



Appeal Decision

Inquiry held on 31 October to 2 November 2023, 3, 4, 17 and 30 January 2024.
Inquiry closed in writing on 13 February 2024.

Accompanied site visit made on 3 November 2023. Unaccompanied site visits made on 30 October 2023 and 2 January 2024.

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2024

Appeal Ref: APP/T3725/W/23/3319752

Land at Warwickshire Police Headquarters, Woodcote Lane, Leek Wootton, Warwickshire CV35 7QA

- 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 Cala Homes (Cotswolds) Limited against Warwick District Council.
 - The application Ref W/22/1877, is dated 28 November 2022.
 - The development proposed is for up to 83no. dwellings (including affordable housing), access, internal roads and footpaths, public open space, landscaping, drainage and other associated works and infrastructure (all matters of detail reserved except for the vehicular access to the site).
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Decision

1. The appeal is allowed and planning permission is granted for up to 83no. dwellings (including affordable housing), access, internal roads and footpaths, public open space, landscaping, drainage and other associated works and infrastructure (all matters of detail reserved except for the vehicular access to the site) on land at Warwickshire Police Headquarters, Woodcote Lane, Leek Wootton, Warwickshire CV35 7QA in accordance with the terms of the application, Ref W/22/1877 and subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Cala Homes (Cotswolds) Limited against Warwick District Council. An application for partial costs was also made by the Leek Wootton and Guys Cliffe Parish Council and Leek Wootton Focus Group (the Rule 6 party) against Warwick District Council. These applications will be the subjects of separate Decisions.

Preliminary Matters

Outline application and putative reasons for refusal

3. The application was made in outline with all matters reserved except for access. I have treated any plans which show potential layout and/or landscaping as illustrative only.
4. The appeal was made following the Council's failure to reach a decision in the prescribed timescale. The Council considered the proposal twice to determine

on what basis to contest the appeal; once based on the original plans and once on revised plans and other technical evidence (referred to below). Their initial statement of case highlighted concerns relating to highways, drainage, biodiversity and heritage. Following the consideration of new information, the Council's revised statement of case referred only to the effect on heritage assets and whether the public benefits would outweigh the harm caused. However, the Council's evidence to the Inquiry referred to failure of the proposal to comply with the development plan, in particular Policy DS22 of the Warwick District Local Plan (WDLP) (2017). This was in addition to its effect on heritage assets and associated planning balance. Other issues were also raised that were not in the putative reason for refusal or statement of case, including concerns about the revisions to the plans and the effects on biodiversity and highways. Little detail was given relating to these additional concerns. Nevertheless, I have had regard to these factors, and the evidence given on them, in my decision.

Site visits

5. I carried out an unaccompanied site visit to publicly accessible areas on 30 October 2023 to familiarise myself with the site and surroundings. An accompanied site visit took place on 3 November 2023. There were additional areas the main parties wished me to view the site from which are publicly accessible. With their agreement, I visited these areas on an unaccompanied basis. I also carried out a further unaccompanied visit to Woodcote Lane and Warwick Road on 2 January 2024.

"Wheatcroft" revisions

6. At the first Case Management Conference (CMC) the appellant indicated an intention to submit revised plans for me to consider. These were referred to by the main parties as the "Wheatcroft" revisions. For ease I have used the same description. An appeal should not normally be used to evolve a scheme¹ and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties. It is however for the Inspector to determine whether, exceptionally, to accept any revised plans that are submitted during the appeal process.
7. The Holborn Studios judgement² helpfully sets out two tests to assist in my determination of this issue. The first is whether the proposed changes involve a 'substantial difference' or a 'fundamental change' to the application. If the changes are not substantial, then the second test is whether the proposed amendments would cause unlawful procedural unfairness to anybody involved and whether such unfairness could be cured, for example by re-consultation.
8. Other than an illustrative layout plan submitted shortly before the second CMC, the Wheatcroft plans were subject to further consultation. All comments received are before me. The plans, and the comments received on them, were also considered by the Council to ascertain if there would be any changes to their putative reasons for refusal. I also allowed time at the Inquiry for a discrete and specific session where all parties were able to explain their concerns to me about any procedural issues relating to the acceptance of the

¹ Procedural Guide – Planning Appeals – England – paragraph 16.1

² Holborn Studios Ltd vs the Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Wheatcroft plans. I made it clear throughout that I intended to hear all the evidence before deciding whether to consider the appeal based on the amended plans or not. This gave all parties the opportunity to draw out any differences between schemes in terms of their effect.

9. The original plans indicated that an existing access off Woodcote Drive would be used as a secondary vehicular access into the northern parcel of the appeal site. The revised plans seek to “downgrade” this access such that it would no longer be used by vehicles. The other main change is that a ‘parameters plan’ submitted with the application would be rescinded. The revised submissions also included additional technical evidence, much of which was to address concerns raised by the Council. This included information relating to flooding and biodiversity. I have no concerns about this information; it is normal for appellants to submit additional evidence of this nature to address issues raised during consideration of the application.
10. The Wheatcroft revisions do not alter the description of development, the boundary of the site, the number of dwellings proposed, the areas where housing would be located or the *main* points of vehicular access off Woodcote Lane and use of Woodcote Drive itself. It also has no effect on the matters that are reserved. The “downgrading” of the secondary access does not, in my view, alter the nature of the scheme to such an extent that it becomes a fundamentally different proposal. There would be little difference in how the development would function in highways terms.
11. The parameters plan provides a high-level illustration of the extent of housing, areas of green infrastructure and things such as play equipment or internal access arrangements. The plan also indicates that dwellings would have a maximum height of 2.5 storeys and where such housing might be located. Rescinding this plan does not fundamentally alter the proposal, which remains an outline application for up to 83 dwellings. The final design, layout and landscaping must still be determined through a reserved matters application.
12. In my view, many of the concerns raised about the parameters plan do not speak directly to the ‘tests’ set out above. The argument made is that removing the plan makes it more difficult to assess the degree of harm caused to heritage assets. This is because it is the only plan which identifies *potential* building heights and that this informed the assessment of any impacts. However, this is a matter for my consideration of the main issue on heritage and whether I have sufficient information to determine the degree of harm, rather than any fundamental change to the proposal itself. Although the parameters plan may create some constraint to the reserved matters, it does not fundamentally alter what is being proposed. There is also no absolute requirement for an outline application to be supported by such plans and by their nature they can only be indicative.
13. In conclusion, I do not consider the Wheatcroft revisions constitute a fundamental change or substantially different proposal. Moreover, the fact that the changes were consulted on, considered by the Council and were able to be discussed during the Inquiry itself means that this is no question of procedural unfairness. On this basis, I have considered the appeal based on the Wheatcroft plans. Any implications for this are addressed in my reasoning below.

S106 agreement

14. With my agreement, I received a completed S106 Agreement (S106) prior to the close of the Inquiry. The S106 includes obligations relating to affordable housing, on and off-site open space, sport and recreation, education, library facilities, biodiversity net gain, transport measures and healthcare. I shall return to this below.

National Planning Policy Framework

15. A revised National Planning Policy Framework (the Framework) was published in December 2023. The main parties had the opportunity to raise any implications of this orally during the Inquiry and/or in any written evidence submitted following its publication. I have had regard to these comments and the new Framework in my decision.

Net Zero Development Plan Document

16. Following the close of the Inquiry, the Council drew my attention to the imminent adoption of their Net Zero Carbon Development Plan Document (NZDPD). They informed me that they had received the Inspector's Report and intended to adopt the Plan on the 15 May 2024. Even though it was clearly at a late stage of preparation, this document was not discussed in detail during the Inquiry. However, given the publication of the Inspector's Report and likely adoption in short order, I considered it necessary to exceptionally ask the main parties for their views. I have regard to any comments made and consider the implications below.

Other preliminary matters

17. On the opening day of the Inquiry, the Council drew my attention to updated 5-year housing land supply data. This had not informed the Housing Statement of Common Ground (HSoCG) between the Council and appellant. The Council and appellant were unable to reach an agreement about the revised data. In the interests of fairness, I therefore considered it necessary to adjourn the Inquiry to give the main parties the opportunity to consider this additional data and to prepare additional proofs of evidence. This precipitated a need for additional evidence, cross-examination and a roundtable discussion on 5-year supply.
18. In the interests of fairness, I allowed the appellant to prepare an addendum to their closing statement in writing. Following receipt of this, and the completed S106, I closed the Inquiry in writing on 13 February 2024.

Main Issues

19. I consider the main issues in this appeal to be:
- The principle of development and compliance with the development plan;
 - The effect of the development on the settings of Woodcote House and the Leek Wootton Conservation Area (LWCA) and the effect on the non-designated locally important park and garden;
 - The effect of the development on highway safety and the efficient operation of the transport network; and

- Whether there are any material considerations that would outweigh any conflict with the development plan

Reasons

Development Plan

20. The site is made up of two adjacent land parcels which currently form part of the Warwickshire Police Headquarters' (HQ) grounds. The larger northern parcel is predominantly open grassland. This is bounded by Woodcote Lane to the east, Woodcote Drive to the south and an area of open land and sports fields associated with the HQ to the west. The smaller parcel sits on the southern side of Woodcote Drive. This is currently used for parking, but was previously used as tennis courts.
21. The main vehicular access into the larger parcel would be from a new junction off Woodcote Lane. The smaller parcel would be accessed from Woodcote Drive. This is a private road which currently provides access to the HQ and a small number of existing dwellings. The site sits in the setting of Woodcote House, which is a Grade II listed building, and partly abuts the Leek Wootton Conservation Area. The site also forms part of the wider 'Locally Important Park and Garden' associated with Woodcote House. This is considered to be a non-designated heritage asset (NDHA).
22. The site is part of a wider housing allocation covered by Policy DS22 in the WDLP. The allocation includes the appeal site, Woodcote House and associated HQ buildings and grounds. WDLP Policy DS11 suggests a figure of 115 dwellings for the whole allocation. This includes the re-use of Woodcote House as for residential uses. The wider allocation is also identified for residential development under policies LW4 and LW5 in the Leek Wootton and Guy's Cliffe Neighbourhood Plan (LWNP) (2018). Leek Wootton itself is identified as a Growth Village under WDLP Policy DS4. This, and WDLP Policy H1, identifies Growth Villages as acceptable locations for housing in principle. WDLP Policy H10 sets out the circumstances in which development in Growth Villages will be permitted. Although I shall deal with the requirements and implications of these policies below, residential development is clearly acceptable in principle within the settlement boundary of Leek Wootton.
23. The allocation was predicated on the expectation that Warwickshire Police would be vacating the site. As well as delivering housing, Policy DS22 therefore includes provisions requiring any development to be based on an agreed comprehensive masterplan which covers the entirety of the site. It also requires development to protect and enhance the historic assets and their settings, secure the long-term future of Woodcote House and make provision for the future management of the site. It also requires any developer to enter into an agreement to ensure the greenfield housing and conversion of Woodcote House, and any other works, are delivered simultaneously or within a mutually acceptable timescale.
24. More generally the policy requires development to provide a mix of housing, including affordable housing, demonstrate high quality design and layout, including an appropriate means of access, contribute positively to landscape character and make provision for infrastructure and open space.

