



Doncaster Council

Agenda

To all Members of the

PLANNING COMMITTEE

Notice is given that a Meeting of the above Committee is to be held as follows:

Venue: Council Chamber, Civic Office, Waterdale, Doncaster

Date: Tuesday, 5th March, 2019

Time: 2.00 pm

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Jo Miller
Chief Executive

Issued on: Monday, 25 February 2019

Governance Services Officer for this meeting

Amber Torrington
01302 737462

Doncaster Metropolitan Borough Council
www.doncaster.gov.uk

1. Apologies for Absence.
 2. To consider the extent, if any, to which the public and press are to be excluded from the meeting.
 3. Declarations of Interest, if any.
 4. Minutes of the Planning Committee Meeting held on 5th February, 2019. 1 - 8
- A. Reports where the Public and Press may not be excluded.**
- For Decision**
5. Schedule of Applications. 9 - 56
 6. Application to modify terms of Section 106 Agreement relating to the timing, details of works, implementation programme and safety measures associated with the Railway Crossing Improvement Scheme, in connection with Planning Application 01/1201/P (mixed use development at Manor Farm, Bessacarr) - Application Reference 18/00717/DOV. 57 - 68
- For Information**
7. Appeal Decisions. 69 - 186
- B. Items where the Public and Press may be excluded in accordance with grounds specified in the Local Government Act 1972, as amended.**
8. Enforcement Cases Received and Closed for the Period of 23/01/19 to 19/02/19. 187 - 202

Members of the Planning Committee

Chair – Councillor Iris Beech
Vice-Chair – Councillor Sue McGuinness

Councillors Duncan Anderson, Mick Cooper, Susan Durant, John Healy, David Hughes, Eva Hughes, Andy Pickering, Dave Shaw and Jonathan Wood

Agenda Item 4.

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE

TUESDAY, 5TH FEBRUARY, 2019

A MEETING of the PLANNING COMMITTEE was held at the COUNCIL CHAMBER - CIVIC OFFICE on TUESDAY, 5TH FEBRUARY, 2019, at 2.00 pm.

PRESENT:

Chair - Councillor Iris Beech
Vice-Chair - Councillor Sue McGuinness

Councillors Duncan Anderson, Mick Cooper, Susan Durant, John Healy, David Hughes, Eva Hughes, Andy Pickering, Dave Shaw and Jonathan Wood.

63 DECLARATIONS OF INTEREST, IF ANY.

In accordance with the Members Code of Conduct, Councillor Eva Hughes, declared that whilst she had not been present at the last meeting or at the site visit she had stated that she would not take part in the discussion or the vote, in relation to Application No. 18/01912/FUL, Agenda Item 5(1).

64 MINUTES OF THE PLANNING COMMITTEE MEETING HELD ON 8TH JANUARY, 2019

RESOLVED that the minutes of the meeting held on 8th January, 2019 be approved as a correct record and signed by the Chair.

65 SCHEDULE OF APPLICATIONS

RESOLVED that upon consideration of a Schedule of Planning and Other Applications received, together with the recommendations in respect thereof, the recommendations be approved in accordance with Schedule and marked Appendix 'A'.

66 ADJOURNMENT OF MEETING.

RESOLVED that in accordance with Council Procedure Rule 18.11(f), the meeting stand adjourned at 2.45 p.m. to be reconvened on this day at 2.55 p.m.

67 RECONVENING OF MEETING.

The meeting reconvened at 2.55 p.m.

68 ADJOURNMENT OF MEETING.

RESOLVED that in accordance with Council Procedure Rule 18.11(f), the meeting stand adjourned at 4.20 p.m. to be reconvened on this day at 4.25 p.m.

69 RECONVENING OF MEETING.

The meeting reconvened at 4.25 p.m.

70 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that the public and press be excluded from the remaining proceedings of the meeting, in accordance with Section 100(A)(4) of the Local Government Act, 1972, as amended, on the grounds that exempt information as defined in Paragraph 5,6 and 7 of Schedule 12A to the Act, is likely to be disclosed.

71 ENFORCEMENT CASES RECEIVED AND CLOSED FOR THE PERIOD OF 18TH DECEMBER 2018 TO 22ND JANUARY 2019 (EXCLUSION PARAGRAPH 6).

The Committee considered a report which detailed all Planning Enforcement complaints and cases received, and closed during 18th December, 2018 to 22nd January, 2019.

In response to Councillor John Healy seeking further clarification with regard Enforcement Case 19/00015/M, the Planning Manager (Development), Roy Sykes, undertook to provide Councillor Healy with a progress report on the specific details of the case following the meeting.

RESOLVED that all Planning Enforcement Cases received and closed for the period 18th December 2018 to 22nd January, 2019, be noted.

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 5th February, 2018

Application	1
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Application Number:	18/01912/FUL	Application Expiry Date:	26th September, 2018
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Application Type:	Full Application
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Proposal Description:	Erection of detached dwelling to rear of host dwelling, construction of access road and demolition of single garage
At:	4 Plantation Avenue, Bessacarr, Doncaster DN4 6SR

For:	Mr Richard Cooper
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Third Party Reps:	7	Parish:	Cantley with Branton Parish Council
		Ward:	Finningley

A proposal was made to grant the application

Proposed by: Councillor John Healy

Seconded by: Councillor Sue McGuinness

For: 6 Against: 5 Abstain: 1

Upon the Chair declaring that there was an equal number of votes cast for and against the application, the Chair, Councillor Iris Beech, in accordance with Council Procedure Rule 21.2, exercised her right to use her casting vote and voted to grant the application.

Decision: Planning permission granted subject to the amendment of Condition 2 to read as follows and the addition of the following conditions:-

- 02. The development hereby permitted shall be carried out in complete accordance with the details shown on the amended plans referenced and dated as follows 170701 01 A received 31.7.18, 170701 03 C received**

04.02.19, 170701 02 G received 04.02.19, and 170707 04 D received 04.02.19.

REASON

To ensure that the development is carried out in accordance with the application as approved.

10. Four replacement trees shall be planted on the site. The replacement trees shall be container grown or root balled and of a species to be agreed in writing by the Local Planning Authority, and of minimum Extra Heavy Standard (14-16cm) size in accordance with table 1 of British Standard 3936-1: 1992 Nursery Stock. The pots of containerised trees must be proportionate to the size of the tree in accordance with table D4 of British Standard 8545: 2014 Trees: From nursery to independence in the landscape – Recommendations (BS8545) and the rootball of rootballed trees in accordance with table D5 of British Standard 8545. The trees shall be handled in accordance with ‘Handling and Establishing Landscape Plants’ by the Committee of Plant Supply & Establishment (1995) published by the Joint Council for Landscape Industries and/or section 9 handling and Storage and Annexe E of BS8545. The replacement trees shall be planted at a location to be agreed by the Local Planning Authority during the first planting season following completion of the development hereby approved. The Local Planning Authority shall be notified in writing within 7 days of the planting of the tree.

REASON

In the interests of amenity and in compliance with core strategy policy CS16: Valuing our Natural Environment.

11. Should any of the replacement trees planted in compliance with Condition 10 die or become damaged, diseased or be removed within five years of planting, it/they shall be replaced with another tree(s) as previously specified in condition 10, unless the local planning authority gives its written approval to any variation.

REASON

In the interests of amenity and in compliance with core strategy policy CS16: Valuing our Natural Environment.

In accordance with Planning Guidance ‘Having Your Say at Planning Committee’ Mr John Frankish spoke in opposition to the application for the duration of up to 5 minutes.

In accordance with Planning Guidance ‘Having Your Say at Planning Committee’, Mr Neil Cook (Agent) spoke in support of the application for the duration of up to 5 minutes.

(The receipt of Amended Plans since the agenda publication to increase the height of the fencing to 2.5m with the boundary of No.6 and the proposed elevation plans stipulates non-mirrored glass; at the request of the neighbouring property no.6 was reported at the meeting).

(The receipt of Amended Plans for the third time, following the Planning Committee Site Visit, which reduces the building to the southern elevation to increase the separation distance to no.2b's boundary and increase the rear elevation to be in line with the rear elevation of no.2b's; at the request of Members and the neighbouring resident at no.2b was reported at the meeting).

(The receipt of an additional representation of support from No.1 Plantation Avenue and two additional objections from No. 2b and No.8 Plantation Avenue were reported at the meeting).

(The receipt of consultation responses from Highways and Conservation were reported at the meeting).

(The receipt of clarification to paragraphs 7.3, 7.6 and 8.1 of the report were reported at the meeting).

Application	2
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Application Number:	18/01748/OUTM	Application Expiry Date:	17th October, 2018
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Application Type:	Outline Planning Major
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Proposal Description:	Outline application for erection of up to 140 dwellings, including scale and means of access
At:	Land On the North Side of Hayfield Lane, Auckley, Doncaster

For:	Peel Land and Property Ltd – D Bailey
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Third Party Reps:	12	Parish:	Auckley Parish Council
		Ward:	Finningley

A proposal was made to defer the application for a site visit to assess the loss of amenity and traffic issues associated with the proposal.

Proposed by: **Councillor Mick Cooper**

Seconded by: **Councillor Dave Shaw**

For: 7 Against: 3 Abstain: 1

Decision: Defer the application for a Site Visit to assess the loss of amenity and traffic issues associated with the proposal.

In accordance with Planning Guidance ‘Having Your Say at Planning Committee’, Mr Dean Merriman spoke in opposition to the application for the duration of up to 5 minutes.

In accordance with Planning Guidance ‘Having Your Say at Planning Committee’ Mr Mike Sidebottom and Ms Delyse Bailey spoke in support of the application for the duration of up to 5 minutes.

In accordance with Planning Guidance ‘Having Your Say at Planning Committee’ Councillors Richard Allan Jones and Steve Cox (Ward Members) spoke in opposition to the application for the duration of up to 5 minutes

(The receipt of a clarification to the report which made reference to the S106 education contribution would be £384,237.00 if 140 dwellings were provided on the site. This amount would reduce accordingly if less dwellings were provided. The contribution is required to provide additional secondary school places at the Hayfield School was reported at the meeting).

Application	3
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Application Number:	18/03139/FUL	Application Expiry Date:	13th February, 2019
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Application Type:	Full Application
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Proposal Description:	Change of use from shop (Class A1) to hot food Indian Takeaway (Class A5) on ground floor and erection of extraction and ventilation system including a flue.
At:	9 High Street, Carcroft, Doncaster DN6 8DN

For:	Mr Powar & Mrs Kaur
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Third Party Reps:	14 signature petition 3 representations	Parish:	
		Ward:	Adwick Le Street and Carcroft

A proposal was made to grant the application.

Proposed by: **Councillor John Healy**

Seconded by: **Councillor Iris Beech**

For: 6 Against: 5 Abstain: 0

Upon the Chair declaring that there was an equal number of votes cast for and against the application, the Chair, Councillor Iris Beech, in accordance with Council Procedure Rule 21.2, exercised her right to use her casting vote and voted to grant the application.

Decision: Planning Permission granted subject to the addition of the following conditions:-

- 06. Prior to the installation of any kitchen extraction system on the party wall and/or ceiling of the above residential unit of the proposed development, sound insulation details shall be submitted to and approved in writing by the Local Planning Authority. Such information shall detail the measures required to be incorporated to ensure noise flanking transmission from the kitchen extraction system (during full operational rate) is isolated and insulated.**

REASON

The soundproofing scheme shall have a minimum airborne sound insulation value, DnT, w, of at least 60Db to all separating floors/ceilings between the premises and the commercial premises below.

- 07. Before any ventilation, filtration and fume extraction equipment and/or any externally mounted equipment is installed, plans detailing its installation shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall address odour control measures (including velocity rate, odour removal efficiency of each stage of the abatement system), discharge height of any flues and noise attenuation measures (including vibration).
REASON
To ensure that odour and noise do not adversely affect the residential amenities of the locality.**
- 08. Any approved equipment shall be used at all times when hot food is being prepared on the premises and shall be cleaned and maintained in accordance with the manufacturer's instructions, a copy of which shall be supplied to the Local Planning Authority before the use commences.
REASON
To ensure that odour and noise do not adversely affect the residential amenities of the locality.**
- 09. A suitable grease trap shall be installed to intercept all effluent from the kitchen/food preparation area before it is discharged to the drainage system.
REASON
To ensure that odour and noise do not adversely affect the residential amenities of the locality.**
- 10. Suitable closed storage facilities shall be provided for the accommodation of all waste generated by the individual units whilst awaiting collection for disposal.
REASON
To ensure that odour and noise do not adversely affect the residential amenities of the locality.**

(The receipt of consultation response from Environmental Health stating there were no objections subject to the additional conditions was reported at the meeting).

