	Councillor
Howard Bedford B.Eng (Hons) MBA C.Eng MCIBSE	Councillor
James Buckley	Local resident and retired Highway Engineer

### INTERESTED PERSONS:

George Hall, Scholes Community Forum

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

ID.

- 1 Scholes plans for approval pack
- 2 HLS Supplementary SoCG 10th Dec 2018
- 3 Scholes – Primary School Briefing Note
- 4 Opening Statement Mr Sagar (Garforth)
- 5 Opening Statement Mr White (Scholes)
- 6 Opening Statement Mr Lopez (LCC)
- 7 Opening Statement Cllr Maude (Rule 6)
- 8 LCC SAP – LCC Response Matter 5 – Infrastructure: Further Highways Information
- 9 Mr George Hall Written Statement (On behalf of Save Our Scholes)
- 10 Selby Road, Garforth Planning Obligation – Final agreed form but unsigned
- 11 CSSR HLS Update Statement from LCC
- 12 LCC SAP Post – Hearing Addendum to Sustainability Appraisal (November 2018)
- 13 LCC SAP Post – Hearing Addendum to Sustainability Appraisal Tables (November 2018) – Extracts
- 13A 17/12 Version of SA Tables (Extracts)
- 14 CIL Compliance Stat – Garforth
- 15 Conditions – Draft – Garforth
- 16 Mark Johnson Update to PAS Site Table
- 17 Agreed Draft Conditions – Garforth
- 18 SAP Original Version – Draft
- 19 Johnson Mowat Letter re Pre Com Conditions
- 20 Linton Appeal DL – 14/12/18
- 21 S106 Agreement and Summary – Scholes
- 22 R6 Scholes – Additional Information re Highway Safety
- 23 SAP (17/12) Overview Document
- 24 Martin Elliott note in relation to the Council's MM Submission
- 25 Final Conditions on Garforth
- 26 CIL Statement Updated re Garforth
- 27 Garforth Site Visit Route Plan
- 28 Conditions – Scholes
- 29 Reg 122 Statement – General – Scholes
- 30 Reg 122 Statement - Education – Scholes
- 31 Mark Johnson Submission in Relation to Linton Decision
- 32 Wilkinson Note on Linton
- 33 Scholes Main 106
- 34 Scholes Education 106
- 35 Scholes Education 106 Summary
- 36 Submission from Cllr Dobson
- 37 Mark Johnson Note regarding Main Modifications to the SAP
- 38 Vanessa Eggleston Rebuttal regarding Scholes Junction Improvements and S106 payments
- 39 Adrian Hodgson Rebuttal regarding Scholes Junction Improvements and S106 payments
- 40 CIL Regulation 123 List Updated (Core Documents contained out of date version)
- 41 Scholes Conditions – Final

- 42 Mr Hall Closing Statement
- 43 Scholes Residents – Photo of Traffic
- 44 Garforth – Executed Final (Main) S106
- 45 Barwick and Scholes Parish Council Closing Submissions
- 46 LCC Closing Submissions – J Lopez
- 47 Scholes – Executed Final (Main) S106
- 48 Scholes – Executed Final (Education) S106
- 49 Scholes CIL Compliance Statement
- 50 North Wiltshire v SoS Environmental and Clover (1993) 65 P&CR  
137
- 51 Scholes Closing Submissions – S White QC
- 52 Garforth Closing Submissions – R Sagar

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- 1 Barwick in Elmet and Scholes Parish Council representations on SAP progression
- 2 Council’s representations on SAP progression (including copy of ‘Further Post Hearing Note’ dated December 2018 and ‘Potential Main Modifications’)
- 3 Appellants’ representations on SAP progression (including copy of ‘Further Post Hearing Note’ dated December 2018 and ‘Potential Main Modifications’)