25. Thus far, the Police have not vacated the site and have indicated³ that they do not intend to do so for the foreseeable future. Due to this, the development does not meet several of the criteria in Policy DS22. The illustrative masterplan submitted with the application covers the whole allocation, but it is clearly not as expected by the policy. There was also a clear expectation that development would deliver heritage “enhancements”. This is not only in terms of securing the future of the building, but also in resolving other issues that have been identified as being detrimental to Woodcote House and its setting. There is no dispute that the development delivers no heritage benefits in and of itself. The proposal also does not include any phasing or management arrangements for the site as a whole.
26. The supporting text to Policy DS22 states that development of the site for housing will be supported provided that it is carefully managed to ensure the site’s heritage and landscape assets are conserved and enhanced. It goes on to state that development will *only* be permitted where it is brought forward in accordance with the vision, development principles and framework that will be provided by an agreed masterplan. While this is not policy itself, it gives a clear and strong indication that without this comprehensive approach, development is not supported by the policy. By extension, it would not be supported by the LWNP which requires consistency with the WDLP.
27. The development would still meet several criteria of the policy. It would deliver housing, albeit fewer than originally expected, including affordable housing. It would, or could, make provision for all reasonable infrastructure requirements, including open space. Although in outline only, there is no reason why the development would not be capable of achieving a high quality of design. The policy requires development to contribute positively to landscape character. Clearly any development on these plots would have some negative impact on local character by virtue of the change from open land to housing. This would have been anticipated when the site was allocated. In this context, I see no reason why a reserved matters scheme would not be able to meet the expectations of the policy in principle, particularly in terms of layout and landscaping. As I set out below, I am content that the development would achieve an appropriate means of access. The development would also take place on parts of the allocation where new, greenfield housing was expected.
28. Nevertheless, while these factors may weigh in favour of the proposal, they do not alter the fact that there would be a clear conflict with the specific intentions and requirements of WDLP Policy DS22 and LWNP policies LW4 and LW5. Together, these collectively seek to deliver the comprehensive development of the allocation, including the protection and enhancement of heritage assets, the re-use of Woodcote House and the management of the site as a whole. The development would not achieve this.
29. I consider the weight to be given to this conflict under the Planning Balance below.

Heritage issues

30. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on me to have special regard to the desirability of preserving a listed building or its setting. This closely aligns to paragraph 205

³ Document I3

of the Framework, which states that great weight should be given to the conservation of heritage assets. Notwithstanding what Policy DS22 says about preserving and enhancing heritage assets, it was agreed by the main parties that a degree of harm would still occur to the heritage assets through the developing these plots even if the policy was implemented in full. This was factored into the allocation of the site.

31. Woodcote House is a 19th century country house, originally set in extensive parkland grounds and plantation woodland. The significance of the building itself is derived from its architectural interest and quality. Some significance must also be ascribed from the size and nature of the 'designed landscape' associated with the House. The evidence suggests that the principal internal spaces of the building make a significant contribution to the significance of the asset. There have been substantial changes to both the building itself and its environs through the course of the 20th and 21st centuries. This includes a large office block extension and other changes associated with the use of the site as the Police HQ. As well as the office accommodation and use of other outbuildings, there are also extensive areas of parking and features such as a large communications antenna. All of this can be said to have had a detrimental effect on the significance of the building and its immediate setting.
32. Some aspects of the surrounding 'designed landscape' do survive, including the tree lined principal driveway (Woodcote Drive), the so-called 'secondary drive', the East and North Lodges and the South Lawn. These still make substantial contributions to the significance of Woodcote House due to the degree to which their original character remains and/or how they allow the building, and its original character, to be appreciated. Other areas such as the remaining elements of the kitchen garden, though heavily modified, still provide a clear sense and understanding of how the space was used and its relationship with the House. Similarly, the other garden areas, including the area referred to as the 'Western Pleasure Gardens', make moderate contributions to the significance of the asset, albeit their role has been eroded through the introduction of new buildings or changes in the use of land.
33. To that end, large areas of the original parkland to the south of House are now in use as a golf course. While there is some public access, and views of the House are possible, these no longer add much to its significance. This, and housing built along Woodcote Drive, has also had the result of severing some parts of the parkland from the house, such as the area referred to as the 'Pastoral Fields'.
34. The northern parcel of the appeal site falls within the 'Eastern Parkland' area, as defined by the appellant's heritage evidence. This area was sub-divided in the early 20th century and has since been used for agriculture. The area immediately to the west, which separates the site from Woodcote House, is used as sports pitches. The agricultural character of the appeal site remains, with rough open grassland punctuated by trees and hedgerows. As a result, there is little sense of any historical 'functional' link to Woodcote House. Only its position between the two access drives and the glimpsed views of the House across the site, particularly from parts of Woodcote Lane, provide some sense of the past relationship.
35. The principal rooms of the House also face to the south and west and Woodcote House is also not fully visible until close to the end of Woodcote Drive. These

factors suggest that the views of the 'Eastern Parkland' were not as important as those to the west and the south. Even as originally laid out, views of the appeal site would have been filtered. The House and the development would not therefore be seen in context when using the drive. The northern parcel of the appeal site is also well separated from the House by the sports pitches. The appellant's evidence concludes that this parcel makes only a minor contribution to the significance of Woodcote House. I have seen or heard nothing that would lead me to a different conclusion.

36. The southern part of the appeal site would make use of the former tennis courts, now used for parking. The introduction of the courts clearly altered the parkland character of the plot. This area also feels closely associated with the existing housing along Woodcote Drive, which does not relate to the 19th century origins or character of the wider area. Indeed, the dwellings are also indicative of the change in overall character of the parkland setting of the House. Although the House cannot be seen from this plot, its location some distance along Woodcote Drive nevertheless still provides some sense of being within the wider grounds of the estate. Due to its small scale, changes in its character and lack of intervisibility, the southern parcel makes only a limited contribution to the significance of the House.
37. The contribution the two parcels of the appeal site make to the NDHA has to be considered in the context of the overall 'designed landscape'. The two plots make up a relatively small part of the whole area. Along with other areas, such as the golf course, the appeal site has also been subject to substantial changes in character. For these reasons, and those given above, the appeal site makes only a moderate contribution to the value of the NDHA as a whole.
38. The LWCA abuts a small part of the appeal site. The core of the conservation area is not particularly well related to the site, either visually or functionally. The significance of the LWCA lies in the character, appearance and quality of the buildings within it. It is also focussed on the historic core of the village. The northern parcel creates something of a pleasant and open countryside setting for anyone entering or exiting the village along Woodcote Lane. It also provides context for the East Lodge, which sits within the conservation area. However, these features make only a limited contribution to the setting or significance of the conservation area as a whole. The southern parcel of the appeal site makes no particular contribution to the setting of the LWCA.
39. The development would clearly result in a degree of harm to both the setting of Woodcote House and the NDHA. This would primarily be through the loss and urbanisation of part of the parkland environs. It would also negatively affect some views of the House and erode the open and undeveloped character of the area. This would be seen both from Woodcote Lane and from those using Woodcote Drive. Here in particular there would be a sense of the encroachment of the village into the grounds of Woodcote House, not least from the expansion of development along the southern side of the drive.
40. Development of the northern parcel would also affect what is presumed to be a designed view of the House from Woodcote Lane. Views from Woodcote House to the site, which are already filtered would be of modern housing rather than open countryside. This would clearly have some detrimental impact on the setting and significance of the House and the NDHA.

41. Nevertheless, the development site forms only a relatively small part of the overall setting of the House and NDHA. The proposed housing would also be well separated physically and visually from the listed building. The development would have no significant effect on the ability to appreciate and experience the building from its immediate surroundings or from the public realm to the south, where public views are still achievable. The development would not impede or intrude substantially into these views. The most important surviving areas of parkland and designed landscape would also be retained.
42. I do not consider the loss of parking spaces from the tennis courts would have any particular effect on the setting of the building. There is already a significant amount of parking around Woodcote House. If parking is displaced to those areas, then there would be no effect at all. If the Police wish to utilise other space, then, if permission is required for any change of use, this would have to be considered against relevant policies.
43. In terms of the LWCA, the development would erode the countryside character of the edge of the village to an extent. It would also alter the context in which the East Lodge sits, likely reducing the perceived relationship between that building and Woodcote House itself. This would also have some effect on the setting and significance of Woodcote House. However, this would have a minimal effect on the overall significance, character or appearance of the conservation area or its setting. The most important elements would not be affected.
44. In terms of the Wheatcroft plans, no party has provided persuasive evidence that the changes would result in any material difference to the harm that would be caused in principle. The main effect on the significance of the assets is through the loss of the open setting of Woodcote House and the effect of the urbanisation of what is historically part of the wider designed landscape and parkland. It is the change in state, rather than the specific height or design of buildings. The lack of the parameters plan has no particular bearing on this. The illustrative masterplan provides an indication of the potential extent of development and the effect this might have. I am therefore content that I have sufficient information to understand the likely degree of harm that would be caused in principle. That is not to say building heights may not have an influence on the final degree of harm caused. However, the same could be said for the design and materials of the dwellings themselves, the internal layout or the specifics of any landscaping, all of which would be subject to further assessment. Policy DS22, while requiring good design, also does not place any limitation on building heights.
45. I disagree with the premise that granting outline planning permission without a parameters plan would deprive the Council of the ability to control building heights or the internal layout. Allowing the appeal would establish the principle of development. However, this principle would clearly not mean that any and all forms of development would then be acceptable. To conclude that would render the reserved matters process somewhat pointless. The reserved matters application would still need to be considered against relevant policies of the development plan, including those relating to design. I do not therefore consider the Wheatcroft plans to be any more harmful in principle to those originally submitted.

46. In conclusion, the development would cause harm to the character and appearance of the setting of Woodcote House and, to a lesser degree, the LWCA. It would also result in a degree of harm to the character and appearance of the NDHA. The harm caused to the significance of the designated assets would be less than substantial. In these circumstances, WDLP policies DS4(e) and HE1, and paragraph 208 of the Framework, require the harm to be weighed against any public benefits of the development. WDLP Policy HE3 states that any development that causes loss of significance of a NDHA will be assessed in relation to the scale of harm or loss of significance of the asset. This reflects paragraph 209 of the Framework.
47. The development would deliver 83 dwellings, including 40% affordable units. Whatever my conclusions on the 5-year housing land supply, it is clear that there is a significant need for market and affordable housing in Warwick. Indeed, even a healthy 5-year land supply position would not negate the need to meet the overall housing requirement in the WDLP. The housing would make an important contribution to meeting that requirement. The delivery of 40% affordable housing, while no more than policy requires, would still be very welcome in the context of need for that type of housing.
48. The LWNP also acknowledges there is a specific need for smaller, more affordable units, for first time buyers and young families. The development would provide an opportunity to meet some of those needs. No other opportunities for growth have been identified in Leek Wootton to meet these needs. Moreover, Leek Wootton is identified as a growth village by the WDLP. In allocating the site, the Local Plan Inspector recognised that it would help sustain and enhance the role of the village. As such, the development would still help to deliver the Council's spatial strategy.
49. The housing would bring with it a number of economic benefits in the form of short-term construction jobs, but also in the longer-term new residents would generate expenditure for local services and facilities. These would be mainly felt outside the village itself. Paragraph 83 of the Framework recognises that development in one village can support the vitality of other nearby settlements. The development would help achieve that aim. The housing, including affordable, and associated economic benefits therefore carry significant weight in favour of the development.
50. The development would also provide some on-site green infrastructure and the potential for biodiversity net gain, including facilitating increased public access to, and enhancement of, an off-site woodland area. This sits on the opposite side of Woodcote Lane and is well related to both the development and other residential areas. These factors are all necessary to mitigate the effect of development, but they would still provide some degree of potential benefit to existing residents. Thus, they carry some weight in favour of the development. The development would utilise a small area of previously developed land which would also deliver limited additional benefits.
51. While the benefits of development might be claimed by most housing developments, I see no reason why this should devalue them in any way. If this were the case, then such benefits would not be taken into account in any decision. This is particularly the case when the benefits associated with housing on the site formed at least part of the justification for its allocation.

52. Similarly, the fact that the development would not deliver the heritage benefits hoped for by Policy DS22 does not *reduce* the weight that should be given to the benefits associated with the development. Moreover, failure to deliver such benefits does not add to the harm caused. The lack of heritage benefits is a matter to consider in relation to the conflict with policy, not in the heritage balance.
53. Given the scale of harm that would be caused and the contribution the appeal site makes to the significance of the assets, I am satisfied that the public benefits of development would outweigh the less than substantial harm that would be caused to the settings of Woodcote House and the LWCA. Similarly, the benefits would outweigh the harm caused to the significance of the NDHA. There would therefore be no conflict with WDLP policies DS4(e), HE1 or HE3 nor relevant parts of the Framework, which collectively seek to preserve heritage assets.