DONCASTER METROPOLITAN BOROUGH COUNCIL

Agenda Item No
Date 5th March 2019

To the Chair and Members of the
PLANNING COMMITTEE

PLANNING APPLICATIONS PROCESSING SYSTEM

Purpose of the Report

1. A schedule of planning applications for consideration by Members is attached.
2. Each application comprises an individual report and recommendation to assist the determination process.

Human Rights Implications

Member should take account of and protect the rights of individuals affected when making decisions on planning applications. In general Members should consider:-

1. Whether the activity for which consent is sought interferes with any Convention rights.
2. Whether the interference pursues a legitimate aim, such as economic well being or the rights of others to enjoy their property.
3. Whether restriction on one is proportionate to the benefit of the other.

Copyright Implications

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Scott Cardwell
Assistant Director of Development
Directorate of Regeneration and Environment

Contact Officers: Mr R Sykes (Tel: 734555)

Background Papers: Planning Application reports refer to relevant background papers

Summary List of Planning Committee Applications

NOTE:- Site Visited applications are marked 'SV' and Major Proposals are marked 'M'

Application	Application No	Ward	Parish
1. M	18/01748/OUTM	Finningley	Auckley Parish Council
2.	18/01984/FUL	Finningley	Finningley Parish Council
3.	17/01955/FUL	Hatfield	Hatfield Parish Council

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE - 5th March 2019

Application 1

Application Number:	18/01748/OUTM	Application Expiry Date:	17th October 2018
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Application Type:	Outline Planning Major
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Proposal Description:	Outline application for erection of up to 140 dwellings, including scale and means of access.
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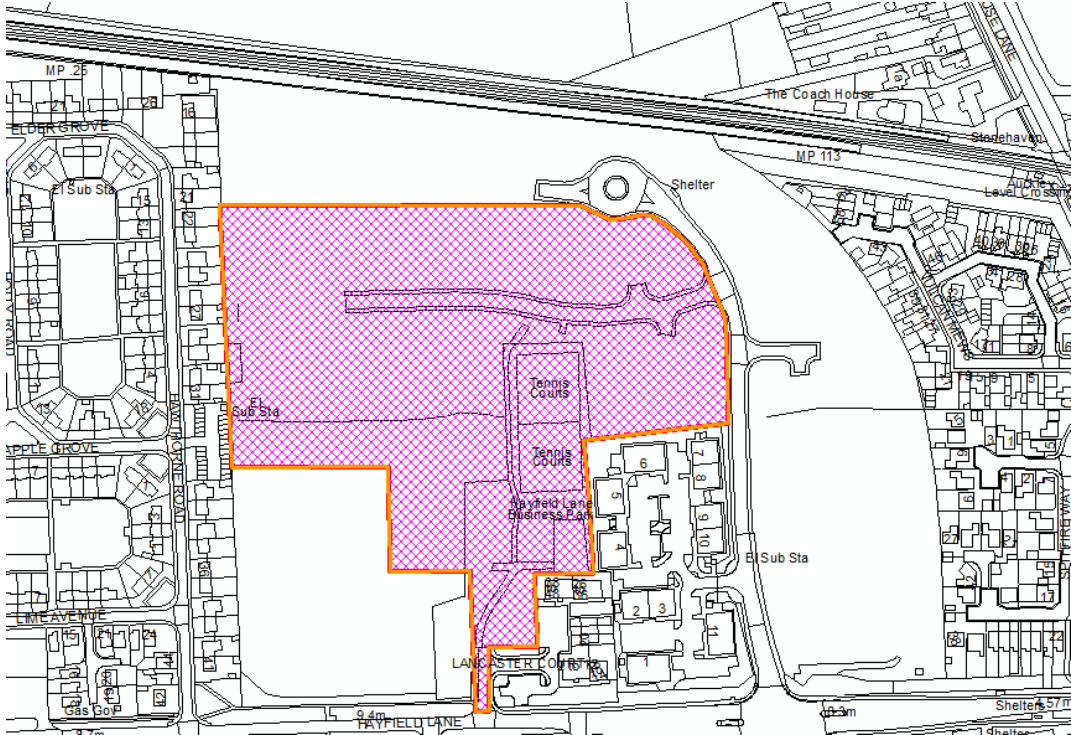
At:	Land On The North Side Of Hayfield Lane Auckley Doncaster
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For:	Peel Land And Property Ltd - D Bailey
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Third Party Reps:	12	Parish:	Auckley Parish Council
		Ward:	Finningley

Author of Report	Mark Sewell
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MAIN RECOMMENDATION:	GRANT SUBJECT TO 106 AGREEMENT
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1.0 Reason for Report

1.1 The application is being presented to the Planning Committee due to local interest.

1.2 The application was deferred at the 5th February 2019 planning committee for a site visit to assess the potential loss of amenity and traffic issues associated with the proposal. The site visit took place on Friday 1st March.

2.0 Proposal and Background

2.1 The submitted application seeks outline planning permission with means of access and scale to be considered for up to 140 dwellings on land on the northern side of Hayfield Lane.

2.2 The site and surrounding land have had a number of planning permissions in recent years which are outlined in the planning history section below. The site and adjoining land to the south were originally used for sports and recreation during the period of time when the RAF occupied the settlement, and were shown to be retained for such a use within the original planning permission for the use of the wider site as a commercial airport. Planning permission has been granted for sports and play facilities on the southern part of the wider site recently, whilst the application site was previously included within the RHADS Airport Masterplan, for a proposed Business Park, and subsequently planning permission was granted for B1 uses in 2006. Although that permission was implemented by way of the construction of a main estate road, following marketing of the business park no solid interest was shown in the development.

2.3 The application site itself occupies some 4.1Ha located approximately 500m to the north west of the main airport terminal building, on overgrown open land previously used for leisure and recreation associated with the former RAF airbase. A spine road granted under a previous planning permission runs from east to west through the heart of the site, connecting to an access road (Field Lane), which in turn connects with Hayfield Lane to the south. The spine road includes also footpaths and lighting, and an electricity substation lies immediately to the south of the road.

2.4 The site is bounded to the north by a further area of overgrown grassland and previously constructed road infrastructure, beyond which is the Doncaster-Lincoln Railway Line. The rear gardens of properties on Hawthorne Road bounds the site to the west, with a raised bund running north/south along the western section of the site. As previously mentioned, further open land is located to the south, for which planning permission has recently been granted for recreation and sports provision. Residential development forms the remaining part of the southern site boundary, comprising three-storey apartments and two-storey housing accessed via Lancaster Court. The southern part of the eastern boundary is formed by two-storey offices, part of Hayfield Lane Business Park.

3.0 Relevant Planning History

Overarching Airport Consent
99/4333/P

Outline application for the redevelopment of the airfield (including use of existing infrastructure and buildings) for the purposes of 1). a commercial airport together with airport related business, leisure and associated facilities 2). residential development of former barracks.

Granted April 2003

Applications Covering the Site

05/02622/FUL

Renewal of permission for use as sports field and associated facilities as community sport and soccer academy (renewal of Ref. 01/05/0786/FUL, granted under Ref 02/2174/P on 06.08.02 expiring on 31.08.05).

Granted September 2005

06/00865/OUTM

Outline application for erection of Business Development (Class B1), Community Hall, Community Recreational Area and improvements to footpath access to Marr Flats Plantation.

Granted September 2006

The following reserved matters application relating to the above two applications was also submitted:

07/00288/REM

Details of access road Hayfield Business Park (Areas 4 and 5) (Being matters reserved in outlined previously granted permission under ref 99/46/4333/P on 03.04.03. and 06/00865/OUTM on 06.09.06).

Granted March 2007

07/00286/REM

Details of access road to rail station (Being matters reserved in outlines previously granted permission under ref 99/46/4333/P on 03.04.03. and 06/00865/OUTM on 06.09.06)

Granted March 2007

10/01444/FULM

Erection of new community sports facility with associated car parking, landscaping and outdoor community play areas with sports pitches.

Granted September 2010

The following non-material amendment application associated with the above application was also submitted:

10/03542/MAT

Erection of new community sports facility with associated car parking, landscaping and outdoor community play areas with sports pitches (being amendment to previous permission 10/01444/FULM granted 06/09/10 to add additional windows to the south and east elevations).

Granted January 2011

13/00555/FULM

Development of land for a sports centre and floodlit all weather pitch and associated works at First Avenue on approximately 1.2ha of land.

Granted October 2014

Relevant Applications Within the Site's Surroundings

06/00144/FULM

Erection of 24 dwellings on approximately 0.4ha of land following demolition of existing Airman's quarters.

Located immediately to the south-east of the Site, at Lancaster Court.

Granted April 2006

06/00600/REM

Erection of 8 two storey business units in 5 blocks on approximately 1.17ha of land. Located to the east of the Site, between Field Lane and Vulcan Mews residential area.

Granted June 2006

06/00459/FULM

Construction of airport rail station and car park with associated access road and footpath. Located immediately to the north of the Site, adjacent to the Doncaster to Lincoln rail line.

Granted June 2008

09/02048/OUTM

Outline planning application for erection of 750 homes, roads, footpaths and cycle routes, carparking, landscape, open areas and play facilities on approx. 18.6ha of land

Located to the south-west of the Site, off Hurst Lane at Hayfield Green.

Granted November 2011

The following three reserved matters applications relating to the above application were also submitted:

12/02925/REMM

Details of access, appearance, landscaping, layout and scale for the erection of 352 dwellings on approx.. 18.6ha of land

Granted April 2013

16/00719/REMM

Details of Access, Appearance, Landscaping, Layout and Scale of Design for 96 dwellings on approx. 2.63ha of land

Granted July 2016

16/01375/REMM

Details of access, appearance, landscaping, layout and scale for the erection of 354 dwellings on approx. 18.6ha of land...additional plots 91 and 92

Granted August 2016

17/02189/OUTA

Hybrid Planning Application - Change of use of land to facilitate expansion of Yorkshire Wildlife Park, creation of new access, parking and associated works with outline approval for animal enclosures, visitor hub, service compound, energy centre and connecting bridges.

Located to the north-west of the Site, beyond the Doncaster to Lincoln rail line.

Granted subject to section 106, January 2018

18/00139/FUL

Development of existing playing fields to create a lit MUGA (Multi Use Games Area), grass games area laid out as a football pitch, play area, car park for up to 10 cars and landscaping with new access from Lancaster Court.

Located immediately adjacent to the southern boundary of the site

Granted May 2018

4.0 Representations

4.1 The application has been publicised by way of site notice, press notice and neighbour letters. As a result 12 letters of objection have been received.

4.2 The main points of objection raised relate to;

- lack of local services (school places, doctors)
- no need for additional housing
- land was supposed to be redeveloped for community use
- road network is at capacity
- poor public transport

5.0 Parish Council

5.1 Auckley Parish Council understands that an area of open space has been allocated for the proposed new housing development adjacent to the recreation ground. Although the location has not been defined, one suggestion would be that instead of allocating a separate open space within the housing development with its associated maintenance issues, and given the location and shape of the new play area, it would make some practical sense to add the land for the open space to the North East corner of the recreation site to effectively square off the existing L-Shape.

6.0 Relevant Consultations

DMBC Transportation - no objection to the development, requires that a contribution towards provision of a footway on the northern side of Hayfield Lane between Hawthorne Road and Walnut Avenue is required to improve accessibility for pedestrians, as well as a transport bond to mitigate any traffic in the event that targets within the Travel Plan are not met - both to be secure by s106.

DMBC Drainage - no objections, suggested conditions requiring drainage details to be agreed.

DMBC Environmental Health - no objections, conditions relating to construction method statement and impact management plan, as well as noise attenuation are recommended.