Highways

54. Various concerns in relation to the effect on the road network and highway and pedestrian safety were put to me. These include the effect of the increase in traffic on Woodcote Lane, Woodcote Drive and the junction of Woodcote Lane and Warwick Road (known locally as the "Anchor junction"), pedestrian safety along Woodcote Lane and Woodcote Drive, and the implications for parking at the Police HQ.
55. While I consider the detail of these below, it is important to note at the outset that most of the transport issues identified in the vicinity of the site would continue to exist with or without the development. The question for me, therefore, is the extent to which those issues would be exacerbated by the development and whether that would lead to unacceptable safety risks and/or whether the residual cumulative impacts on the road network would be severe. That reflects the advice in paragraph 115 of the Framework.
56. It is also important to note that any constraints which exist now were also in evidence when the site was allocated for development. There is no substantive evidence to suggest the Local Plan Inspector did not consider the safety of roads surrounding the site. Of course, there was an assumption that the Police would be vacating the site. The total number of trips generated by the proposal and the HQ together would therefore likely be higher than if it were to be developed as intended. The operational nature of the HQ and the comings and goings of staff would also mean there is likely to be some differences between trip characteristics of the site now and what might have been expected. Even this increase would be tempered to an extent by the fact the WDLP expected around 115 dwellings on site, 32 more than proposed here.
57. Nevertheless, the existing characteristics of the road and pedestrian environment around the site would have been before the Inspector. There is nothing in their report which suggests they had any concerns about the effects of development on safety or the road network. Importantly, Policy DS22 also makes no reference to any specific measures that would be needed to make development acceptable in transport terms, nor does it impose any restrictions in terms of access. I acknowledge that the Inspector may not have considered the specific location of any access points. It would stand to reason, however, that Woodcote Drive would continue to provide access to part of the site and

that an access off Woodcote Lane may have been needed. No concerns about the principle of these were identified in the Inspector's report.

58. The appellant's Transport Assessment (TA) – and the various addenda to this document – have been based on the HQ remaining operational. Observations of existing traffic, particularly at the Anchor junction, are based on the current situation and likely growth levels assuming the Police remain in occupation. The Transport Technical Note of March 2023⁴ also revised the assessment of the junction to reflect visibility and road widths more accurately. The evidence indicates that the development would generate around 38-41 additional trips at peak times. The Anchor junction would remain below capacity at these levels. There is no clear or persuasive evidence to suggest this is not a robust assessment of either current or future traffic levels. The proportionate increase in traffic at the Anchor junction would not therefore be significant.
59. In this regard, I saw that the Anchor junction is quite tight and there may from time to time be a need for vehicles to wait to allow others to enter or exit the junction. This already occurs and there is no evidence that this has resulted in any recorded accidents in at least the last five years. The development would have the potential to add slightly to the lengths of queues and waiting times. However, the increase in traffic using the junction is unlikely to be sufficient to unacceptably exacerbate any existing risks or alter driver behaviour to the extent that it would create new ones.
60. There is some evidence of vehicles mounting the pavement along parts of Woodcote Lane, particularly near to the Anchor junction. The photographic evidence provided by the Rule 6 party only represents a snapshot and is not necessarily representative of conditions at all times. Nevertheless, I am mindful that this type of activity can, and may well, take place on occasion. The pavement near to the Anchor junction is also relatively short and narrow in places. This has led to concerns that pedestrians may become 'entrapped'.
61. Clearly, vehicles should not be mounting pavements. Even having regard to the width of the road, there should be no need to mount the pavement if driving responsibly and according to the conditions and characteristics of the road. Indeed, mechanisms, other than planning, exist to deal with dangerous driving. There is also sufficient visibility along Woodcote Lane to be confident that any pedestrians using the footways would be highly visible to drivers and that this should curtail any propensity to drive unnecessarily dangerously. Also, while the stretches of pavement are short and narrow in places, they are still sufficient to allow pedestrians to wait in place while vehicles are passing if considered necessary. In any event, the overall number of trips generated by the development would be relatively small. I do not consider that this increase would exacerbate existing issues to an unacceptable degree.
62. In places the pavements to the village may not be at the minimum width advocated by the Department for Transport's Manual for Streets. This would mean that people may need to walk in single file, wait to allow people to pass or briefly step out into the road when safe to do so. There may also be places where wheelchair users or people using pushchairs may have some difficulties. Such issues are not uncommon in rural areas and again, would still exist with or without the development. I do not consider that the proposal would make the existing situation materially worse.

⁴ Document A27

63. Pedestrians walking into the village from the development may also need to cross the road up to three times to make sure they are on a footway. While this may be inconvenient it is not inherently dangerous. Crossing any road carries a degree of risk. However, in the main there is good visibility in both directions along Woodcote Lane and crossing the road need not be unduly risky. Even where visibility is more constrained near to the Anchor junction, with care, I did not see crossing the road here would be an unduly dangerous endeavour. The anticipated increase in traffic would not materially affect the current situation in any event.
64. It would be reasonable to assume that pedestrian flows would increase following the development. However, it is unlikely that this would be such to cause genuine safety concerns. I saw nothing that could not be safely navigated through normal care, attention and pedestrian etiquette. I therefore have no undue concerns about pedestrian safety on Woodcote Lane or at the Anchor junction.
65. The new access onto Woodcote Lane would provide adequate visibility in both directions. There is no substantive evidence which demonstrates it would not meet the required standards. Indeed, there is no objection from the local Highway Authority (HA) in this regard. Parts of Woodcote Lane are also subject to parked cars which can mean that there is insufficient space for two vehicles to pass. The number of parked cars will vary depending on the time of day, but it does mean that there would be times when drivers need to wait for gaps in oncoming traffic to progress. This is not an unusual occurrence, particularly in rural areas, nor is it one which would necessarily be unsafe. There is no obvious reason why the development would lead to any increase in cars parked on the road. The likely increase in traffic would also not be so great as to severely effect the safe and efficient operation of the road.
66. Woodcote Drive is a private unpaved road which serves the HQ but also a small number of existing dwellings. This road would provide access to any dwellings located on the 'tennis court' parcel of the appeal site. There is a gated entrance to the road where there are signs indicating that the speed limit is 10 mph. There are speed humps periodically along its length.
67. The road narrows at the main entrance and there is insufficient space for two vehicles to pass each other. However, there is good visibility for vehicles entering the road from Woodcote Lane and some space to wait to allow vehicles to exit Woodcote Drive should they meet. While this situation is not ideal, the junction is currently used by both the Police and existing residents, and I have seen no evidence of any recorded accidents.
68. As per the Wheatcroft plans, Woodcote Drive would not provide vehicular access to the larger parcel of land. Although subject to reserved matters, the indication is that the smaller parcel would deliver around 10 dwellings. The proposal would still therefore lead to some additional trips, both in terms of residents but also such things as deliveries. However, any increase is clearly going to be proportionate to the scale of development. Thus, the TA's assumption that it would generate a maximum of around 6 additional trips during peak hours does not seem unreasonable. It would generate trips at other parts of the day, but these would be when the wider network and road itself are likely to be less busy. I am therefore not persuaded that the increase

in traffic using this road would be sufficient to unacceptably increase the risk of conflict at the junction.

69. In terms of pedestrian safety, there are no footways and therefore pedestrians must walk in the carriageway. The route is presumably already used by existing residents. The appellant's evidence describes the route as a 'shared surface', where conditions are such that it is considered safe and suitable for pedestrians to use the carriageway. The road is reasonably straight and provides good visibility in both directions. There are also wide verges in many places where it would be safe for pedestrians to wait to allow vehicles to pass if need be. There is also space at the junction with Woodcote Lane for pedestrians to wait safely. Due to the stated speed limit and traffic calming measures which already exist, passing traffic should also be relatively slow moving. From my observations, there is no reason why the traffic calming measures would not be effective. Residents and regular users of the road, including the Police, will also be aware of the nature of the road and should drive accordingly. The small increase in traffic using Woodcote Drive would not materially increase the risk to existing users of the road.
70. I acknowledge that paragraph 116 of the Framework states that priority should be given to pedestrians and for development to minimise the scope for conflict between pedestrians, cyclists and vehicles. Given the characteristics of Woodcote Drive, including speed limits and traffic calming measures and the amount of additional traffic likely to be generated, I am satisfied that there would be no undue increase in risk to users of the lane in this regard. I am also mindful that paragraph 115 of the Framework states that development should only be refused where there is an unacceptable impact on highway safety.
71. Issues have been identified in relation to deliveries being made to the Anchor pub, refuse collection particularly on Woodcote Drive and buses using Woodcote Lane. These are all likely to be regular but short-lived issues, that can affect many areas in a similar way. As with most of the transport issues identified, these will continue to be a factor in the area even if the appeal were dismissed. The increase in traffic may aggravate these problems to a marginal degree, but I do not consider that this would rise to a level sufficient to justify withholding permission.
72. The Wheatcroft plans would result in fewer vehicles using the Woodcote Drive exit and more using that off Woodcote Lane. This would make no difference to the number of vehicles using the Anchor junction. The marginal increase in the use of Woodcote Lane would have no material effect and thus the change in the proposal would be no more harmful overall.
73. The development would use land which is currently used for overflow parking. I also saw other parking areas at the HQ. Although my visit can only be a snapshot of normal conditions, I saw that not all of the parking areas were fully utilised. Obviously, the number of vehicles parked at the site will vary over the course of any day and night and there will be times of greater and reduced pressure for spaces. Any evidence of 'unlawful', unauthorised or obstructive parking at the Police HQ is outside the scope of the appeal and something for the landowner to address. If parking issues spill out into the surrounding area and cause unacceptable safety issues, then this would be a matter for the authorities. However, I see no reason why the development would necessarily cause any unacceptable problems in principle.

74. Ivy Cottage is a Grade II listed building located close to the Anchor junction. It partially overhangs the road and, according to some photographic evidence, it has been struck in the past by passing HGVs causing damage. Clearly, any damage already caused to the building cannot be attributed to the development. Other than perhaps in relation to construction, it is not clear why the proposal would lead to significant additional HGV movements along Woodcote Lane or why this would mean the building is at any more risk than at present. Again, these are matters which are avoidable if drivers are taking due care and attention. The risks are not likely to be materially worse because of the development.
75. The HA originally objected to the proposal. However, by the time the application was taken to Committee, those objections had been withdrawn. Clearly, further discussions between the appellant and HA took place following their initial objection and commitments were made in terms of mitigation, as set out in the pedestrian safety audit. The Rule 6 party may be disappointed that the HA changed their stance and that the suggested mitigation measures do not go as far as they would wish. Moreover, they may not fully understand or agree with the reasons for the HA changing its stance. Nevertheless, the final position of the HA is that, subject to conditions, they are content that the development would not result in unacceptable transport impacts or safety issues. I consider this to be a material consideration of significant importance.
76. In conclusion on this matter, there are clearly some existing highway and pedestrian constraints in the vicinity of the site. I have also had full regard to the comments and concerns of local residents, including their criticisms of the evidence and safety audit. I am satisfied that the evidence supporting the development is adequate for me to assess the likely effects. Overall, I am not persuaded that the development would give rise to such an increase in trips or pedestrian activity that it would cause or unacceptably exacerbate existing safety issues. Neither would the development result in severe residual cumulative transport impacts, either at the Anchor junction or further afield.
77. There would be no conflict with WDLP policies TR1, TR2 and TR3 and LWNP policies LW10 and LW11, which collectively seek to ensure development will be permitted where it provides safe and suitable access and would not be detrimental to highway safety. There would also be no conflict with paragraph 115 of the Framework, the requirements of which are set out above.
78. In coming to this conclusion, I am mindful that LWNP policies LW10 and LW11 refer to provision of new footpaths and/or the widening of others. No such improvements have been identified as being necessary by the HA and the physical constraints of the site and locality mean that it would not be possible or practical to require them. As above, such constraints would have been understood when the site was allocated and thus this does not alter my conclusion that the development would be acceptable in highways and pedestrian safety terms.

Other Matters

79. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The following considers whether there are any material considerations which would justify the identified conflict with policies DS22, LW4 and LW5.