DMBC Trees & Hedgerows - no objections, suggested conditions requiring detailed landscaping and tree protection measures.

DMBC Pollution Control - no objections, suggested conditions

Environment Agency - defer to local authority in terms of ground condition issues.

DMBC Built Environment – no objections in principle to development of the site, raises issues in terms of indicative layout submitted

DMBC Highways - no objections in principle to development of the site, raises issues in terms of indicative layout submitted

DMBC Education – no objections, require commuted sum for secondary school places

Anglian Water – no objections suggested conditions

7.0 Relevant Policy and Strategic Context

National Planning Policy Framework (2018)

Paragraph 103: 'The planning system should actively manage patterns of growth in support of these [sustainable transport] objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health'

Paragraph 117: 'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions';

Paragraph 118: 'Planning policies and decisions should...c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs';

Paragraph 122: 'Planning policies and decisions should support development that makes efficient use of land, taking into account:

- the identified need for housing and other forms of development, and the availability of land suitable for accommodating it;

- local market conditions and viability;
- the availability and capacity of infrastructure and services - both existing and proposed - as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- the desirability of maintaining an area's prevailing character (including residential gardens), or of promoting regeneration and change; and e) the importance of securing well-designed, attractive places'.

DMBC Core Strategy (2012)

Policy CS1 - Quality of Life

Policy CS2 - Growth and Regeneration Strategy

Policy CS4 - Flooding and Drainage

Policy CS6 - Robin Hood Airport and Business Park

Policy CS9 - Providing Travel Choice

Policy CS10 'Housing Requirement, Land Supply and Phasing

Policy CS11 'Housing Renewal and Regeneration

Policy CS12 'Housing Mix and Affordable Housing

Policy CS14 'Design and Sustainable Construction

Policy CS16 'Valuing our Natural Environment

Policy CS17 'Providing Green Infrastructure'

CS18 'Air, Water and Agricultural Land

Doncaster UDP 1998

Policy ENV53 - Scale and Appearance of New Development

Policy ENV59 - Protection of Trees

Policy RL4 - Local POS

8.0 Planning Issues and Discussion

8.1 The main issues in determining this proposal are considered to be;

- Principle of Development
- Impact upon the surroundings
- Highways / Transportation
- Ecology / Landscaping

Principle of Development

8.2 In terms of site allocation, the wider airport site sits under the somewhat outdated policy T36 of the UDP, which refers to support for the continued operational development of the airfield by the Ministry of Defence or its dual use for civil aviation purposes. In practical terms, this policy has been superseded by the planning permission granted by the Secretary of State for the use of the site as a commercial airport together with airport related business, leisure and associated facilities.

8.3 Policy CS6 of the Core Strategy is concerned with the airport and business park, and sets out general criteria to be considered for proposals, as well as stating that generally growth and investment at the airport will be supported. The policy generally supports the employment and transport proposals set out in the then current Airport Masterplan. The policy states that planning permission for the housing element of the masterplan (at Hayfield Green) has already been granted, in light of the specific circumstances which apply to the airport, and not as an indication of policy direction. Therefore, as set out in Policy CS10: Housing Requirement, Land Supply and Phasing, the 750 units allowed at Hayfield Green will provide an additional source of housing to the allocations set out in

Policy CS2: Growth and Regeneration Strategy, and any further housing growth at Hayfield Green would not be in accordance with this Core Strategy.

8.4 In terms of the principle of development on the application site, this has already been previously established by the granting of outline planning permission for development previously in September 2006 for business use, and the subsequent reserved matters permission which facilitated the commencement of development through the construction of the spine road which connects the site to the local highway network. The merits and principle of residential development will be discussed further, however the principle of development generally on this site has both been previously agreed and implemented. An objection that has been raised by some neighbours is that the application site and the land adjoining to the south are shown within the s106 attached to the original planning permission as being restored to recreation and leisure use. As described previously, planning permission has been granted recently for such uses on the land to the south of the application site.

8.5 The officer who dealt with the previous permission on the application site in 2006 addressed this issue. Application No 99/46/4333 for the redevelopment at RAF Finningley as a Civil Airport was granted by First Secretary of State on 3rd April 2003. The application site lies within Master Plan Area 5. Condition 61 states "Area 5 as shown on the Master Plan shall not be used other than for playing fields and for the provision of sports facilities.

8.6 The principle concern for this area was that the former RAF playing fields provided a community facility for the area and the Airport Planning Brief of the time (adopted as Supplementary Planning Guidance) proposed that 5.97ha of land to be provided for open space purposes. The uses proposed in the application were considered to fall within the uses approved by the Supplementary Planning Guidance. The main issue was that the use of a portion of the former playing fields for development as B1 uses which the airport master plan proposed for recreation/landscape. The planning application continued to provide in excess of the 5.97ha of open space (required by the Supplementary Planning Guidance of the time), albeit not all located on the space occupied by the former playing fields as part of a package of proposals that provided;

- a. Recreation use
- b. Refurbishment of sports buildings
- c. Public access to woodlands and their maintenance linked to network of public footpaths being developed in conjunction with the access road to the airport.

8.7 The increase in the open space provision and improved access to recreational pitches at the Hayfield School, was considered to release the necessity for the use of all the area of the former playing fields as envisaged by the Supplementary Planning Guidance and airport master plan. As the use proposed was considered to be in accordance with the Supplementary Planning Guidance and surrounding land uses, it was considered acceptable to use part of the former playing fields for B1 uses.

8.8 On this basis, given that planning permission has been both granted and implemented by way of the construction of the spine road, the principle of building on the application site has been accepted. The officer at the time provided the justification for this departure from the original planning permission's requirement for the use of all of the site as playing fields / recreation.

8.9 In terms of the principle of housing in this location, as discussed above Policy CS6 of the Core Strategy recognises that the 750 dwellings approved off Hurst Lane will provide an additional source of housing to the allocations set out in Policy CS2, and any further housing growth at Hayfield Green would not be in accordance with the Core Strategy.

8.10 In practice however, the reserved matters permissions for the residential development have resulted in a shortfall of 300 dwellings at the Hurst Lane site, with the density of development being much lower than anticipated. As such, the principle of 750 homes to serve the airport and its business park is applicable, and given that the 750 homes are accounted for as additional to Doncaster's housing growth allocations under Core Strategy policies CS2 and CS6, this planning application will go some way to making up this shortfall whilst not breaching the Council's wider housing delivery numbers. On this basis, given that development has already been previously approved on the application site, and that there is headroom in the expected 750 dwellings to be delivered in this settlement as set out in the Core Strategy, it is considered that the principle of residential development is acceptable in this location. The site is also in a sustainable location, close to existing housing and facilities, and would not represent an unsustainable urban extension.

Impact upon the Surroundings

8.11 Policy CS14 of the Core Strategy is concerned with design and sustainable construction, and seeks to ensure that all proposals are of high quality design that contributes to local distinctiveness and reinforces the character of local building traditions, as well as responding positively to existing site features. New development should also have no unacceptable negative effects upon the amenity of neighbouring land uses or the environment.

8.12 As mentioned within the description, the application is in outline form with only matters of access and scale to be considered. The applicants state that the properties on the site would be 2 storeys and up to 2.5 storeys (ie properties with additional rooms in the roof space) and 3 storey apartments. This is in keeping with the surrounding dwellings to the western side and to the east on Lancaster Court, and is considered to be an acceptable scale on this site.

8.13 Whilst design and layout are not being formally considered as part of the application, the applicants have provided a Design and Access Statement which assesses the surrounding area and the constraints and opportunities of the development site, and from there provided a framework / concept plan.

8.14 The Council's Built Environment Team have been consulted, and noted that the DAS is a well prepared and authoritative document which clearly explains the context and design principles / approach. There are generally no major issues with the proposed framework / concept plan and it is suggested that this would be the plan to attach to any approval. It has a logical hierarchy and connections, properties fronting the main street to the east and has an appropriate response to the site edges. Secure perimeter blocks are generally formed.

8.15 The Built Environment officer does however note a number of issues with a more detailed indicative layout plan that has been provided, and queries whether the number of units proposed would be realistic given that layout. Matters of design and layout are to be considered at reserved matters stage, and the application description is for UP TO 140 dwellings. Obviously the Council would be well within its rights to refuse any subsequent reserved matters application which was deficient in design terms, whilst the applicants could provide a scheme with a greater number of apartments and smaller units which would mean that 140 dwellings could be achieved on the site. Given that these are issues to be addressed at reserved matters stage, and the proposed framework / concept plan provides for a logical design approach going forward, the application is deemed to be acceptable in design terms.

8.16 In terms of the impact of the proposal upon surrounding properties and residential amenity, the proposed concept plan does not raise concerns and it is considered that a satisfactory layout could be achieved that respects separation distances to neighbouring properties and minimises impacts upon residential amenity. Detailed design matters relating to outlook, amenity and privacy will be further developed and assessed as part of reserved matters applications.

8.17 A noise impact assessment has been provided with the application, which sets out a range of mitigation measures to minimise potential disturbances from the proposed development. The Council's Environmental Health team have assessed the submitted information and raise no objection to the scheme, and a condition is recommended to ensure the appropriate noise mitigation is agreed with the Council prior to the approval of reserved matters application. On this basis, whilst the application does not consider the detailed layout of the scheme, the submitted information provides confidence that a scheme can be delivered which is acceptable in terms of its impact upon residential amenity.

Highways and Transportation

8.18 Means of access are being formally considered as part of this application, and both the Council's Highways Development Control and Transportation teams have been consulted on the proposals. The submitted Design and Access Statement outlines the proposed access arrangements, and both a Transport Assessment and Framework Travel Plan have been provided with the application.

8.19 The development is shown to be served by two separate points of vehicular access. The existing site access via Field Lane, served from Hayfield Lane and First Avenue and utilising the existing constructed six metre wide spine road, will serve the majority of dwellings, whilst a secondary access will be provided from Hayfield Lane / Lancaster Court to serve a limited number of dwellings. However, it is intended that this will not connect with the rest of the Site's internal road network, and as such, the access will not, therefore, provide a through-route between Lancaster Court and the majority of the dwellings. It is proposed that the proposed development could make use of the existing carriageway and parallel footways, with small-scale modifications to existing bellmouth access points served from Field Lane. It is also proposed that an emergency vehicle access point will be provided to the north of Lancaster Court, which will also provide a pedestrian and cycle route into the site. Bus stops on Hayfield Lane are approximately 100 metres from Lancaster Court, and 150 metres from the signalised junction with Field Lane/ First Avenue, and is served by the 57 service into Doncaster.

8.20 The Council's Transportation team have raised no objections to the scheme, noting that the submitted Transport Assessment confirms that the proposed development will not generate such an amount of additional traffic to have a material impact upon the local road network. It is noted that there is no footway on the northern side of Hayfield Lane between Hawthorne Road and Walnut Avenue. A contribution is required towards provision of a footway to improve accessibility for pedestrians to local facilities, to be secured by s106. A travel plan bond is also required to mitigate any traffic in the event that targets within the Framework Travel Plan are not met, again to be secured by s106.

8.21 The Council's Highways Development Control team have raised no objections in principle to the proposed means of access to the development site, and note that Section 4.2 of the Transport Assessment states that Field Lane and the associated residential access would be offered up for adoption by DMBC, following completion of the proposed development. This will be a requirement and all roads other than shared private drives shall be constructed to an adoptable standard and offered for adoption on completion.

8.22 Detailed comments have been given in respect of the indicative layout provided regarding swept path analysis and whether the layout shown is sufficient to accommodate manoeuvring and turning for a refuse vehicle. Again, no weight is to be attached to the indicative layout, and the internal road layout of the scheme will be assessed as part of future reserved matters applications.

8.23 On this basis the proposal is considered to be acceptable in terms of highways and transportation.

Ecology / Landscaping

8.24 Policy CS16 of the Core Strategy is concerned with the Natural Environment and sets out requirements in respect of the impact of developments upon ecology and trees and hedgerows. Proposals will be supported which enhance ecological networks, as well as retaining and protecting appropriate trees and hedgerows, incorporating new tree, woodland and hedgerow planting.