Five-year housing land supply

80. There is dispute between the parties as to whether the Council can demonstrate a 5-year supply of deliverable housing land as required by the Framework. The Council's revised figures took account of the fact that the WDLP is now over five years old. As such, the 5-year requirement is based on the local housing need (LHN) established using the 'standard methodology' set out in the Framework⁵.
81. The Council and appellant provided an Addendum to their Housing Statement of Common Ground which confirmed the LHN to be 3,350 dwellings. This takes account of the changes to the Framework published in December 2023. The *requirement* for Warwick is therefore not disputed. The *supply* figure is disputed, both in terms of the deliverability of individual sites and whether there should be a 'discount' on the supply to reflect the WDLP's commitment to partially meeting Coventry's needs.
82. For a site to be considered deliverable it must be available now, offer a suitable location for development now and be achievable, with a realistic prospect that housing will be delivered on the site within five years. It goes on to identify two broad categories of sites, A and B. Sites falling under category A are not in dispute here. Category B sites are those with outline permission for major development, are allocated in a development plan, have permission in principle or are identified on a brownfield register. Sites in this category should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. This is not a closed list, but in considering sites which fall outside category A, the same level of evidence should be provided.
83. Following concessions at the roundtable, the Council considered their supply to be around 6,112 (not including the appeal site). This equates to 9.12-years' supply without any discount. With the so-called 'discount' this would equate to 4.98-years' supply. The appellant's revised figure is 4,772⁶ which equates to either a 7.12-years' supply or 3.89 if Coventry is taken into account.
84. I consider both issues below but will start with my assessment of the sites where there was still some dispute by the end of the roundtable session.

Land at Thickthorn, Kenilworth

85. The site is considered deliverable, but the dispute lies in the likely start date. At the roundtable, the Council conceded that development would be unlikely to start in the timescales suggested and thus reduced their assumption from 285 to 225 dwellings in the 5-year supply. The site forms part of a larger allocation, some of which is already under construction. Outline permission exists for the whole site. An initial reserved matters application for the whole area has been submitted but is undetermined, seemingly due to several unresolved planning issues. Consequently, a separate reserved matters application for 143 of the remaining dwellings has been submitted. The Council relies on the premise that the developer would not 'walk away' from delivering the remaining dwellings on the site. Nevertheless, as there is no current application and there seems to be unresolved issues, I am not persuaded that this constitutes clear evidence that

⁵ As set out in paragraph 77 of the Framework

⁶ The positions set out in the AHSOCG were 6,332 for the Council and 4,400 for the appellant.

the remainder will begin or be completed in the period. As such, the figure of 143 dwellings reflecting the most current situation is preferred.

Land at Kings Hill Lane, Stoneleigh

86. This site is part of a larger allocation for 2,500 dwellings. Outline permission was granted in December 2021. No reserved matters applications have since been submitted. The landowner no longer intends to build the site out themselves and is looking to market it to a developer. This exercise has already been delayed and was not expected to start until March 2024. No timescales have been provided for how long this might take or when a reserved matters application might be submitted. Although the Council's trajectory of 250 units is based on figures provided by the landowner, this seems highly optimistic given the current uncertainties and what would still need to be sorted out in terms of detailed permission and discharge of any conditions.
87. The fact there is already outline permission and the landowner is continuing to work on marketing and discharging conditions, provides some comfort that progress has not entirely stalled. There is sufficient evidence to conclude there could be some delivery within 5 years. Nevertheless, at best this would only be at the very end of the period. It is not realistic to assume any more than 50 dwellings could be delivered in the timescale and thus 200 dwellings should be removed from the supply.

Land at Asps Farm, Bishops Tachbrook

88. This site forms part of a wider outline permission. The principle of development has therefore been established. Reserved matters have been granted on other elements and these are included in the undisputed part of the supply. Here there are two undetermined reserved matters applications. The Council conceded that development was unlikely to start in year 2 and thus reduced their assumptions to 280 dwellings. There appears to be a number of unresolved objections to the development and other constraints. However, the Council appear confident these can be resolved and the applications will be determined imminently. As outline permission already exists, I do not consider these issues are sufficient to disregard the site on the basis of it not being suitable now; most planning applications have issues that need to be addressed and this is not unusual.
89. Notwithstanding the appellant's concerns about the lack of site-specific evidence, some comfort can be taken from the fact there are reserved matters applications before the Council, the issues are actively being addressed through additional information and changes to the scheme and there are recognised volume house builders involved. The balance of probability suggests that there is a more than reasonable prospect of development taking place on this site within 5 years. Nevertheless, as there remain some uncertainties, this is unlikely to be until nearer the end of the period and thus I consider a maximum of 100 dwellings in years 4 and 5 would be justifiable. As such, 180 dwellings should be removed from the supply.

Land South of Chesterton Gardens, Leamington Spa

90. The appellant conceded a figure of 100 dwellings on this site, compared to 130 for the Council. The main area of dispute is therefore when delivery is likely to begin. There is a substantial planning history on this site. Outline permission

was granted in 2021; a subsequent reserved matters application was approved in principle but then withdrawn when it was called in by the Secretary of State. The landowner is no longer intending to deliver the site themselves and is looking to both market the site and submit an identical outline application. There appears to be no substantial constraints. However, to reach the Council's 130 dwellings, development would need to start in year 3, which is just 2 years from now. Although the planning history suggests a shorter lead-in time might be achievable, there is still some uncertainty about when a detailed permission will be in place. As such, delivery in years 4 and 5 are more realistic and thus I consider a maximum of 100 units should be included in the supply.

Land North of Gallows Hill, Warwick

91. This site is part of a wider allocation. Outline permission was granted in 2015 for the whole site. No reserved matters for this element were submitted and so the outline permission has expired for this part of the site. The Council effectively relies on pre-application discussions that took place in early 2023 to justify the 50 dwellings it considers will come forward. Even if there are no particular constraints, this does not constitute clear evidence that completions will begin within 5 years, not least as there appears to have been no follow-up in almost a year. On this basis, the site cannot meet the definition of deliverable and *no* dwellings should be counted toward the supply.

Edmondscote Manor

92. The site is not allocated and does not have any form of permission. It is also currently in use by the Guide Dogs organisation. While they may be looking to relocate, they remain in-situ. To be deliverable a site must be "available now". This is clearly not the case here and so the site cannot form part of the deliverable supply. In any event, while there may be time in theory for the site to become vacant, for it to be marketed, permission granted and conditions discharged, there is no clear evidence that any of this will happen within 5 years. The 32 dwellings assumed should therefore be removed from the supply.

Former sewage works, Harbury Lane

93. The site is allocated but no planning applications have been submitted. The Council conceded their trajectory was overly optimistic and reduced the contribution from 150 units to 100. An outline application is expected to be submitted in March 2024. If, on average, it takes 4 years to go from submission of an outline to delivery, then it would be optimistic to assume any completions before year 5. This would still be below average. Although there is clearly some uncertainty, I am mindful that there appears to have been involvement from the Council in addressing outstanding issues. Such pro-activity may shorten lead-in times. On this basis, I consider there is sufficient evidence to suggest a maximum delivery of 50 dwellings in the final year.

Kenilworth school and Kenilworth school sixth form

94. These constitute two sites in the trajectory, but they have similar issues. Both are allocated in the local plan and both are owned by the Council. The appellant conceded both sites would be deliverable but there remained dispute about when delivery would be likely to start. The Council assume delivery of 75 dwellings between the two sites as early as year 3. As there is currently no

detailed permission and it appears the Council is still to decide whether to deliver the sites themselves or dispose of the land to a developer, there remains some significant uncertainty. Therefore, given normal lead-in times, it is unrealistic to assume this level of delivery just 2 years from now. A more realistic, though still optimistic assumption is that delivery will take place in years 4 and 5 and would deliver 180 dwellings between the two sites. Accordingly, the supply should be reduced by 105 units.

Land at Montague Road (Ambulance station)

95. The site is part of a wider allocation but, while development is taking place on adjacent land, there are no applications or permissions on this parcel. The site is in use as an ambulance station and there appears to be no expectation that they intend to vacate the site in the near future. The site is not available now and fails to meet the definition of deliverable. The fact there is strong potential for acquisition by neighbouring developers is not sufficient evidence to alter this conclusion. The 19 dwellings assumed should be removed from the deliverable supply.

Riverside House

96. Again, the dispute is not in whether the site is deliverable but the number that could realistically be delivered in 5 years. The site is allocated for housing and now owned by Homes England who have recently carried out a public consultation on the site and intend to submit an outline application in "early 2024". The work already carried out by the Council, including production of a development brief, could reduce lead-in times to an extent. The involvement of Homes England also provides a degree of comfort that delivery will happen. Nevertheless, even having regard to Homes England's own trajectory, it is overly optimistic to be able to go from the current situation, with no detailed permission, to delivery in year 2 of the period. The need to submit an outline application, then reserved matters and discharge all conditions means it is far more likely that development would not start delivering until year 4 at the earliest. Moving the Council's trajectory on by two years would yield 60 dwellings from the site. This tallies with the Council's original assessment. The supply should therefore be reduced by 50 units.

Court Street

97. This site is allocated for housing and outline permission for up to 90 bedspaces was granted in December 2022. This has been translated to 80 dwellings by the Council. Unlike most of the other outline permissions, there appears to be no evidence of any recent activity relating to the site. If outline permission were sufficient in itself to make a site deliverable then there would be no need for clear evidence that housing will be delivered within 5 years. On this site, there appears to be nothing more than an assumption that, given the time remaining, some development could happen. On balance, I do not consider this sufficient to meet the Framework's definition and thus the 80 dwellings assumed should be removed from the supply.

Land at Hazelmere/Little Acre

98. The site is allocated but there are no permissions in place. The trajectory is seemingly based on pre-application discussions that took place as long ago as 2021. This does not inspire any confidence that delivery will happen within 5

years. The Council indicate they have been in more recent contact with the agent for the site and there may be some intention to bring it forward for 60 dwellings. This is largely anecdotal and does not constitute the evidence needed to consider the site deliverable. Again, a lack of any impediment to an allocation coming forward is not clear evidence that it *will* come forward. 80 dwellings should therefore be removed from the supply.

East of Kenilworth (Thickthorn) (northern part)

99. This site is allocated and an outline application was submitted in February 2023. This remains undetermined. There are seemingly a large number of constraints which need to be addressed. Notwithstanding the site is allocated, as there is no outline in place, this must raise some question as to whether the site can be considered suitable for development *now*. Even if these issues are not insurmountable, it is clear there has already been some substantial delay in granting permission. Addressing the issues and granting reserved matters could take a significant amount of time. Average lead in times would suggest that, at best, it would not be realistic to assume any delivery before year 5. However, given the degree of uncertainty on this site, I am not persuaded that there is sufficiently clear evidence that development *will* take place during this period. Accordingly, all 220 units assumed should be removed from the supply.

Oak Lea, Finham

100. This is another local plan allocation which does not have permission and no applications have been submitted. The only evidence of potential delivery is from a pre-application meeting in 2020. The Council have been in discussions with the agent more recently and acknowledge there are technical issues to overcome. There is little clarity as to why there has been no progress. However, neither the lack of apparent constraint or the local plan status is sufficient to demonstrate a site is deliverable. The 20 dwellings assumed should therefore be removed from the supply.

The appeal site

101. The Council understandably excluded the site from their assessment of supply as they do not consider it suitable for development. However, in the event that outline permission is granted, I consider there to be a reasonable prospect that delivery could happen within 5 years. There has clearly been a great deal of preparatory work in getting to this stage and there is a full application already lodged with the Council. This suggests it would not take particularly long for reserved matters to come forward. Although I would expect development to be at the end of the 5-year period, 83 dwellings would only amount to 1-1.5 years of delivery and thus if development started in year 4 then all 83 dwellings could still be achieved. If permission is granted, the site would have the potential to contribute to the 5-year supply.
102. I shall now turn to the issue of whether a discount should be applied in relation to Coventry's needs. The WDLP makes provision for helping to meet some of Coventry's housing need. It is agreed between the main parties that, for the period 2017-2029, this equates to around 45% of the plan's overall requirement.
103. The Framework and Planning Practice Guidance (PPG) are silent on how to take account of the needs of neighbouring authorities in the supply calculation

when using the standard methodology. There is no guidance either way therefore on how this should be addressed. However, the 'standard methodology' only deals with the requirement side of the equation. Several appeals⁷ have been drawn to my attention where Inspectors have considered the supply side of the issue.