8.25 The Council's Trees and Hedgerows Officer has been consulted and provided comments on the proposals. It is noted that there are no significant arboricultural issues at this site (apart from tree protection at the retained trees/hedgeline on the southern boundary of the site). The Officer also considers that the DAS provides encouraging wording in respect of a detailed landscaping scheme, noting that "a landscape framework will be introduced that will connect the areas beyond the site and provide public open space to create a corridor of green infrastructure". Conditions are recommended to ensure a scheme of landscaping is agreed, and to provide tree protection to a retained tree on the site.

8.26 The Council's Ecologist has also been consulted on the application. The submitted ecology survey has shown that reptiles are present on the site, in the form of common lizards. The Ecologist has stated that a full reptile survey should be undertaken to gain an estimate of the population size on the site, which would then inform the appropriate mitigation. The applicants have a reptile receptor site within the boundaries of the airport landholdings, which has been used previously as a mitigation area for other developments. The applicants have suggested additional survey information and proposed mitigation measures are submitted prior to the commencement of development. Additional land to the east of the application site is within the applicants control, and has been suggested as a mitigation area, following habitat improvements. Given the additional

land within their control which is capable of being improved for mitigation purposes, the ecologist has raised no objections to the scheme, subject to a detailed reptile survey being carried out and proposed mitigation measures agreed prior to any development taking place on the site.

Neighbour representations

8.27 The main points raised by residents have been outlined earlier in the report. In terms of the issues raised, it is considered that the proposed development is acceptable, either by way of not having unacceptable impacts or by mitigating impacts through planning conditions or by a legal agreement.

8.28 The use of the site for sports / community usage has been assessed, and the proposal is considered to be acceptable by virtue of the previous planning permission on this land which has been implemented. The officer at the time provided a robust assessment which demonstrated that development of this part of the site is acceptable in principle. No objections have been received from the Council's Transportation team in terms of the impact upon the local highway network or the sites connectivity. A contribution is required to improve pedestrian access, as well as for a Travel Plan Bond to mitigate any traffic in the event that targets within the Framework Travel Plan are not met. The site is considered to be in sustainable location alongside existing housing and employment and with local services close by. The applicants will provide a contribution to ensure that additional school places can be provided, required as a result of the additional housing. In terms of the need for additional housing, the proposal ensures that Hayfield Green is still within the 750 additional dwellings as outlined within the Core Strategy.

s106 Contributions

8.29 New housing developments will be required to include a mix of house size, type, price and tenure to address identified needs and market demand and to support mixed communities. To accord with policy CS 12 of the Core Strategy, the scheme should provide 26% on site affordable housing, as more than 15 dwellings are proposed. The proportion, type and tenure split will reflect the latest Strategic Housing Market Assessment. The applicants have confirmed their agreement to this.

8.30 The Councils Education Team have been consulted, and assessed that the proposal would result in the need for additional secondary school places at the Hayfield School. On this basis, a financial contribution will be required to facilitate this requirements.

8.31 It is envisaged that Public Open Space will be provided onsite as part of this development, and a condition to agree the design, layout and future maintenance will be imposed upon the decision.

Other Issues

8.32 Paragraph 179 of the NPPF states: 'Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.' Paragraph 178 of the NPPF states: 'Planning policies and decisions should also ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

8.33 Core Strategy Policy CS18: Air, Water and Agricultural Land, seeks to ensure that Doncaster's air, water and land resources will be conserved, protected and enhanced, both in terms of quantity and quality. Specific attention is made to the risks to ground conditions arising from contamination or previous land uses. The policy confirms that proposals will need to incorporate measures to prevent, control and reduce air and water pollution and mitigate any ground instability.

8.34 The applicants produced a phase 1 desk study with the submission which was assessed by the council's pollution team. The council's pollution control officer concurred with the recommendations of the report, and had recommended standard conditions.

8.35 Policy CS4 of the Core Strategy is concerned with flood risk and drainage, seeking to ensure that developments will be safe from all forms of flooding, provides adequate means of foul sewage disposal and achieves a reduction in surface water run off on brownfield sites and no increase from existing rates on greenfield sites, makes use of Sustainable Drainage Schemes, where appropriate.

8.36 The applicants have provided a Flood Risk Assessment, which demonstrates that although within Flood Zone 1, areas of the Site are currently at risk of surface water flooding. To reduce the residual risk relating to surface water runoff or failure of the drainage system, it is proposed that the development will incorporate features that mitigate this residual risk by providing flow paths which divert water away from buildings. The effects to the development of any ponding resulting from groundwater flooding will be mitigated through design, and by controlling the flooding of paved areas. The Council's Drainage Officer has assessed the submitted information, and offers no objection to the scheme, requesting that a condition to fully agree drainage details prior to the commencement of development.

Summary and Conclusion

9.0 Overall, the proposed scheme is considered to be acceptable and recommended for approval subject to the signing of a legal agreement.

9.1 Whilst objections have been received in terms of the use of the site for community / recreation purposes as required by the original airport planning permission, this report demonstrates that the principle of development has already been assessed and deemed to be acceptable by means of the granting of planning permission for employment uses in 2006. Furthermore, infrastructure to serve that development has been constructed, and as such the permission has been implemented. The principle of housing in particular is also deemed to be acceptable, given the Core Strategy policy support for up to 750 dwellings at Hayfield Green, which have not all been delivered as part of the Hurst Lane permission.

9.2 The application leaves matters of design and layout to be considered as part of reserved matters applications, however it is considered that the site can adequately accommodate housing development which will be acceptable in urban design terms as well as in terms of its impact upon the character of the surroundings and neighbouring occupiers. The scheme will provide the required contributions to affordable housing, education and transportation.

10.0 Recommendation

MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT SUBJECT TO THE CONDITIONS BELOW AND FOLLOWING THE COMPLETION OF AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 IN RELATION TO THE FOLLOWING MATTERS:

- a) 26% Affordable Housing to be provided onsite.
- b) A Travel Plan Bond required to mitigate any traffic in the event that targets within the Travel Plan are not met, based upon the No. of dwellings x the current cost of a 28 day SY Connect+ ticket (currently £107.50).
- c) An education contribution towards providing additional secondary school places at Hayfield

THE HEAD OF DEVELOPMENT BE AUTHORISED TO ISSUE THE PLANNING PERMISSION UPON COMPLETION OF THE AGREEMENT.

- 01. STAT2 The development to which this permission relates must be begun not later than whichever is the later of the following dates:- i) The expiration of three years from the date of this permission or ii) The expiration of two years from the final approval of the reserved matters or in the case of different dates the final approval of the last such matter to be approved.
REASON
Condition required to be imposed by Section 92 (as amended) of the Town and Country Planning Act 1990.
- 02. STAT3 In the case of the reserved matters, application for approval must be made not later than the expiration of three years beginning with the date of this permission.
REASON
Condition required to be imposed by Section 92(as amended) of the Town and Country Planning Act 1990.
- 03. U0066333 Approval of the details of the appearance, landscaping and layout (hereinafter referred to as reserved matters) shall be obtained from the Local Planning Authority before the commencement of any works.
REASON
The application is in outline and no details having yet been furnished of the matters referred to in the outline they are reserved for subsequent approval by the Local Planning Authority.

04. MAT1A Prior to the commencement of the relevant works, details of the proposed external materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
REASON
To ensure that the materials are appropriate to the area in accordance with policy CS14 of the Doncaster Core Strategy.
05. U0066335 The first submission of Reserved Matters for housing shall include a public open space delivery and maintenance strategy, which shall include details of the locations of open space within the overall development and the size and type open spaces, to be approved by the Local Planning Authority, and this shall be applied to all subsequent Reserved Matters submissions within the site. The first submission of Reserved Matters for housing shall also include details of the design, layout, future maintenance and arrangements for the long term retention of public open space within that phase of development and shall be carried out in accordance with the approved details.
REASON:
To ensure the adequate provision of public open space across the development.
06. DA01 The development hereby granted shall not be begun until details of the foul, surface water and land drainage systems and all related works necessary to drain the site have been submitted to and approved by the Local Planning Authority. These works shall be carried out concurrently with the development and the drainage system shall be operating to the satisfaction of the Local Planning Authority prior to the occupation of the development.
REASON
To ensure that the site is connected to suitable drainage systems and to ensure that full details thereof are approved by the Local Planning Authority before any works begin.
07. U0066336 Prior to the commencement of the development hereby approved full details of a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. Unless as shall be specifically approved by the Local Planning Authority, the landscape scheme shall include a plan indicating the planting location of all trees and shrubs; a schedule including the nursery stock specification for all shrubs and trees in compliance with British Standard 3936: Part 1: 1992 Specification for Trees and Shrubs and planting density/numbers; a detailed specification for engineered tree pit construction that utilises a professionally recognised method of construction to provide the minimum rooting volume set out in the Council's Development Guidance and Requirements supplementary planning document and a load-bearing capacity equivalent to BS EN 124 Class C250 for any paved surface above; a specification for planting including details of tree support, tree pit surfacing, aeration and irrigation; a maintenance specification and a timescale of implementation, which shall be within 3 months of completion of the development or alternative trigger to be agreed. Thereafter, the

landscape scheme shall be implemented in full accordance with the approved details and the Local Planning Authority notified prior to backfilling any engineered tree pits to inspect and confirm compliance and within seven days of the completion of landscape works to inspect and approve practical completion in writing. Any tree or shrub planted as part of the scheme that is removed or is found to be dying, diseased or seriously damaged within five years of practical completion of the planting works shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.

REASON

These details have not been provided and are required prior to commencement of development to ensure that a landscape scheme is implemented in the interests of environmental quality and compliance with Core Strategy policy CS16.

08. U0066337

Prior to the commencement of the development hereby granted a scheme for the protection of the root protection area of the walnut tree that complies with clause 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the Local Planning Authority. Tree protection shall be implemented on site in accordance with the approved details and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment, machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials have been removed from the site, unless the local planning authority gives its written approval to any variation. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

REASON:

To ensure that all trees are protected from damage during construction in accordance with core strategy policy CS16: Valuing our natural environment.

09. U0066338

The development shall not be begun until a scheme for protecting the proposed dwellings from noise, as detailed in the noise impact assessment dated June 2018 produced in support of the outline application, has been submitted to and approved in writing by the Local Planning Authority and all works which form part of the scheme shall be completed and brought into use before any of the dwellings are occupied.

REASON:

To safeguard the amenity of the proposed dwellings from the noise levels which exist on the site.

10. U0066339 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:

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

REASON:

To safeguard the living conditions of neighbouring residents and in the interests of highway safety.

11. U0066340 Before any construction works are started on the application site, a Construction Impact Management Plan, indicating measures to be taken to mitigate the effects of the construction activity and associated vehicle movements upon the living conditions of neighbouring residents and highway safety shall be submitted to and approved by the Local Planning Authority. The mitigation measures shall include provision for the following: the limitation of noise, the means of enclosure of the construction sites, and any proposed external security lighting installation; the control of dust emissions; the control of deposition of mud or debris on the highway, and the routing of contractors' vehicles. The mitigation measures so approved shall be carried out at all times during the construction of the development hereby approved.

REASON:

To safeguard the living conditions of neighbouring residents.

12. U0066341 No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the Local Planning Authority (LPA), unless otherwise approved in writing with the LPA.

- a) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.

b) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

c) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.

d) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment pursuant to the National Planning Policy Framework.

This has to be prior to commencement so that any risks are assessed before works begin to the ground whether this be demolition works or construction works and remediation in place before works begin.

13. CON2

Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not re-commence until the reports have been approved by the LPA.

REASON

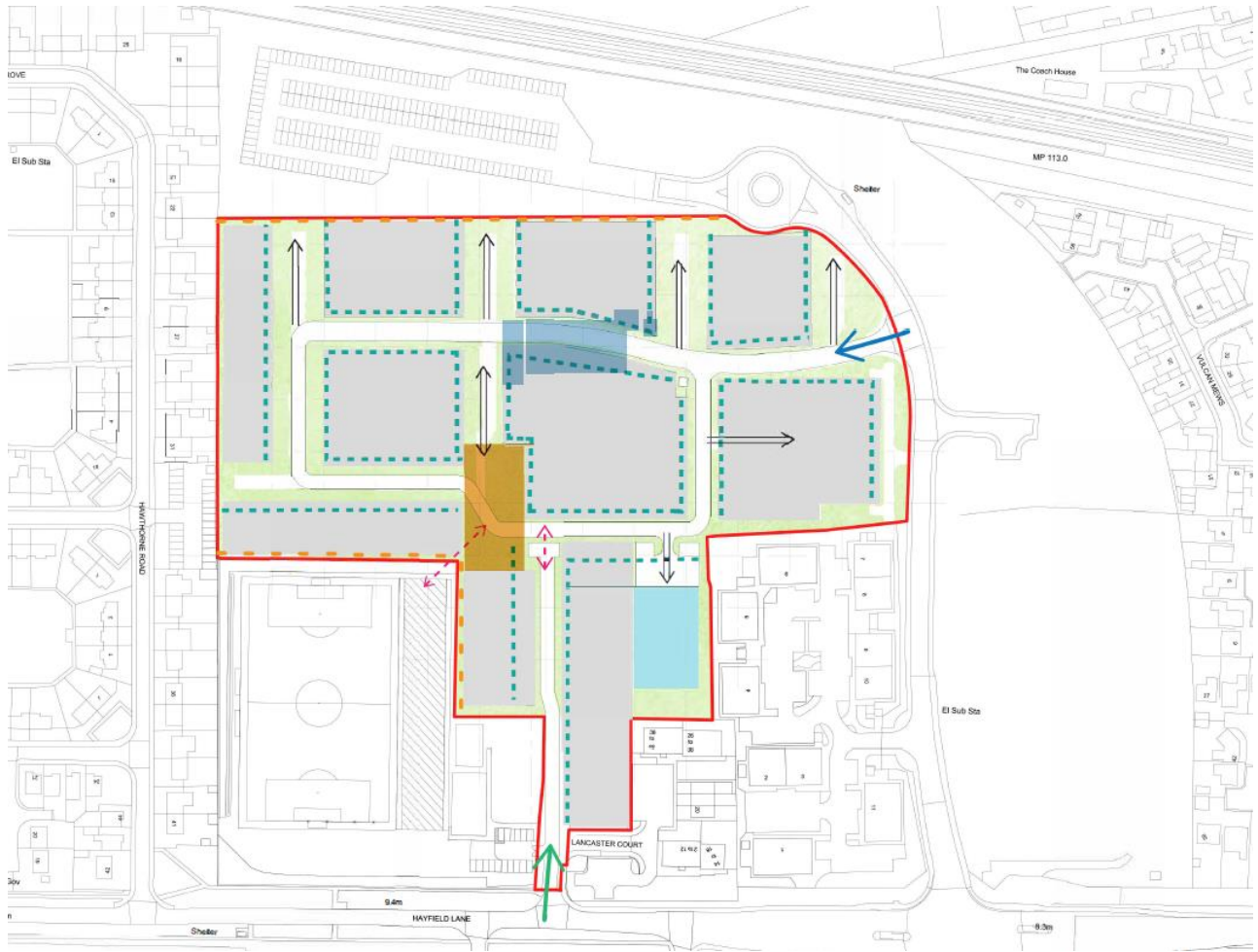
To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

14. CON3 Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filing and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the LPA prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.
REASON
To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.
15. HIGH1 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.
REASON
To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.
16. ACC1 The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans and specifications.
REASON
To ensure that the development is carried out in accordance with the application as approved.
17. No development shall take place until a detailed reptile survey has been carried out and submitted to the Local Planning Authority, and a scheme for offsite ecological mitigation and enhancement (including future monitoring) has been designed and implemented following agreement by the Local Planning Authority.
REASON
To ensure the ecological interests of the site and surroundings are protected and enhanced.

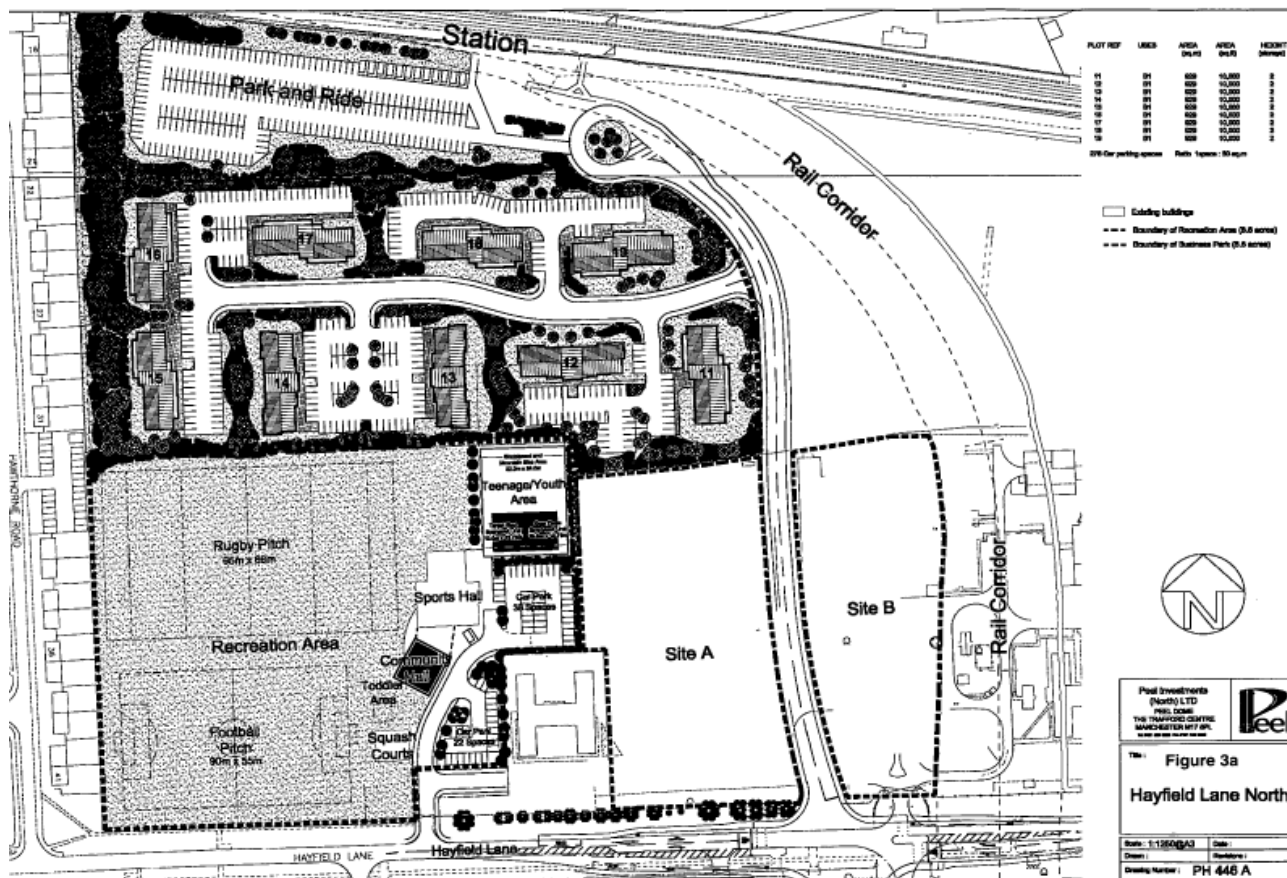
APPENDICES



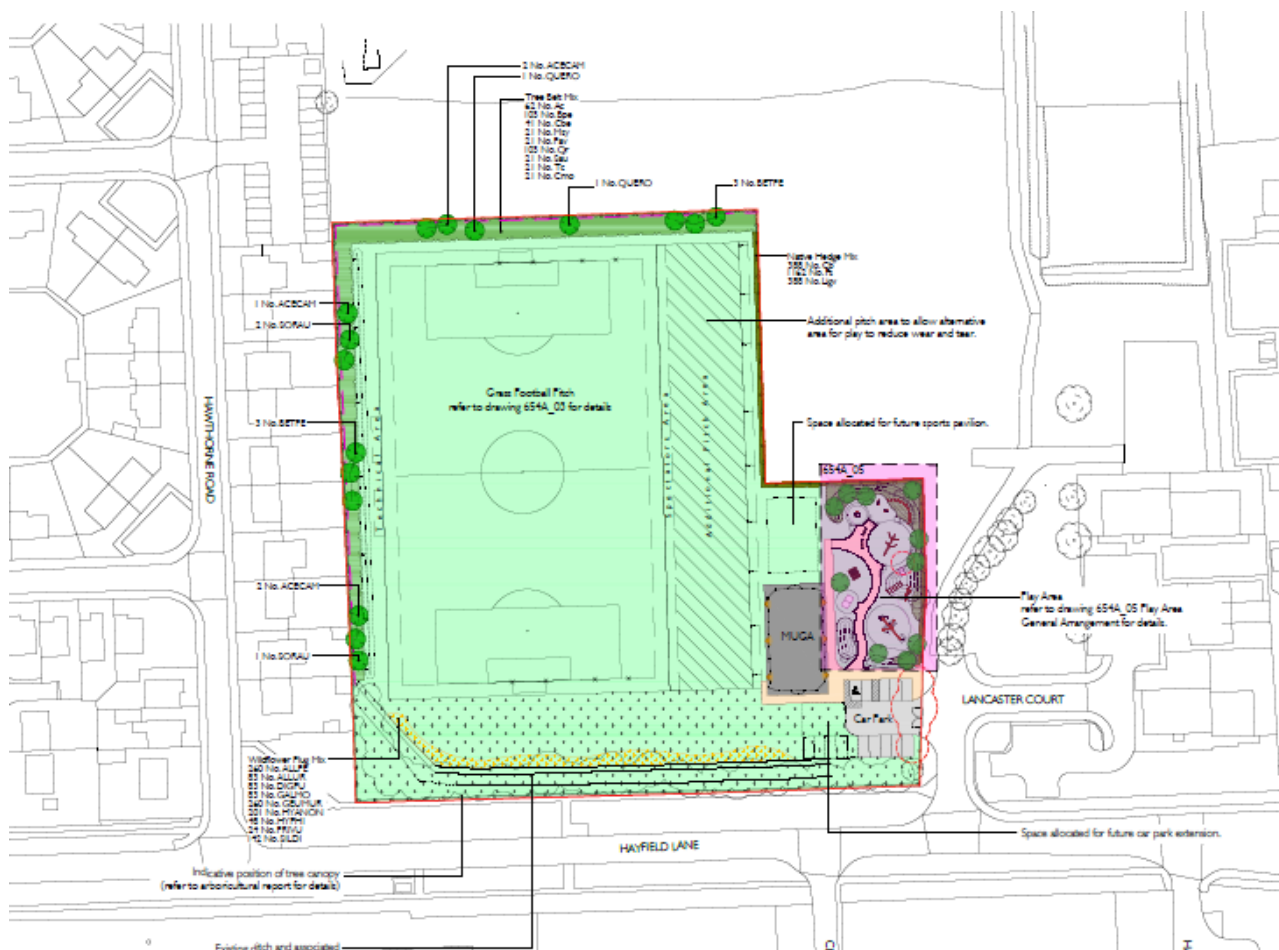
Aerial Photo



Indicative Concept Plan



Previously Approved Scheme for Employment on the site



Recreation Scheme Approved to the South of Application Site

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DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 5th March 2019