104. Of all those put to me, only the Abbott's Lane decision in Coventry does not conclude that some disaggregation of the supply figure should be made to reflect the spatial strategy of the relevant development plan. In that case, the Inspector made no reference to this issue. It is also not clear that any argument was put to him that Coventry's supply figures should reflect the fact that other authorities were contributing to meeting the city's needs. Rather, it seems that the Council simply agreed with the appellant that they did not have a 5-year supply. Thus, it seems that the Inspector did not need to consider this matter in any detail.
105. I do not consider Coventry Council's approach necessarily amounts to them "not claiming" the 45% of Warwick's supply or, even if it did, that I should be wedded to that approach. This is especially the case as my colleague came to no conclusion on this as a matter of principle. I cannot speculate as to why the case was not made that Coventry's supply should not have regard to needs being met elsewhere or what the Inspector's conclusions would have been if they had. The only conclusion I can draw is that the Inspector was not asked to grapple with the issue and thus the fact the decision does not 'claim' any of Warwick's supply is not determinative. Neither is the fact that this is the most recent example. As the Inspector did not address the issue, its recency does not invalidate the conclusions of the other decisions.
106. The fact the appeal relates to Coventry is of course relevant here, as the WDLP is seeking to meet an element of their need. Nevertheless, for the same reasons, I do not consider the Abbott's Lane decision creates any kind of precedent for how I should determine this appeal. Moreover, if I adopt the appellant's approach, the 45% of dwellings built in Warwick do not disappear into the ether. Even if not counted toward Warwick's 5-year supply, any dwellings built will still be serving to meet the overall plan requirement which, in turn, helps to meet Coventry's needs. In such circumstances, it seems entirely reasonable to me that the 5-year supply figure should reflect the strategic approach of the development plan. The 5-year supply position is also assessed every year. There is no reason in principle why Coventry could not seek to re-assess their position in future years if they consider it appropriate to do so.
107. The WDLP does not make specific allocations or differentiate any parts of its supply to meet Coventry's needs. Rather, it subsumes them within the overall requirement. It has been suggested that due to this it is not possible to determine how much of what has been delivered thus far, or will be delivered in the next 5 years, might be meeting Coventry's needs. This pre-supposes some kind of geographic distribution within the Plan where specific sites could be attributed to meeting the needs of each district. However, this is not how the Plan is written. There is nothing to suggest that any allocations, or other deliverable sites, have been specifically earmarked to meet Coventry's needs.

⁷ Appeal references: APP/U4160/W/22/3313890 (Coventry), APP/J1860/W/22/3313440 (Malvern Hills), APP/P0240/W/20/3249265 (Central Beds), APP/P2040/W/17/3190687 (Central Beds), APP/P0240/W/17/3181269 (Central Beds), APP/G1630/W/21/3284820 (Tewkesbury), APP/G1630/W/22/3310117 (Tewkesbury)

Moreover, the Council do not differentiate between meeting Warwick's and Coventry's needs in their annual monitoring of delivery. As such, the only logical way to consider the issue is based on a proportionate approach as set out in the plan.

108. It was also put to me that the other appeal decisions can be differentiated from that before me as the plans in those cases identified 'doner' sites for the neighbouring authorities. This might make a more clear-cut case for disaggregation and/or may make the calculations more straight forward or nuanced. However, the underlying premise remains largely the same; that the development plan establishes a strategy to deliver a certain number of dwellings to meet a neighbouring authority's needs, that the use of the standard methodology does not alter that strategy and that the 5-year supply figures should therefore reflect that strategy. In principle, I see no particular difference between removing specific sites from a supply figure because they are intended to meet another district's needs and using a proportionate approach. It is still a case of the supply reflecting the intentions of the Plan.
109. The strategy set out in the WDLP is to deliver housing to meet Coventry's needs. There is nothing to suggest this strategy is out-of-date or should be set aside. As was concluded in the Malvern Hills appeal, to ignore this could artificially inflate the Council's 5-year supply position. This approach could mean the Council no longer considering it needs to deliver the additional housing to meet Coventry's needs and or the requirements of the WDLP. Consequently, the overall longer-term effect could be to suppress housing land supply in the district. This would be inappropriate. On this basis, I prefer the approach suggested by the appellant and the decisions made by my colleagues in Malvern Hills, Tewkesbury and Central Bedfordshire.
110. While using the 45% figure as a 'discount' may be a somewhat blunt instrument, it is the only logical way to ensure the spatial strategy of the plan is properly reflected in the supply figure. I do not consider this to be a departure from how other Inspectors have dealt with the issue in principle. This is particularly the case in Malvern Hills where, though the specifics differ, a proportionate approach was also taken.
111. I therefore find the overall deliverable supply, excluding the appeal site, to be around 4,914 dwellings. Taking the 45% Coventry figure into account, this would equate to a supply of 4.01 years or a shortfall of some 665 dwellings. As such, irrespective of any other issues relating to policy, paragraph 11d of the Framework is activated.

Planning Obligations

112. Paragraph 57 of the Framework sets out that planning obligations must only be sought and be considered as a reason for granting planning permission where they are necessary to make the development acceptable in planning terms, directly related to development, and are fairly and reasonably related in scale and kind to the development. I have considered the S106 on this basis.
113. The S106 contains obligations requiring 40% affordable housing. The eventual type and tenure would be determined by an affordable housing scheme to be agreed by the Council. This is consistent with WDLP Policy H2. The obligations also make provision for First Homes in accordance with

relevant local and national policy. I am satisfied these obligations meet the necessary tests.

114. Financial contributions are required for early years, primary and secondary education. The evidence from the County Council indicates there is no capacity at nearby schools. It also sets out the financial contributions required per school place likely to be created by the development. I consider there to be a difference between these contributions and those sought by the South Warwickshire University NHS Foundation Trust. Here, the additional school places are directly related to the needs generated by the development and will be used to increase physical capacity. Even if the funding for education and healthcare has some similarities, which I have no direct or detailed evidence on, the way in which services are delivered is obviously quite different. Moreover, the obligations make it clear at which schools the contributions would be spent.
115. These are justified and necessary to mitigate the increased demand arising from the development. The relevant obligations provide an appropriate mechanism to calculate the required sums based on the final number of dwellings delivered. As such, I am content the contributions are reasonably related in scale to the development.
116. The obligations were modified following the roundtable to include more detail on where the contributions would be spent. The primary school contributions are to be directed to either St Johns school in Kenilworth or any other primary school within 2 miles of the development. I note that while the contribution could still be spent on Leek Wootton's primary school, it is not named. This raises some concern about pupils being expected to travel outside the village. Nevertheless, the obligation provides some flexibility in this regard and the school in question is still a reasonable distance from the village. I am therefore satisfied that the obligation still meets the statutory tests. The named location for secondary school contributions appears appropriate.
117. There are a number of obligations relating to the provision of on- and off-site open spaces, including amenity spaces, indoor and outdoor sports facilities, and grass pitches. While each obligation for financial contributions lists several potential locations for potential spending, they are all within a reasonable distance from the site. While these provide a degree of flexibility, I am content that they are justified by relevant policy requirements and meet the statutory tests. The same applies to the financial contributions toward library provision.
118. Financial contributions are required for highway improvements. These are to be spent on increasing cycling capacity into Kenilworth, which is reasonable in terms of promoting more sustainable travel patterns. A sum is also required to make capacity enhancements to the St John's gyratory. I acknowledge there are no measures relating to the Anchor junction or Woodcote Lane. As noted elsewhere, the HA have not identified a need for such improvements and so this is not a cause for concern. The S106 also includes provision for sustainable travel packs for new residents. All measures relating to highways and transport are justified, consistent with relevant policies and meet the necessary tests.

119. The agreement includes obligations for biodiversity off-setting. This requires the submission of a Biodiversity Impact Assessment and Offsetting Scheme. These should include details of any areas of land provided as 'biodiversity offsetting areas'. This includes the area of woodland outside the site, but within the appellant's control. The obligations provide alternative approaches that can be taken to deliver biodiversity offsetting, including contributions to the County Council, purchasing credits from 'the Cygnet Fund', or other licensed providers, or a mixture of approaches. Any agreed scheme also needs to include measures for the management and maintenance of any designated 'offsetting areas' for a period of no less than 30 years. The measures relating to biodiversity are necessary to address potential impacts, meet relevant policy requirements and thus meet the statutory tests.
120. The agreement requires the submission, implementation and management of a sustainable drainage scheme. This includes detail about the circumstances in which land would be transferred to the Council and measures to ensure the areas are publicly accessible. As such, I am content the obligation meets the statutory tests.
121. The agreement includes two financial contributions relating to healthcare; an NHS Doctor's Surgeries contribution and a South Warwickshire University NHS Foundation Trust (the Trust) contribution. The former is intended to go toward the improvement and/or extension of the primary care estate within the Warwick and Kenilworth Primary Care Network. The latter is to fund provision of acute and planned healthcare services at Warwick Hospital. Both are ostensibly to meet the additional demands on services resulting from the development.
122. The appellant has disputed these obligations, arguing that they are not compliant with the statutory tests. There is no dispute the NHS has a statutory duty to treat new patients associated with the development or that the development would result in increased demand for local healthcare facilities. The dispute is whether this should be funded by the developer. In debating this issue, my attention was drawn to a relatively recent judgement⁸ where it was found that Harborough District Council's decision to *not* require a financial contribution toward healthcare was not unlawful. However, while that case may have related to the specific actions of that Council, matters pertinent to this appeal were also clearly considered. This is primarily regarding whether the NHS Trust in that case had sufficiently demonstrated there was a funding gap and discussions around the funding mechanism.
123. The Trust's contribution request makes it clear that any funding would only be to cover the costs of the first year of occupation of the new dwellings. It also takes account of the potential for some new residents of the development to already be living in the area and thus already taken account of in the funding. It is argued a contribution is needed for the remainder because the new population is not taken into consideration in the funding calculation until they are registered with a GP. This will normally not be until the following year's funding negotiations take place.

⁸ University Hospitals of Leicester NHS Trust v Harborough District Council v Leicestershire County Council 2023 EWHC 263 (Admin)

124. The funding requested is also 'revenue' based. This means that it would be spent on improving the efficiency of existing space rather than any specific new infrastructure or growth in physical capacity to accommodate additional patients or services.
125. The starting point is that the Trust have a statutory duty to provide healthcare for the residents of the development. There is no suggestion that any occupant of the development would not be given treatment if funding were not made available. The issue is that the services are at capacity and there may be knock-ons in terms of the quality of healthcare provision if funding is not provided. Occupants of the development would also be 'fully funded' following the first year of occupancy, as the funding mechanism would 'catch-up'. Any effect on service provision should therefore not be permanent.
126. The evidence points to several factors being taken into account in the calculation of the Integrated Care Board's (ICB) funding. This includes population growth. However, it appears that the main source of information for population growth is effectively looking back at GP patient registers, rather than using ONS household or population projections or any analysis of the development plan or planning permissions to determine likely growth looking forward.
127. The evidence suggests however that the ONS projections *do* form part of calculation as to what proportion of the monies are given to each ICB. What is unclear is what influence the ONS projections have had on the funding. As the Judge commented, ONS projections and the development plan are not divorced. The development plan may include allocations and policies to meet the anticipated growth in population and households. It is therefore not clear to me in this case what growth assumptions have already been factored into the ICB funding, including those associated with the ONS. As such, it is difficult to assess whether or not the growth anticipated by the development plan, and associated allocations, has already been taken into account to one degree or another. This makes the assessment of whether a 'funding gap' exists more difficult.
128. Notwithstanding this, the funding mechanism apparently does not take account of the development plan or other indicators of development activity. The Trust have argued that such data would not be accurate and is based on assumptions and unknown factors and that development may not happen at all. I acknowledge that such data sources may well include some uncertainties. However, from the information provided, a range of factors are included in the assessment other than population growth; it is likely that some of these also include a degree of uncertainty. Nevertheless, it is not clear to me why there could be no assessment of likely future housing delivery. The Council produces annual monitoring reports and trajectories of expected housing delivery. This should include a reasonable degree of certainty for any scheme to be considered 'deliverable'. Moreover, in situations such as this, where any permission would be in outline, there would be a lead in time where needs could, at least in theory, be anticipated.
129. The judgement indicates that the NHS funding rules would not preclude the Trust from negotiating a block contract which has regard to population growth, or to additional activity resulting from the first year of occupancy. I

am therefore unclear as to whether the Trust would not be able to take account of known pressures, including the development, or just that is not how it has been done up to now. That they do not take account of such things is not necessarily the same as they cannot, or indeed, will not take account of such things in any negotiation. The Judge concluded that Harborough Council were justified in having concerns about this approach. These are concerns which I share.