Application 2

Application Number:	18/01984/FUL	Application Expiry Date:	Extended until 5 th March 2019
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Application Type:	Full application
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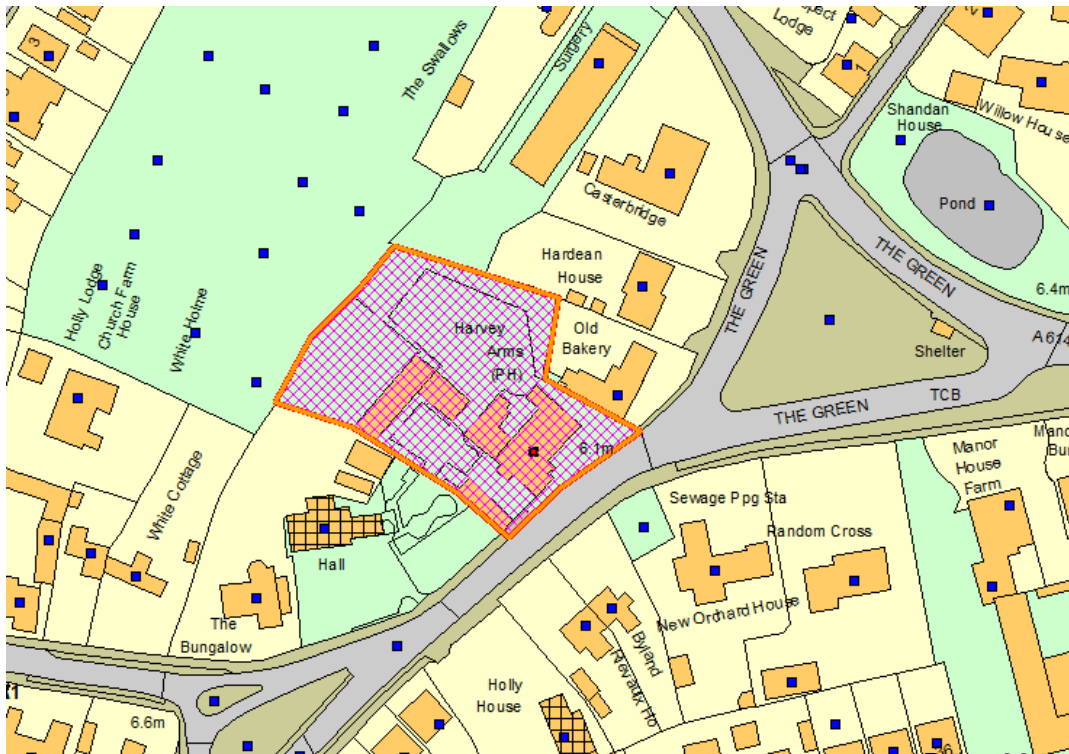
Proposal Description:	Erection of single storey aluminium framed marquee. (Retrospective).
At:	Harvey Arms, Old Bawtry Road, Finningley, DN9 3BY

For:	Mrs Sandra Kennedy - The Harvey Arms
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Third Party Reps:	17 representations	Parish:	Finningley Parish Council
		Ward:	Finningley

Author of Report	Dave Richards
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MAIN RECOMMENDATION:	Grant Temporary Planning Permission subject to conditions
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1.0 Reason for Report

1.1 This application is being presented to Members due to 15 objections being received, with two letters in support.

2.0 Proposal and Background

2.1 The application proposes the erection of a marquee to be used as function space associated with the Harvey Arms public house.

2.2 The application is described as 'retrospective,' however the marquee has since been disassembled and removed from the site.

2.3 The main considerations relate to the impact of the marquee on the living conditions of nearby residents in terms of noise and general disturbance.

2.4 My recommendation is that a temporary planning permission is granted for 1 year, subject to the recommendations of the noise impact assessment and conditions set out in the report.

3.0 Relevant Planning History

3.1 There is no recent relevant planning history. The lawful use at the site is that of a public house (A4 Use Class). The current use of the application site is that of a beer garden ancillary to this use.

3.2 Planning Permission 15/02091/FULM granted 14 houses to the north west of the site. Three of these properties share a boundary with the application site.

4.0 Representations

4.1 The application was advertised by means of written notification to neighbours nearby as well as displaying two public notices on Old Bawtry Road and St Oswalds Drive. The application has also been advertised in the local press and on the Council's website.

4.2 Two objections from ward members and fifteen letters of objection have been received from members of the public raising the following issues:

- Additional noise and disturbance.
- Visual impact on the Finningley Conservation Area.
- Dimensions to the marquee are incorrect and could be subject to change.
- Combustibility of the marquee.

4.3 Concerns have been raised regarding the behaviour of patrons of the pub, compliance with existing licensing requirements and an alleged boundary dispute. These issues are subject to separate legislation and are not material planning considerations.

4.4 Two letters of support have been received noting that:

- The marquee provides an additional event hire space which boosts the local economy.

- The Harvey Arms has always hosted parties and themed events in the beer garden.
- The marquee will provide a weatherproof event space and would reduce noise levels of events that already take place.
- The events will continue irrespective of the marquee.

5.0 Relevant Consultations

5.1 Environmental Health Officer:

No objections subject to the mitigation measures and operating restrictions set out in the noise impact assessment:

The Noise Impact Assessment makes reference to the noise levels set out in the Code of Practice for pop concerts which, in the absence of any more appropriate guidance, is the most appropriate in this case. The report begins by stating that the venue will not have any more than 10 events per year and that all of these events will be restricted to disco/recorded music only, with no live bands, and all will cease by 11pm. This is the basis on which a music noise limit is then recommended based, on the Code of Practice. The CoP states that where there are between 4 and 12 events per year the music noise level should not exceed the background noise level by more than 15 decibels at any time. Through a monitoring exercise carried out in December the background/baseline noise level has been determined to be LA90 35dB (set at 35dB based on a noise level exceeded for 90% of the measurement period (LA90) which is reasonable for this type of area. The permitted music noise level, in line with the guidance, is therefore 68dB for 15 minutes at 10 meters from the speaker. This corresponds to a level of 60dB at the boundary fence and 50dB at the nearest noise sensitive receptor (i.e. 15dB above the baseline level). So that this can be transposed into an enforceable condition that can be checked by the LPA and the applicant a condition will need to be included limiting the music noise level with reference to the boundary.

In order to achieve the stated noise limit the report also recommends a number of other measures that will be necessary. A key element is the location and orientation of the speakers together with the use of an acoustic screen to prevent noise spilling out in undesired directions. The report also recommends the installation of an electronic sound limiter to limit the noise output to those levels previously mentioned. With all of these measures in place, together with a limit on the number of events and the end time of 2300 hours we are in a position to support the application.

Below the Environmental Health Officer (EHO) has recommended a number of appropriate conditions, to be included should the application be approved:

- Only recorded amplified music is permitted within the approved development. Live music is not permitted at any time.
- The music noise level (MNL), when assessed at the prediction stage or measured during sound checks or events, shall not exceed 60dB(A) over any 15 minute period at 1 metre from the boundary of any noise sensitive premises.
- A noise limiting device shall be installed and used at all times during the playing of amplified music. The noise limiting device shall be set so that the noise limits stated in section 4.2 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application are maintained at all times.

- The number of events shall be limited to no more than 10 in any calendar year.
- Amplified music shall only be permitted within the approved development between the hours of 12 noon and 2300 hours except for the purposes of sound testing.
- All other mitigation measures, stated in section 4.3 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application, shall be implemented and maintained throughout the life of the development.

5.2 Conservation Officer:

The Harvey Arms is a large L shaped public house of painted brick with slate roof situated at the centre of the Finningley Conservation Area. To the west is an older brick and pantile barn and single storey cartshed with gable to the road and to the rear an L shape range of outbuildings with a single storey lateral range constructed of limestone with clay pantile roof. This grouping of buildings contributes to the character and appearance of the conservation area by virtue of their form, layout and materials which reflect the rural origins of the village. The adjacent village hall is grade 2 listed and the rustic character of the group (narrow span linear form) and its materials (brick/limestone/pantile roofs) also contributes to its setting. To the east there is a car park through which a modern development can be seen. Earlier in the year there was a large marquee erected to the rear of the single storey limestone barns (now dismantled) and this proposal is to seek permission to re-erect this marquee. The rear paddock between the limestone range and the new development is now enclosed by modern fencing and the surface mainly with concrete pavements.

The modern character and materials of the marquee, fencing and surfacing, is not in keeping with the historic character of the barns, however, it is directly behind the barns and not particularly visible from the main road. At the time of my site visit the marquee had been dismantled but from the dimensions the ridge is unlikely to be visible from the front. In addition, the previously open nature of the back of the site has been altered by the development in the field beyond such that the visual impact is limited to the immediate area. In my view, it would be difficult to define as 'less than substantial harm' to the character and appearance of the conservation area.

It also appears that the single storey barns which were previously in a poor state have been repaired and brought into use to serve the marquee. The condition of the barns has been the subject of previous discussions and their repair and reuse is welcomed as improving the appearance of the conservation area. Likewise, we would support the continued use of the main building as a public house which is the use for which it was designed and which contributes to the vitality of the village.

Other things being equal the location would have the least impact on the conservation area for these activities. From my visit, I would assess the substantive planning issue to be the impact of the proposal on the amenity of the dwellings immediately adjacent and principally one of noise impact so the proposal should be judged on this.

6.0 Relevant Policy and Strategic Context

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

6.2 In the case of this application, the Development Plan consists of the Doncaster Core Strategy and Unitary Development Plan. The most relevant policies are Policies CS1 and CS15 of the Core Strategy and Policies ENV25 and PH12 of the UDP.

6.3 The NPPF, Policies CS1 and CS14 of the Core Strategy and Policy PH12 of the UDP recognises good design includes the need to protect the quality of living conditions and amenity for adjacent land uses.

6.4 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 puts a statutory duty on local planning authorities to pay special attention to preserving or enhancing the character or appearance of Conservation Areas. That duty is reflected in Policies CS1 and CS15 of the Core Strategy and Policy ENV25 of the UDP.

6.5 Other material considerations include the National Planning Policy Framework (NPPF) and the subsequent planning guidance; as well as the Council's supplementary planning guidance. Planning Permission 15/02091/FULM carries some significance, in that housing has been granted and constructed adjacent to the application site.

7.0 Planning Issues and Discussion

7.1 The main issues are the impact of the development on the living conditions of nearby residents in terms of noise and general disturbance. Another considerations include the visual impact on the Finningley Conservation Area and whether the siting of the marquee has any dominating impact.

Noise and disturbance

7.2 The marquee was erected and used in 2018 for a number of licensed events over the year, before being dismantled following the initiation of enforcement proceedings. The areas of land adjacent to the site are private residential gardens where occupants can reasonably expect to enjoy the relatively peaceful surroundings of a village location. Most of the events taken place within the marquee were at weekends during the warmer months of the year when neighbouring residents would normally expect to enjoy the relative quiet of their gardens, and have windows open in their houses. These events were likely to include the consumption of alcohol and boisterous behaviour in a building, which has poor insulation qualities.

7.3 In support of the application is that the lawful use of the site is that of a beer garden associated with a public house. As such, the current use is likely to include the consumption of alcohol and boisterous behaviour within the curtilage of the pub. The space could also be used as event space, or for live music, subject to compliance with statutory licensing and environmental health legislation. The marquee provides a positive economic function for a community facility which appears to be well used in the village.

7.4 A noise impact assessment was commissioned by the applicant to be considered with the planning application. The assessment concludes that the noise levels produced from the marquee during a licensed event can be manageable subject to a number of restrictions on operating restrictions to define and limit its use. These conditions include:

- No live music, only recorded amplified music allowed
- Any use shall cease at 11pm

- A noise-limiting device set to the requirements of the noise impact assessment
- A maximum of 10 events per calendar year

7.5 The Environmental Health Officer concludes that the noise impact assessment provides an objective assessment of the potential noise emitted from the use of the marquee and that the development can be made acceptable subject to a number of conditions being imposed.

7.6 The marquee will concentrate a collection of people in one space and an event is likely to include the use of amplified sound as part of the entertainment. However, in light of the recommendations within the noise impact assessment, informed by the conclusions of the Environmental Health Officer, I conclude that any additional noise and activity resulting from music levels can be managed effectively via condition.

7.7 Notwithstanding this recommendation, the conditions and limitations of the noise impact assessment should be tested for a temporary period before any permanent planning permission can be considered. The recommendation therefore is that temporary planning permission is granted for 12 months. This is in accordance with national guidance which recommends where a trial run is needed in order to assess the effect of the development on the area. There is no presumption that a temporary grant of planning of planning permission should be granted permanently.

7.8 Subject to the conditions imposed, the application safeguards the living conditions of the occupiers of nearby dwellings.

Other issues

7.9 In terms of the impact of the marquee on the character of the Finningley Conservation Area, the appearance is of a traditional style, fairly substantial in size and located within the confines of the beer garden and the outbuildings of the pub. Although it is a prominent feature from within the site, it is only partially visible from the adjoining residential properties. It is hardly noticeable from the street or other public vantage points, and does not have a material impact on the local townscape. Although objectors feel the appearance of the marquee detracts from the area, the marquee is not judged to have a lasting impact upon the character of the conservation area based on the temporary nature of this application.

7.10 Objections have been received in relation to the appearance of the marquee and its visual impact. It is noted that the physical dimensions to the marquee have been lessened for the purposes of applying for planning permission. The proposed dimensions to the marquee are 15m in length, 9m in depth with a ridge height of 3.35m. Based on these measurements, neighbouring occupants are likely to notice the upper portions of the marquee but the distance separation and relatively shallow roof pitch would mean that the appearance would not result in loss of light or visual amenity.

7.11 Local representations have noted alleged incidents of swearing, loud voices, the emptying of bottle banks at unsocial hours and unruly children. Comments have also been received relating to the fire proofing properties of the material to the marquee. However, these matters would be covered under separate legislation and cannot be considered as material planning considerations.

8.0 Summary and Conclusions

8.1 In conclusion, the marquee provides the ability to hold functions which enable a diversification for the public house in terms of income. This would comply with local planning policies which provides local employment and development which contributes to a rural economy. Balanced against this contribution is the impact of the use which, without restriction, has the potential to cause noise and disturbance. Based on the objective assessment of the noise impact assessment, it is considered that these impacts can be mitigated effectively through the use of planning conditions in accordance with national planning guidance. In order to provide a prudent assessment of this mitigation, a temporary planning permission is proposed to trial the development.

RECOMMENDATION: Temporary Planning Permission granted for 12 months subject to following conditions:

Conditions / Reasons

01. U0067329 The marquee hereby permitted shall be sited for a limited period being the period of 12 months from the date of this decision. At the end of this period, the marquee hereby permitted shall be removed from the site unless otherwise agreed in writing by the local planning authority.

REASON

The development hereby permitted is allowed on a temporary basis only in order to assess the impact of the proposal upon local amenity.

02. U0067330 The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans listed below:

Amended site plan received 6th February 2019
Amended proposed plan (TBC)

REASON

To ensure that the development is carried out in accordance with the application as approved.

03. U0067331 Only recorded amplified music is permitted within the approved development. Live music is not permitted at any time.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

04. U0067332 The music noise level (MNL), when assessed at the prediction stage or measured during sound checks or events, shall not exceed 60dB(A) over any 15 minute period at 1 metre from the boundary of any noise sensitive premises.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

05. U0067333 Prior to the first use of the marquee for each event, a noise limiting device shall be installed and used at all times during the playing of amplified music. The noise limiting device shall be set so that the noise limits stated in section 4.2 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application are maintained at all times. A written record of the installation of the noise limiting device shall be made during each event to be made available for inspection by the local planning authority with seven days notice.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

06. U0067334 The use of the marquee shall be limited to no more than 10 recognised events in any calendar year. A written record of each event shall be made available for inspection by the local planning authority with seven days notice.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

07. U0067335 The use of amplified music shall only be permitted between the hours of 12 noon and 2300 hours.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

08. U0067336 The mitigation measures stated in section 4.3 of the noise impact assessment, reference NIA/8253/19/8205/v3/Harvey Arms, submitted with the application, shall be implemented and maintained throughout the life of the development for each event. A written record or photographic evidence of each mitigation measure shall be made available for inspection by the local planning authority with seven days notice.

REASON

To comply with the submitted noise impact assessment and to protect neighbouring properties from unacceptable noise and disturbance in accordance with Policy CS1 of the Core Strategy and Policy PH12 of the UDP.

Justification

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

In dealing with the application, the Local Planning Authority has worked with the applicant to find solutions to the following issues that arose whilst dealing with the planning application:

Clarification on plans

Submission of additional information relating to noise and disturbance

The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE – 5th March 2019

Application 3

Application Number: 17/01955/FUL **Application Expiry Date:** Extension until 12th March 2019

Application Type: Full Application

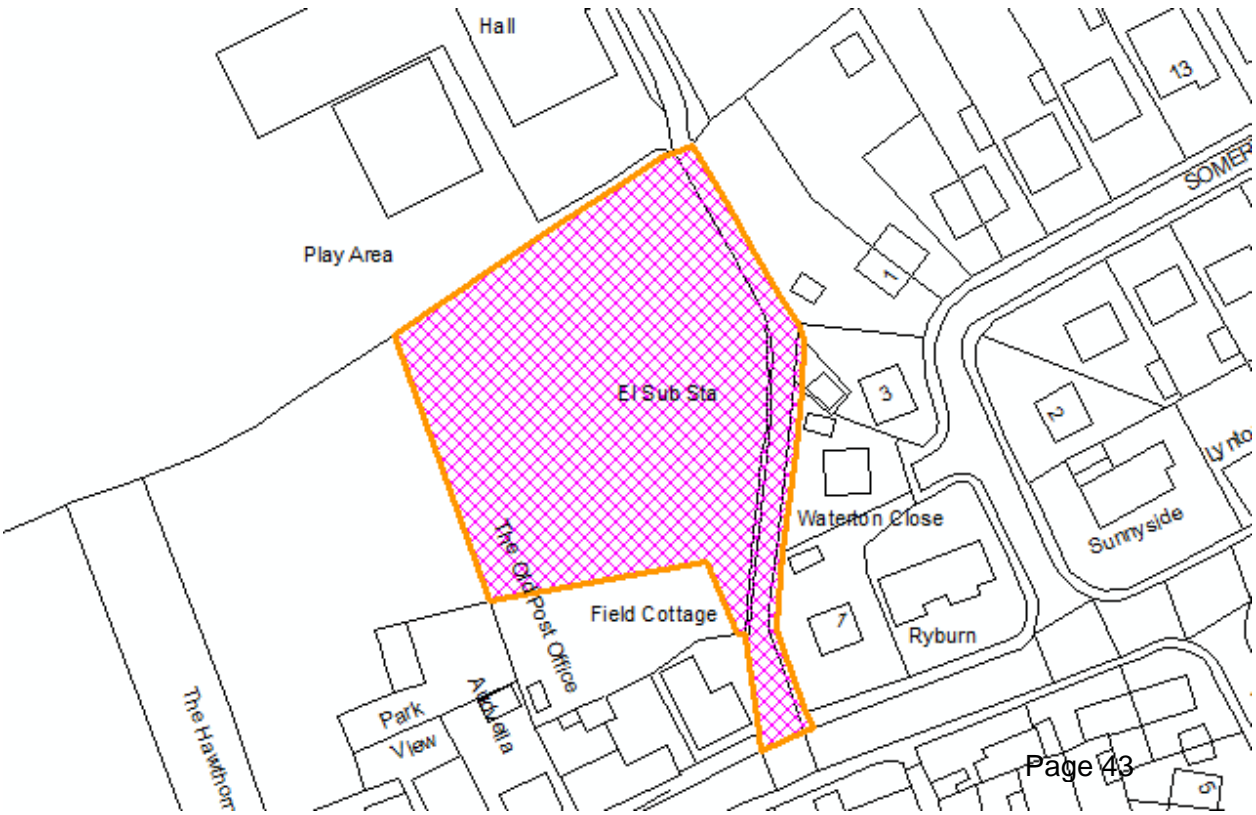
Proposal Description: Erection of 5 dwellings with garages and associated works
At: Land At Field Cottage Main Street Hatfield Woodhouse Doncaster

For: Dantom Homes (Development) Ltd - Mr Pete Thompson

Third Party Reps:	9 representations	Parish:	Hatfield Parish Council
		Ward:	Hatfield

Author of Report Dave Richards

MAIN RECOMMENDATION: Refuse



1.0 Reason for Report

1.1 The application is being presented to Planning Committee at the request of Cllrs Derek Smith and Linda Curran, who support the application. There has also been public interest.

2.0 Proposal and Background

2.1 The proposal seeks full planning permission for the erection of 5 detached dwellings with garages on land to the rear of Field Cottage, which is located on Main Street, Hatfield Woodhouse.

2.2 The proposal is identical to Planning Reference 15/01251/FUL, which was refused planning permission by members of the Planning Committee in December 2015. The subsequent appeal was dismissed by the Planning Inspectorate in September 2016. A copy of the appeal decision notice is shown in appendix 1 of this report. My recommendation is that planning permission refused once again.

2.3 The application site consists of an area of agricultural land where development would be served by a private drive. The site is to the west of Somerton Drive, to the south of the Village Hall and north of Main Street with agricultural fields adjacent nearby. All dwellings are substantial, detached properties. All properties are proposed to be constructed from red brickwork, with red clay pantile roofs. Each property has a double garage, some are attached, and some detached.

3.0 Relevant Planning History

3.1 00/0150/P - Outline application for residential development on approx. 0.6ha of land - Refused for the following reasons;

1. The site of the development lies within Countryside Policy Area in the Doncaster Unitary Development Plan. The proposal represents the undesirable and unjustified introduction of residential development beyond the recognised limits of the settlement. Within the Countryside Policy Area it is the policy of the Council to restrict residential development except where there is an agricultural or security justification. No such justification applies in this case and the proposal is therefore contrary to Policy ENV14 of the Doncaster Unitary Development Plan.

2. The proposal would result in an intensification of the use of an existing substandard access to the detriment of public and road safety.

3.2 15/01251/FUL - Erection of 5 detached houses with garages on approx. 0.39 ha of land – Refused for the following reason:

The proposal is contrary to saved policies ENV2 and ENV4 of the Doncaster Unitary Development Plan, and policy and CS3 of the Doncaster Council Core Strategy in that it represents inappropriate development within the countryside which would neither protect or enhance the countryside or preserve its openness. Furthermore, the proposal does not constitute quality infill within the defined settlement limits, and as such is contrary to policy CS2 of the Doncaster Council Core Strategy.

3.3 The applicant subsequently appealed the decision to the Secretary of State who dismissed the appeal in September 2016 (referred to as the appeal decision).

4.0 Representations

4.1 The application has been advertised in accordance with the requirements of the Planning Practice Guidance as follows:

- Any neighbour sharing a boundary with the site has received written notification
- Site notice
- Advertised in the local press
- Advertised on the Council website

4.2 Cllr Derek Smith supports the application on the basis that it would improve the single track lane between the new homes and the village hall to allow two cars to safely pass when using the hall car park. This has the support of the hall users and many residents.

4.3 Cllr Linda Current supports the application for the following reasons:

- The site is land locked and has been subject to tipping and pest issues
- Hatfield Woodhouse is a popular location where there has been infill development
- The application would supply housing
- The access to the village hall is proposed to be upgraded which may double as overspill parking for the local primary school, improving highway safety

4.4 One representation describes the previous use of the site as an allotment.

4.5 Five letters of support have been received, noting that the proposal would enhance the access to the village hall and may provide additional parking for the local school, leading to a positive benefit to highway safety.

5.0 Parish Council

5.1 The Parish Council have objected to this proposal and reiterate the comments previously submitted:

There is concern that the application does not differ significantly from a previous application for 5 executive style houses on the site that has already been refused and subject of an unsuccessful appeal. The site lies within a Countryside Protection Policy Area and is contrary to the policies. There is further concern that the minor improvements to the access road should not outweigh the planning officers and Inspectors previous decisions.

6.0 Relevant Consultations

6.1 Public Rights of Way Officer:

No objection. Public footpath Hatfield number 34 runs along the access road to the hall and can't be obstructed or hindered at any time. I am not aware of any claims across the site; however this does not preclude rights of way from being shown to exist at a later date.

6.2 Highway Officer:

No objections (subject to conditions). Given that the development proposes a private drive, the applicant should ensure that the village hall are given a formal right of access over the shared portion of the drive.

The boundary treatment for plot five should be dropped to no higher than 900mm where the plot forms a point adjacent to the access road to ensure visibility between vehicles leaving the Village Hall and residents of the private drive.

Visibility is restricted to the east when exiting the site due to the exiting boundary treatment, however considering the trips associated to the various uses of the village Hall, the development of 5 properties in this location is not considered to have a material effect to the operation of the junction with the A614.