130. In addition, while the Trust's request sets out in detail how the contribution is calculated, it does not include any figures against each category. On this basis, it makes it more difficult to assess how the total figure is calculated.
131. I acknowledge the judgement stops short of concluding that there can never be a situation where a financial contribution toward NHS services would be lawful. Nevertheless, having regard to the judgement and the evidence before me, I am not persuaded that the Trust has sufficiently demonstrated that a funding gap exists in this case or that the contribution would be reasonably related in scale and kind to the development.
132. The NHS Doctor's Surgery contribution would be a capital contribution to increase capacity at one or more local GP surgeries. The request from the Clinical Commissioning Group (CCG) makes it clear that the Abbey Medical Centre and the Castle Medical Centre are at capacity and that the S106 should contribute to their expansion. However, the obligation itself refers only to the contribution being toward the improvement/expansion within the Warwick and Kenilworth Primary Care Network. There is no mention of the two GP surgeries. I therefore have some concern that there is no way of guaranteeing that any contribution made would be directly spent on the surgeries which may be affected.
133. Moreover, the CCG request does not provide similar information relating to how infrastructure provision is funded, whether this is different to that described above, how population growth is factored in, or any other similar issue raised in the judgement. The contribution request also identifies how much additional floorspace would be required but does not indicate what figure is used to reach the outturn costs. Again, this makes it difficult to conclude with certainty that the contribution is reasonable in scale and kind. Finally, there is no indication in the CCG's request about the effect *not* providing the additional 11m² of floorspace at either surgery would have on patient care or the ability of the surgeries to carry out their statutory duties. It is not clear what being 'at capacity' means in this context; does it mean, for example, that additional patients would be turned away? This is not clear from the information before me. This makes it difficult to assess whether the contribution is necessary.
134. It is fair to say that the judgement creates a degree of uncertainty relating to this issue and raises questions, particularly relating to the funding mechanism, that have not been addressed to my satisfaction. There are also specific areas of the two requests, in particular the source of the figures requested and how they may be spent, which also give some cause for concern. I therefore cannot say with certainty that the contributions meet the statutory tests and thus I have not taken them into account in my decision.

135. I do not accept that without the contributions, the development would be contrary to WDLP policies HS1, HS6 or DM1 or the Framework. A contribution can only be required where it would meet the statutory tests. Policy HS1 is supportive of proposals for healthcare. This is not relevant to this case. Policy HS6, and its supporting text, refer to development contributing to healthcare as required. However, it has not been demonstrated to my satisfaction that such funding is required in this case. As such, there is no breach in policy. Policy DM1 relates to contributions and mitigation in general terms. Again, as the relevant tests have not been passed, there is no conflict with this policy.

Other matters

136. Many of the other issues raised by interested parties would be subject to consideration at the reserved matters stage and are not barriers to granting outline permission. It must also be kept in mind that the site is allocated for development in the WDLP. While the detail still needs to be considered, many of the consequences of the principle of development would have been considered and expected as part of allocating the site.
137. I am content that the site is of sufficient size to accommodate the scale of development proposed in principle without this necessarily constituting the over-development of the site. Specific issues relating to layout, scale and design will be assessed through reserved matters. Similarly, there is no reason why development would inevitably lead to unacceptable impacts on the living conditions of nearby residents including by means of noise, disturbance or overlooking. There is sufficient space within the site to ensure suitable separation distances and this can be adequately assessed through reserved matters. Any specific issues related to construction would be temporary and can be controlled by condition.
138. Leek Wootton has been identified as a growth village in the WDLP. While it may not contain all the facilities needed to meet day-to-day needs, it is still considered a suitable location for growth by the development plan. Indeed, the Plan envisages more housing on the site than would be delivered by the proposal. Suggestions the village does not have sufficient infrastructure or capacity to accommodate the development therefore appear unfounded. The S106 agreement also makes provision for contributions toward infrastructure provision in the local area. Some concerns were raised, including by the Rule 6 party, about whether the development would provide adequate on-site public open space. Again, the site is of sufficient scale to accommodate adequate open space as required by policy. The S106 contains several policy compliant requirements relating to both on and off-site open space. There is no reason to conclude such measures would be inadequate or not able to be properly considered as part of the reserved matters process.
139. In terms of the effects on biodiversity, it must again be remembered that the Council identified the appeal site for development. The issues relating to the use of Woodcote House or other heritage issues have no bearing on the fact that the WDLP anticipates housing on these plots. It is reasonable to assume that consideration was given to the potential effects on biodiversity when allocating the site. Nonetheless, the application was supported by various Ecological Appraisals. The Council's Ecologist was initially concerned about the information provided but was satisfied with the updated evidence provided

with the Wheatcroft plans. I am therefore content that the appraisals are sufficiently robust.

140. The site is not part of any ecological designations. The majority of the appeal site is covered by semi-improved grassland with other elements of amenity grassland and some hardstanding. Hedgerows and tree belts across the site are of ecological value. Development would be likely to result in the loss of some trees and hedgerows, including in relation to the access on Woodcote Lane. However, the full extent of this can be considered at the reserved matters stage. There would also be opportunities to provide new planting as part of any scheme. As such, this is not a sufficient reason to withhold outline planning permission.
141. In terms of protected species, there is evidence of potential for bat activity and nesting birds. These are matters that can be satisfactorily assessed and mitigated through reserved matters and/or suitable conditions. There is no evidence to suggest the harm caused would be unacceptable. Similarly, any issues relating to the potential for badgers should be able to be satisfactorily mitigated. The assessments did not identify the presence of reptiles or amphibians. The Council's ecologist considered there may still be potential for amphibians, but this need not be a constraint to development. Additional assessments and mitigation strategies would be necessary alongside any reserved matters application. Any mitigation considered necessary can be required as part of any final scheme.
142. The S106 and suggested conditions contain multiple mechanisms and controls in relation to biodiversity assets, including the need for additional surveys and assessments, a Construction and Environmental Management Plan, a landscape and Ecological Management Plan, the need for a scheme to protect Wood Pasture and Park and Priority Habitat and Lunch and Cattle Brook Wildlife site and measures relating to biodiversity net gain. Overall, while there may be some effect on biodiversity assets, I am satisfied these can be adequately addressed and/or mitigated in line with relevant development plan policies and paragraph 186 of the Framework.
143. The suggested conditions would require the submission of a detailed lighting scheme. Similarly, in terms of potential effects on air pollution, there would be a requirement for the air quality mitigation works to be identified and agreed prior to construction taking place. If any issues that do arise, they can be satisfactorily mitigated and there is no reason to conclude that light or air pollution would be of a sufficient magnitude to justify resisting the principle of development.
144. The site lies within Flood Zone 1 and is therefore at the lowest risk of flooding. The proposal is supported by a robust Flood Risk Assessment and Drainage Strategy. Additional information was also submitted during the appeal process to address concerns raised by the Lead Local Flood Authority (LLFA). The strategy incorporates sustainable drainage techniques for surface water drainage in accordance with relevant policies. This would include the provision of an attenuation basin and such measures as permeable paving and soakaways where appropriate. Subject to conditions, the LLFA are content that the strategy is appropriate. I have no reason to come to a different conclusion. The S106 also includes provisions for the implementation and management of any drainage scheme in the public realm.

145. Regarding climate change, any development would need to meet the necessary building regulations relating to energy and water efficiency. The new NZDPD requires proposals to demonstrate the application of the energy hierarchy through the submission of an energy statement. This statement must set out how development would meet the necessary reductions in carbon emissions. Policy NZC1 also sets out how the energy statement can be used to consider the viability or feasibility of any scheme. This policy also states that a condition would be applied to all permissions ensuring that the finished buildings meet the standards set out in the policy.
146. Policy NZC2A-C and NZC3 relate to making buildings more energy efficient, use of low carbon energy and zero carbon ready technology, carbon offsetting and embodied carbon. Again, these various set out requirements for new development and require the production of an energy statement.
147. As set out below, the Council had already suggested a condition requiring a 'Sustainability Statement' to be provided prior to development taking place. This would be required to demonstrate the use of the energy hierarchy and how it would reduce carbon emissions, utilise renewable energy and reduce the need for energy. While the detail and policy context may have changed to an extent, the basic premise of what is sought is similar in scope and content. In my view, these are also matters which do not affect the principle of residential development on the site. I am content that in this case, and taking a pragmatic approach, the detailed issues raised by the NZDPD can be assessed at the reserved matters stage. A compliant energy statement can be required by condition to be submitted prior to any development taking place.
148. Any other issues relating to layout and design, which can have climate change implications, can be assessed at reserved matters stage. It would also be reasonable to assume any climate change factors relating to the *principle* of development here would have been considered through the preparation of the WDLP. There is nothing to suggest that outline planning permission should be refused on this basis.
149. There is nothing to suggest the appellant or Council failed to meet any necessary requirements for engagement or consultation. Issues have been raised in relation to land ownership and rights of access. These are outside the scope of the appeal and have had no bearing on my decision. The appeal has been considered on its own merits having regard to a very specific set of circumstances. It is highly unlikely that granting permission in this instance would lead to any unwelcome precedent elsewhere.
150. It was suggested that there may be alternative sites for development and/or the development was not needed. There is a clear need for housing in the District which the site was always intended to meet. The development plan also does not identify alternatives to meet the needs of Leek Wootton. These factors do not weigh against the development. Finally, it is not my role to consider whether site should be returned to Green Belt. Moreover, as the site is no longer Green Belt, I am not required to consider the development against any Green Belt policies.

Final Balance

151. On the debit side, the development would conflict with WDLP Policy DS22 and LWNP policies LW4 and LW5. As these relate to the allocation itself, they are

clearly of significant importance. It would also deliver fewer dwellings than the Plan anticipated at the site in conflict with Policy DS11. Although I have concluded the public benefits would outweigh the harm caused, the development would still also have a detrimental effect the settings of both designated and non-designated heritage assets.

152. The development would not *deliver* the continued occupation of Woodcote House or any associated heritage benefits. This, of course, weighs against the development. However, as the buildings and grounds are already occupied it could not possibly do so. The expectation that the Police would be vacating the site presented a potential risk of a Grade II listed building and its grounds becoming vacant and potentially falling into disrepair. These risks do not currently exist and the situation the policy was designed for is not currently a cause for concern.
153. The original plan submitted for examination also allocated the appeal site for development without reference to Woodcote House or any associated heritage benefits. It was only when the Police made their intentions clear did the Council put forward an alternative approach. It was entirely logical that the Council should address the potential risks associated with the Police leaving the site. However, this also suggests that, at least at one point, the Council were content the appeal site would be suitable for development without any heritage benefits being provided. There would be no knowing how the Local Plan Inspector would have concluded on whether this would have been sound. As such, I have not given significant weight to the evolution of the allocation policy. Nevertheless, the fact that there is no impending risk of additional harm through either the vacancy or deterioration of Woodcote House itself does, in my view, necessarily limits the weight I have given to the conflict with these policies.
154. Whatever the Rule 6 party's concerns about the Police's stewardship of the site, dismissing the appeal would not alter the current situation. The Police would still occupy the site and would continue to do with it as they will (subject to any other controls the Council has in terms of listed buildings and conservation areas). There is no suggestion the Police's occupation of the site is dependent on the development. Dismissing the appeal would not therefore guarantee the heritage benefits desired.
155. The heritage benefits were obviously included in the Local Plan Inspector's consideration of whether the site should be released from the Green Belt. However, I do not think it follows that any development which fails to provide said benefits must automatically be refused, without consideration of other factors.
156. Firstly, the site is no longer in the Green Belt. Therefore, there is no need for there to be the 'exceptional circumstances' needed to release a site from that designation through a local plan, nor the 'very special circumstances' needed to allow development on existing Green Belt. Secondly, the Inspector considered what was before him. The Inspector's report obviously took the potential heritage benefits into account and it no doubt weighed in favour of the allocation. However, the report also points to the importance of housing. Moreover, it does not say that without these benefits the allocation would have been considered unsound. It would be pure speculation to conclude what the Local Plan Inspector would have decided if the situation had been

different. I therefore do not consider this to be determinative. I must consider the appeal based on the policies before me and the current context.

157. Much of the expectation of what might be achieved in terms of heritage benefits is based on a SoCG⁹ between the then site promoter, Historic England and the Council. This was submitted to the Local Plan examination. This identifies a range of potential improvements that could be made, including the demolition of the 1960s extension to Woodcote House and other unsympathetic extensions to other associated buildings, replacement of parking areas with more sympathetic development, reduction of parking and reinstatement of lawns, removal of paraphernalia associated with the operational requirements of the police, securing the use of Woodcote House, increasing public access to the site and open spaces and potential use of the pavilion for multi-purpose as a community facility.
158. Other than securing the use of the Woodcote House, none of the other examples are included as *requirements* of the policy. This document only reflects one possible way in which they could be achieved. While failing to provide any heritage benefits weighs against the development, it is important to remember that the SoCG is not policy and so cannot be relied on as a means of determining what benefits would have been deemed acceptable.
159. It is not possible to completely rule out the prospect of the Police leaving the site at some point in the future. Of course, this could be said of any occupier of any building at any time. The only direct evidence I have from the Police indicates that they do not intend to leave the site for the foreseeable future. There is also some evidence of limited investment being made to the fabric of Woodcote House, which suggests some intent to remain on-site. In this regard, I acknowledge that no party was able to question the Police about their intentions. It is also fair to say that the Police have previously had concerns about the standard of accommodation at Woodcote House when justifying their decision to relocate. These factors limit the weight I have given to their currently stated intentions. On the balance of probability, and based on all I have seen and heard, it still seems more likely that the Police will remain on site than not.
160. It was put to me that, with 7 years of the Plan period remaining, it would be appropriate to resist development and wait to see if the situation changes. Alternatively, it was suggested that any uncertainty should be considered through a review of the local plan. This would give the Council the opportunity to reconsider whether the allocation is still appropriate if the Police are to remain in-situ.
161. Given the status of any current local plan review, there would be no justification to consider the development 'premature' in the context of paragraph 49 of the Framework. The stage the plan review is at suggest that any consideration of this issue would be some time away.
162. Allowing the appeal now would clearly create some risks. If the Police were to change their stance again and vacate the site, then the mechanism of using Policy DS22 to facilitate the re-use of Woodcote House would be lost. Again, this weighs against the development. However, the housing was never meant to be 'enabling' development in the context of paragraph 214 of the

⁹ G05B

Framework. It is not clear that the re-use of Woodcote House, or any other enhancements, would be unviable without the development. Similarly, the development would not prejudice the re-use of Woodcote House or the remainder of the site, should it become vacant. The benefits envisaged could still therefore be delivered in time.

163. I must also have regard to the Plan as a whole and the benefits of development that would be achieved now. I do not consider it would be necessary, appropriate or justified to resist the development based on the limited prospect of the Police leaving the site before the end of the plan period or waiting for a local plan review. Irrespective of the 5-year supply position, additional housing is still be needed to meet the overall Plan requirement and the spatial strategy. To resist development on this basis would unnecessarily delay the delivery of much needed housing, both in the immediate area and district as a whole.
164. To that end, the weight to be given to the conflict with Policy DS22, and by association LWNP policies LW4 and LW5, is also tempered to a substantial degree by the fact the development would make a very significant contribution to the number of dwellings that the WDLP anticipates for the site. In this respect, the link between Policy DS22 and policies DS4 and H1, which identify Leek Wootton as a growth village, cannot be ignored. The development would still help deliver the spatial strategy. Similarly, the ability to deliver housing in the village also formed at least part of the Inspector's reasoning in finding the allocation 'sound'.
165. The relative length or detail of Policy DS22 has not had any bearing on how much weight I have given the conflict with it. A policy is as long and as detailed as it needs to be to ensure it is effective in achieving the expected outcomes. That Policy DS22 is longer, or more detailed, than some other allocations in the Plan does not mean its requirements should be given any additional weight over and above any other policy. Some of the policy's requirements are also no more stringent or specific than what might be found in general thematic policies, particularly those aspects which refer to quality of design, landscape character, housing mix and infrastructure provision. The Council may have wished to emphasise the importance of these requirements, but they require no more than other general policies on these issues. As noted above, the detail relating to the re-use of Woodcote House and management of the site are also predicated on a situation which has not, and may not, manifest itself.
166. Given the change in circumstances that have occurred since the Plan was adopted, the fact that some harm to heritage assets were anticipated and the elements of the policy that would still be delivered, I have given only moderate weight to the conflict with WDLP Policy DS22 and LWNP policies LW4 and LW5. While possible that the Police's stance may change again, I am not persuaded this is likely in the short term. Thus there would be little to be gained by resisting development on this basis. I have found no conflict with any other policies in the development plan. Indeed, the development would be consistent with a number of policies, including those relating to the growth of Leek Wootton.
167. I have already outlined the benefits of development in consideration of the heritage issue. There is no need to repeat them here. The development would

however deliver significant benefits, particularly in relation to housing and supporting Leek Wootton's status as a growth village. I am content therefore that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when considered against the Framework as a whole. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted.

168. In coming to this conclusion, I am mindful of the Council and Rule 6 party's strongly expressed views that to set Policy DS22 and those of the LWNP aside would be an affront to the idea of a 'plan-led' system. However, both the legislation and Framework provide a well-worn and understood mechanism for considering conflicts with the development plan which I have followed. I do not therefore consider my conclusion in any way undermines or contradicts the plan-led approach as set out in S38(6) of the Act.

Conditions

169. I have considered the suggested conditions in accordance with the Framework and PPG. This includes both the original conditions discussed at the roundtable and those submitted subsequently which purported to take account of the discussions and alterations to the S106 agreement.
170. In addition to the standard condition which limits the lifespan of the planning permission and the timescale for submission of reserved matters. I have imposed a condition specifying the relevant drawings as this provides certainty. I have not included the illustrative masterplan in the list of approved plans. While Policy DS22 requires a 'comprehensive masterplan' this was intended to provide assurances about the works to Woodcote House. These are not part of the proposal. Furthermore, the suggested condition effectively removes any purpose in referring to the masterplan by making it clear that all details will be determined by reserved matters applications. As such, it would not serve any particular purpose.
171. To ensure certainty, I have imposed a condition limiting the number of dwellings to 83 units. In the interests of the living conditions of nearby residents and highway safety, I have imposed a condition requiring the provision of a Construction Management Plan (CMP). Protection measures for public right of way W179a can be satisfactorily incorporated into the CMP and a separate condition is not needed. The specific measures relating to vibration sensors and dilapidation surveys requested by the Rule 6 party have not been demonstrated to be necessary and/or could be considered by the Council in agreeing the CMP. Accordingly, I have not included reference to these in the condition.
172. I have imposed conditions requiring the submission of a Construction Environmental Management Plan (CEMP), a Protected Species Contingency Plan (PSCP) and Landscape and Ecological Management Plan (LEMP) in the interests of biodiversity. I have amended the condition so that the PSCP would be submitted prior to development taking place, as opposed to the submission of reserved matters. This would provide some flexibility and ensure any changes that may occur after the granting of reserved matters can be captured. Also, with regard to the PSCP, I have made a number of modifications in the interests of clarity and effectiveness. This includes removing the imprecise reference to carrying out surveys "after a significant period has lapsed". I have instead included a requirement for the PSCP to

including a timing schedule for any re-assessment prior to development. Otherwise, the condition reflects the advice provided by the County Council's Ecologist. As such, I have not included reference to otters or newts as these were not considered necessary. The CEMP and LEMP would also allow scope for assessment and mitigation of protected species to take place.

173. For the same reasons, I have imposed a condition requiring the submission of specific details of the protection that would be given to the Wood Pasture and Parkland Priority Habitat and the Lunch and Cattle Brook Local Wildlife site during development. I have however amended this to include the requirement that any development must be carried out in accordance with the approved details to ensure certainty. In the interests of character and appearance, I have imposed a condition requiring details of finished floor levels to be provided.
174. To ensure the site is suitably drained, I have imposed a condition requiring the submission of a detailed surface water drainage scheme. However, the condition suggested by the Council was unduly lengthy and prescriptive and contained a significant amount of superfluous information and guidance. It is also not necessary to specify in the condition who the local planning authority must consult with in agreeing any scheme. This is a matter for the Council, who can liaise with whomever they deem necessary. I have also included conditions relating to the verification and monitoring of the drainage system. There is some potential for overlap here between the conditions and S106. However, the planning obligations appears to relate specifically to any areas which are intended to be part of the public realm and exclude areas within the curtilage of dwellings. The conditions therefore would relate to any drainage strategy encompassing the entire development. I am satisfied there is no conflict between the conditions and S106.
175. In the interests of ensuring adequate open space, I have imposed a condition requiring the submission of a scheme outlining how the off-site woodland area would be utilised for informal recreation, public access and long-term management and maintenance. I have removed reference to biodiversity improvements as these are adequately covered by the S106 agreement. The condition ensures any scheme would be implemented before the development is fully occupied. The Rule 6 party requested that this condition stipulate that any plans, and contracts for management and maintenance, be agreed by various parties including the Parish Council, Woodland Trust or Forestry Commission. As noted elsewhere, the Council can liaise with whomever it chooses about the content of any scheme in considering whether to approve it. However, it is neither appropriate nor necessary to suggest the discharge of a condition is dependent on the agreement of an outside body. In addition, matters relating to contracts are not appropriate for conditions in any event.
176. In the interests of the character of area and protection of trees, I have imposed a condition requiring the submission of updated tree surveys and protection measures for any reserved matters application. I have not included the Rule 6 party's request for the Parish Council to 'sign off' the details as this would be neither necessary nor appropriate.
177. In the interests of biodiversity and minimising light pollution, a condition is necessary requiring the submission of a detailed lighting scheme. I have removed the 'informative' detail as this is unduly prescriptive. What the

scheme includes, and whether it is acceptable, is a matter for the Council in their approval process. To address the small risk of contamination identified, a condition is required requiring site investigations and mitigation where necessary. It is necessary to impose a condition requiring the provision of fire hydrants to ensure a safe living environment. In the interests of maintaining air quality, I have imposed a condition requiring an air quality mitigation scheme. It is unclear why this needed to be submitted prior to submission of reserved matters and so I have amended it to ensure any works are in place prior to completion of the development. I have also removed reference to altering any scheme by written consent, as this introduces uncertainty.

178. In the interests of highway safety, a condition is necessary to ensure proposed pedestrian safety mitigation measures are in place prior to any dwelling being occupied. I have amended the condition to require any measures provided to be retained. The Rule 6 party wished for the condition to include reference to the audit report being re-submitted. The LHA do not consider this is necessary and neither do I.
179. A condition is necessary to ensure the objectives of the NZDPD, particularly policies NDZ1, NZC2A-C and NZC3, are met. This replaces the Council's suggested condition relating to a Sustainability Statement, albeit it would achieve a similar end. At my request, the Council and appellant provided the suggested wording for a potential condition. However, I have modified their suggestions so that any energy statement is submitted as part of any reserved matters application. This will allow further scrutiny and ensure the details can be fully assessed before permission is granted. I have also removed reference to the policies, as these are not appropriate. The reasons for the condition are clear and it is for the Council to determine as part of its approval process whether the Energy Statement, and associated measures, should be approved.
180. While helpful to have some of the content of the statement defined, I have removed reference to written justification being provided as to why meeting the policy requirements is not feasible. The suggested wording lacks clarity on how any justification would be assessed or what the outcome would be. These are all matters that the Council can have regard to in approving the submitted details. I have removed some of the largely informative explanation as to how SAP calculations should be carried out and combined it with the relevant criterion.
181. Of those conditions suggested, including in the original schedule, I have not imposed a condition requiring a phasing plan for the development or a new site wide masterplan. The scale of development is such that it would not be necessary. Moreover, the measures set out in the suggested masterplan condition are either adequately covered by other conditions or would form part of reserved matters applications. I have also removed any reference to phasing in other conditions as these would not be justified or necessary.
182. I have not imposed the original suggested conditions relating to building heights. This would have limited development to 2 storeys. I am conscious that the rescinded parameters plan limited development to 2.5 storeys, at most, and that the assessment of impact may have been based on this. However, I consider this is an issue that is most appropriately addressed through reserved matters applications. As set out above, I see no reason why

the Council would not be able to control inappropriate development, including by virtue of excessive height, at this stage. In any event, there would be no justification for limiting development to 2 storeys only.

183. I have also not imposed the suggested condition on housing mix. This simply states that development must accord with the latest Strategic Housing Market Assessment (SHMA) unless the Council allowed a different approach. However, WDLP Policy H4 already requires residential development to be provided in accordance with the SHMA and sets out the circumstances in which different approaches are permitted. I therefore consider the condition would effectively only repeat the policy requirement and thus is not necessary. Nor would it be effective, as the suggested condition would provide scope for the Council to allow an alternative to the SHMA in any event. As such, I consider the housing mix can be adequately assessed and controlled at reserved matters stage.
184. Finally, I have not included the original suggested conditions relating to landscaping, as these are reserved matters and more appropriately considered at that stage.

Conclusion

185. The development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should therefore be allowed and planning permission granted.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan – 01 – LW -SLP PL.002C; Access Arrangements – (Woodcote Lane) – 21-0340-SK06A; Access Arrangements – (Woodcote Drive) – 21-0340-SK07B
- 5) No more than 83 dwellings shall be constructed on the site pursuant to this planning permission.
- 6) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall provide for:
 - a) the parking of vehicles of site operatives and visitors;
 - b) site working hours and delivery times;
 - c) the loading and unloading of plant and materials;
 - d) the storage of plant and materials used in constructing the development;
 - e) the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate;
 - f) wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
 - g) measures to control the emission of dust and dirt during construction, together with any details in relation to noise and vibration; and
 - h) a scheme for recycling/disposing of waste resulting from demolition and construction works.
 - i) Details of the design and location of any security fencing in the vicinity of Public Right of Way W179a.

Thereafter the development shall be implemented in full compliance with the agreed CMP.

- 7) No development hereby permitted shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the District Planning Authority. The CEMP needs to be compliant with the British Standard on Biodiversity BS 42020:2013 published in August 2013. The CEMP shall include details concerning:

- a) pre-commencement checks for protected and notable species with subsequent mitigation and monitoring, as deemed appropriate.
- b) appropriate working practices and safeguards for other wildlife dependent on further survey work, that are to be employed whilst works are taking place on site.

Thereafter the development shall be implemented in full compliance with the agreed CEMP.

- 8) Prior to the commencement of development, a Protected Species Contingency Plan (PSCP) shall be submitted to the local planning authority. The plan shall include:
- a) Further bat survey of any trees to be removed in accordance with BCT Bat Surveys – Good Practice Guidelines, and if deemed necessary by the survey, a detailed mitigation plan including a schedule of works and timings. Any approved mitigation plan shall thereafter be implemented in full in accordance with the agreed details and timings.
 - b) A pre-commencement badger survey carried out by a suitably qualified badger consultant and has been submitted to and approved in writing by the local planning authority. Any approved mitigation plan shall thereafter be implemented in full.
 - c) Schedule and timings for carrying out any additional surveys or assessments in the event of there being a significant period between the PSCP being submitted and development commencing. Any additional surveys or assessments should be carried out in accordance with conditions 8a and 8b.

No development shall commence until the PSCP has been approved in writing by the local planning authority and the development shall thereafter be carried out in accordance with the approved details.

- 9) No development shall commence until an Energy Statement has been submitted to and approved in writing by the local planning authority as part of the reserved matters submissions required by condition 2. This statement shall include details and technical information which demonstrates compliance with energy efficiency and carbon emissions reduction requirements. The Energy Statement shall include:
- a) Description of the proposed energy efficiency measures (including passive measures), their suitability and effectiveness for the development proposed, and the energy benefits they impart to the design.
 - b) Description of the proposed zero- or low-carbon energy sources, their suitability and effectiveness for the development proposed and carbon emissions reductions they impart to the design.
 - c) Demonstration of how embodied carbon has been accounted for and reduced where possible.
 - d) Completed Energy Pro-Forma (SAP or SBEM calculations) for the development. This should be based on a sample of 20% of all homes, including at least one of each house type present.

The development shall be implemented in full accordance with the agreed Energy Statement.

- 10) No development shall commence until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The plan should include details of:
- a) planting and maintenance of all new planting.
 - b) species used,
 - c) sourcing of plants
 - d) habitat enhancement/creation measures and management.

Thereafter the development shall be implemented in full compliance with the agreed LEMP.

- 11) No development shall commence until details of a scheme to protect existing habitat associated with the Wood Pasture and Parkland Priority Habitat and the Lunch and Cattle Brook Local Wildlife Site near to the site during development has been submitted to and approved in writing by the local planning authority. Thereafter the development will be carried out in accordance with the agreed details.
- 12) No development other than site clearance and preparation works shall take place until details of the finished floor levels of all buildings, together with details of existing and proposed site levels and the relationship with the surrounding area have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with these approved details.
- 13) No development shall commence until a detailed surface water drainage scheme has been submitted and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is complete and retained thereafter.
- 14) No development shall commence until a scheme for the land outlined in blue on the Site Location Plan ref. 01 – LW -SLP PL.002C has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the following:
- a) informal recreational opportunities
 - b) public access to and within the land and
 - c) arrangements for management and maintenance
- No more than 40 dwellings shall be occupied before the approved scheme has been implemented in full.
- 15) Any reserved matters application relating to layout, landscaping or access (within the site) shall be accompanied by an updated tree protection/mitigation strategy for approval in writing by the local planning authority. The information to be submitted must include:
- a) a detailed scaled plan (to a scale and level of accuracy appropriate to the proposal) showing the position of every tree on the site, and every tree on land adjacent to the site (including street trees) that is likely to have an effect upon or be affected by the proposal (e.g. by shade, overhang from the boundary, intrusion of the Root Protection Area

etc) with a stem diameter over the bark measured at 1.5 metres above ground level of at least 75 millimetres;

- b) a schedule of the trees surveyed as specified in paragraph 4.2.6 of British Standard BS5837 - 2012 Trees in Relation to Design, Demolition & Construction - Recommendations; and
- c) an arboricultural implications assessment, arboricultural method statement and tree protection plan (to include protection measures during and after construction and any construction exclusion zones) (in accordance with Clause 7 of British Standard BS5837 - 2012 Trees in Relation to Design, Demolition & Construction) which also includes any proposal for pruning or other preventative works.

Thereafter, the development shall proceed in accordance with the approved strategy.

- 16) No building works above slab level on any building hereby approved shall commence until a detailed lighting scheme for the site has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented in full in accordance with the approved details and retained as approved thereafter.

- 17) No development hereby permitted shall commence until:

- 1. a) A site investigation for the site has been designed using the information obtained from the desk-top study and any diagrammatical representations (conceptual model). This should be submitted to and approved in writing by the planning authority prior to that investigation being carried out. The investigation must be comprehensive enough to enable:

- A risk assessment to be undertaken relating to human health
- A risk assessment to be undertaken relating to groundwater and surface waters associated on and off site that may be affected
- An appropriate gas risk assessment to be undertaken
- Refinement of the conceptual model
- The development of a method statement detailing the remediation requirements

- b) The site investigation has been undertaken in accordance with details approved by the local planning authority and a risk assessment has been undertaken.

- c) A method statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters using the information obtained from the site investigation, has been submitted to the planning authority. The method statement shall include details of how the remediation works will be validated upon completion.

This should be approved in writing by the local planning authority prior to the remediation being carried out on the site.

- 2. All development shall accord with the approved method statement.

3. If during development, contamination not previously identified, is found to be present at the site then no further development shall take place (unless otherwise agreed in writing with the local planning authority for an addendum to the method statement). This addendum to the method statement must detail how this unsuspected contamination shall be dealt with.
 4. Upon completion of the remediation detailed in the method statement a report shall be submitted to the planning authority that provides verification that the required works regarding contamination have been carried out in accordance with the approved method statement. Post remediation sampling and monitoring results shall be included in the report to demonstrate that the required remediation has been fully met. Future monitoring proposals and reporting shall also be detailed in the report.
- 18) No building works above slab level on any building hereby permitted shall commence until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the local planning authority. Prior to the first occupation of any dwelling the agreed scheme shall be implemented to the satisfaction of the local planning authority.
 - 19) Prior to any building works above slab level, an appropriate scheme of air quality mitigation in accordance with Warwick District Council's Air Quality Supplementary Planning Document (January 2019) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the completion of the development and retained thereafter.
 - 20) Prior to the first occupation of any dwelling hereby approved a Verification Report for the installed surface water drainage system as required by condition 12 shall be submitted to and approved in writing by the local planning authority. The details shall include:
 1. Any As-Built Drawings and accompanying photos;
 2. Results of any performance testing undertaken as a part of the application process (if required / necessary);
 3. Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.; and
 4. Confirmation that the system is free from defects, damage and foreign objects.
 - 21) No dwelling hereby approved shall be occupied until a detailed, site-specific sustainable drainage (SuDs) maintenance plan has been submitted to and approved in writing by the local planning authority. The maintenance plan should:
 1. Provide the name of the party responsible, including contact name, address, email address and phone number.
 2. Include plans showing the locations of features requiring maintenance and how these should be accessed.
 3. Provide details on how surface water for each relevant feature shall be maintained and managed for the lifetime of the development.

4. Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.

The maintenance plan shall thereafter be implemented in accordance with the approved details.

- 22) No dwelling hereby approved shall be occupied until a scheme of mitigation based on the Pedestrian Audit at Appendix A of the Transport Assessment Addendum dated July 2023 has been submitted to and approved in writing by the local planning authority and has been implemented in full in accordance with the approved details and retained thereafter.

APPEARANCES

FOR THE APPELLANT:

Killian Garvey, of Counsel

He called:

Hannah Armstrong BA(Hons) MSc IHBC ACifA – Pegasus Group
Elisabeth Spencer – BSc (Hons) MSc – Rappor Consultants Ltd
David Hutchinson BSc (Hons) DipTP MRPTI – Pegasus Group
Neil Tiley BSc (Hons) Assoc RTPI – Pegasus Group

Matthew Mainstone - Wedlake Bell – assisted at the S106 roundtable

FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth, of Counsel

He called:

Councillor Lowell Williams – Warwick District Council
Adam James BSc (Hons), MA, MRPTI – Warwick District Council

Sue Mullins – Warwick District Council – assisted at the S106 roundtable

FOR THE LEEK WOOTTON & GUYS CLIFFE PARISH COUNCIL & LEEK WOOTTON FOCUS GROUP RULE 6 PARTY:

Simon Stanion, solicitor

He called:

Reiss Sadler BSc (Hons) MA MRTPI – Marrons
Harry Wilson – Leek Wootton & Guys Cliffe Parish Council & Leek Wootton Focus
Group

INTERESTED PARTIES:

Councillor Josh Payne – Warwick District Council
Terry Rigby – Local Resident
Mark Sullivan – CPRE
Joy Morgan – Local Resident
Sam Holmes – South Warwickshire University NHS Foundation Trust – attended
S106 roundtable
Leenamari Aantaa-Collier – Wilkes Solicitors for South Warwickshire University NHS
Foundation Trust – attended S106 roundtable

Appendix 1 - Documents submitted at the Inquiry

ID1 – Appellant’s Draft Cost Application

ID2 – Warwick District Council 5 year housing land supply - 1st April 2023

ID3 – Appellant’s opening submissions

ID4 – Council’s opening submissions

ID5 – Rule 6 Party’s opening submissions

ID6 – Extract from Town and Country Planning (Development Management Procedure) England 2015

ID7 – Letter from South Warwickshire NHS University Trust

ID8 – Appendix to ID7 illustrating Acute Ward Occupancy

Email correspondence from appellant – attached to draft S106 Agreement.

Additional written closing submissions from appellant

Final S106 Agreement