6.3 Tree Officer:

No objections. I was aware of the felling of the trees that were adjacent to the access to the village hall and from the information contained with the tree report it would appear that their felling was justified. Trees are not an issue with this site and, as the tree report states, it is the hedgerows that provide the rural character here. The site plan does not indicate what the intention towards these boundary hedgerows is. Whilst it would be desirable for them to be retained (in terms of rural character of the settlement edge) as soon as the hedgerows form part of a domestic curtilage they move beyond the scope of the Hedgerow Regulations and, after the expiry of any planning condition that may have ensured their retention, the hedgerows can be removed without any recourse to obtaining any form of LPA consent (the tree survey is wrong to suggest that the hedgerows fall beyond the scope of the Hedgerow Regulations as the scope of these Regulations extends beyond that of 'agricultural land'). Hence, the hedgerows here have to be an active part of the scheme in order to have a chance of surviving in the long term. This is the preferred option and it would be appreciated if the intention as to boundary treatment is clarified. A landscaping condition will be required.

6.4 Ecology Officer:

I am happy with the ecological appraisal that has now been submitted in support of this application. While protected species are not an issue the report outlines the importance of the site as a wildlife corridor and recommends the retention of the existing field boundary trees and hedgerows. From an ecology point of view I would like these to be retained as part of the development along with an adjacent narrow grass verge. This could be subject to an appropriate condition.

6.5 National Grid:

Apparatus affected and the developer will be required to contact prior to the commencement of development.

6.6 Drainage Officer:

No objections.

7.0 Relevant Policy and Strategic Context

7.1 The site lies within the Countryside Policy Area. The following local and national planning policies are relevant to this scheme:

Doncaster Core Strategy (2012)

Policy CS1 - Quality of Life
Policy CS2 - Growth and Development Strategy
Policy CS3 - Countryside
Policy CS10 - Housing Requirement, Land Supply and Phasing
Policy CS14 - Design and Sustainable Construction

Doncaster Unitary Development Plan (UDP) (1998)

Policy ENV2 - Countryside Policy Area Designation
Policy ENV4 - Development within Countryside Policy Area

7.2 Other material considerations include the National Planning Policy Framework (NPPF) (2018) and National Planning Policy Guidance (NPPG); as well as the Council's supplementary planning guidance.

8.0 Planning Issues and Discussion

8.1 The main issues are include the principle of residential development within the countryside and impact on the character and appearance of the countryside. This is balanced against other material considerations within the report.

Development in the Countryside

8.2 Policy CS2 of the Core Strategy sets out the spatial strategy for the sustainable development of Doncaster, which supports a policy of settlement hierarchy to ensure that the scale of new development is appropriate in relation to the size, function and regeneration opportunities of each particular location. Policies ENV2 and ENV4 of the UDP set out the purposes of the countryside policy area and indicate that development in this location will not normally be permitted for purposes other than those appropriate to rural areas or which protect the character and appearance of the countryside.

8.3 Hatfield Woodhouse is a 'Larger Defined Village' which, in accordance with Policy CS2 should accommodate new dwellings only within the defined residential policy area. The village is seen as generally an unsustainable location for new housing, with new housing growth in the area directed towards Hatfield, Thorne and Stainforth. Only 1% of housing growth will be provided within defined villages and this 1% must be located within the village boundaries according to Policy CS2.

8.4 The site is also within a Countryside Protection Policy Area (CPAA) as set out in the Core Strategy. Policy CS3 of the Core Strategy indicates that proposals in the CPAA will be supported where they would be appropriate to a countryside location and would protect and enhance the countryside for the sake of its intrinsic character and beauty. This policy is clear that the outer boundaries of existing built up areas where they adjoin countryside are under constant pressure for often minor but cumulatively significant small scale housing developments. The lies beyond, but adjacent to the settlement boundary to Hatfield Woodhouse and in this respect would not meet the requirements of Policies CS2 or CS3.

8.5 The policies in the Core Strategy are up to date and consistent with the NPPF. The Council can also demonstrate a five-year housing land supply, meaning the development plan is sound in allocating housing to the hierarchy set out in Policy CS2. As such, there is no requirement to trigger the presumption in granting permission as outlined by Paragraph 11 of the NPPF. Although Policies ENV2 and ENV4 of the UDP are now of some age, this is reflected in attracting moderate weight in terms of applying the overall development plan.

8.6 The provision of a five dwellings would add to the mixture of properties nearby in design terms however would result in an open paddock of countryside character being developed. The site currently has no buildings or other development within it. The footprint of the dwellings and the resultant bulk, scale and massing, together with hardstanding and siting of outbuildings and domestic items would inevitably lead to a loss of openness. The loss of openness would be most apparent from Main Street and a public footpath via the site access. Although landscaping could be proposed, any mitigation would not alter the resultant change of the site to an urban character and appearance. Although there is some public transport provision and amenities near the site, the proposal would result in harm to the character and appearance of the countryside.

8.7 In summary, the development would conflict with the countryside protection policies provided under Policies CS2 and CS3 of the Core Strategy and, in terms of applying moderate weight, Policies ENV2 and ENV4 of the UDP. The previous refusal and appeal decision confirmed that the Council's case is sound and consistent with the aims of the NPPF. An appeal decision for the same site under the same policies attracts great weight.

Other considerations

8.8 Consistent with the previous application, it is not considered that the proposed dwellings would have an adverse impact upon the residential amenities of those living nearby, or give rise to issues with highway safety. Furthermore, the loss of agricultural land has been previously judged to be acceptable and there is limited ecological and arboricultural interest on the site other than hedgerows which could be retained. Other consultee comments could be reasonably satisfied by planning conditions in the event that the development was found to be acceptable. As such, the development complies with the development plan in other respects.

8.9 There would also be limited benefits in terms of increased natural surveillance of the village hall and its playing fields, together with improvements to vehicular and pedestrian access. Without this development, the widening of the road would have to be funded by other means. Local representations have suggested that the widening of the access road would also assist in enabling drop offs and pickups associated with the local primary school. The positive benefits to the widening of the access to Main Street should attract moderate weight in favour of the proposal. The amount of weight applied is limited given the widening of the whole access is not necessary to make the development acceptable and any suitably worded condition may be deemed unnecessary for the development to be permitted.

8.10 Whilst it is acknowledged that there have been planning applications for housing in Countryside Policy Areas in other parts of the Borough, which have been recommended for approval, these are at growth settlements in accordance with Policy CS2 of the Core Strategy. Furthermore, the Council has been largely successful in defending at appeal speculative applications for small scale, new housing proposals on the urban fringe of villages in the Borough.

9.0 Planning balance and conclusion

9.1 As part of any planning application, the NPPF is a material consideration. The proposal would make a modest contribution to contributing to providing housing for the Borough. There would be a modest benefit during the construction phase, as well as support for local services. However, in contrast to strategic applications for new housing, minor developments do not provide any contributions towards existing infrastructure and limited job and economic benefits. The proposal would cause harm to the character of the area in terms of environmental impact.

9.2 The application would not be consistent with the approach to the location and supply of housing and protection of the countryside in Policies CS2 and CS3 of the Core Strategy and Policies ENV2 and ENV4 of the UDP and would not therefore be in accordance with the development plan. The application of policies under the UDP carries moderate weight. Great weight is also applied to the conclusions of a Planning Inspector who regards the proposal to similarly be unacceptable development in the countryside which harms its character.

9.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the material considerations is the supply of housing and the provision of a widened access road to Hatfield Woodhouse which has attracted some local support. A representation also comments on the potential for the use of the village hall car park, although this would be a private arrangement beyond the control of the Council. However, taken as a whole, these benefits would significantly and demonstrably outweighed by the conflict with the development plan as a whole. The Council can demonstrate a five-year housing land supply, meaning the development plan is sound in allocating housing to the hierarchy set out in Policy CS2 and protecting the countryside from inappropriate harm under CS3. Although Policies ENV2 and ENV4 of the UDP are now of some age, this is reflected in attracting moderate weight in terms of applying the overall development plan.

RECOMMENDATION: Planning Permission **REFUSED** for the following reason:

The development would cause harm to the character and appearance of the countryside and would conflict with the approach to the location and supply of housing in Policies CS2 and CS3 of the Core Strategy and Saved Policies ENV2 and ENV4 of the UDP. Furthermore, the proposal does not constitute quality infill within the defined settlement limit for Hatfield Woodhouse contrary to Policy CS2 of the Core Strategy.



Appeal Decision

Site visit made on 5 September 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 28 September 2016

Appeal Ref: APP/F4410/W/16/3151727

Land to the rear of Field Cottage, Main Street, Hatfield Woodhouse, Doncaster

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Pete Thompson on behalf of Dantom Homes (Development) Ltd against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 15/01251/FUL, dated 18 May 2015, was refused by notice dated 18 December 2015.
 - The development proposed is "erection of 5 dwellings with garages".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address and description of development provided in the application form have been updated by subsequent documents. The amended site address is accurate and I adopt it accordingly. In the interest of certainty with respect to the proposal for which planning permission is sought, the original description of development has been amended to include reference to garages.
3. A number of appeal decisions and case law have been drawn to my attention, including appeals for dwellings in the Borough at Firth Hills Farm in Hatfield¹, 3 The Paddock in Thorne², Thorpe Lane in Thorpe in Balne³ and elsewhere at Land north of Upper Chapel in Launceston⁴. I have had regard to the decisions and there are similarities with respect to development being proposed beyond defined settlement boundaries. Nevertheless, the circumstances in each case differ from the development proposal before me in terms of the characteristics of the proposal, the site and its surroundings. I have therefore determined the current appeal on its own merits based on the evidence before me.

Main Issue

4. The main issue of this appeal is whether the proposal is consistent with the objectives of local and national planning policies relating to the location and supply of housing and which seek to protect the countryside.

¹ APP/F4410/A/12/2184110

² APP/F4410/A/13/2191402

³ APP/F4410/A/14/2225074

⁴ APP/D0840/A/13/2209757

Reasons

5. The appeal site consists of land that is located to the rear of an existing ribbon of dwellings on the northern side of Main Street. The site has a gentle downward slope towards a village hall, play area and playing fields to the north and comprises a mix of dense vegetation with intermittent trees and hedgerows to the northern, western and eastern boundaries. An existing access road to the village hall and public footpath adjoins the eastern boundary of the site, leading to a larger expanse of predominantly open fields to the north. Existing dwellings facing Somerton Drive are located beyond the access road to the east.
6. The site is located adjacent to the existing built up area of Hatfield Woodhouse, a settlement comprising of a mix of ribbon development and groups of dwellings arranged around Main Street, Bawtry Road and Remple Lane. Hatfield Woodhouse has a limited range of local services and facilities including a village hall, social club, a small general store, a small parade of shops, a place of worship, playing fields and a primary school. The larger settlement of Hatfield has a greater range of services and facilities that are located approximately 2 km to the north west and on the opposite side of the M18 motorway. Bus stops are located on Main Street in close proximity to the site with regular bus services to and from Hatfield, together with the larger town centres of Doncaster and Thorne from the early mornings until evenings on weekdays. There are less frequent services on Saturdays and Sundays.

Location and supply of housing and protection of the countryside

7. The site adjoins, but lies outside of the settlement boundary as defined by the Proposals Map of the Doncaster Unitary Development Plan (UDP), adopted July 1998 and is designated as a Countryside Policy Area (CPA). Saved Policy ENV2 of the UDP sets out the purposes of the CPA, including assisting in safeguarding the countryside from encroachment, providing an attractive setting for towns and villages and assisting regeneration by directing development towards urban areas and strategic allocations. Saved Policy ENV4 of the UDP indicates that development in a CPA will not normally be permitted for purposes other than those appropriate to rural areas and that infill development is restricted to within settlements subject to limitations.
8. The site is also within a Countryside Protection Policy Area (CPAA) as set out in the Doncaster Council Core Strategy 2011-2028 (CS), adopted May 2012. Policy CS3 of the CS indicates that proposals in the CPAA will be supported where they would be appropriate to a countryside location and would protect and enhance the countryside for the sake of its intrinsic character and beauty. Policy CS3 also states that minor amendments to settlement boundaries will be supported where existing boundaries are indefensible. However, the supporting text to Policy CS3 is clear that it is important to ensure that the countryside is not eroded by often minor but cumulatively significant adjustments to the outer boundaries of built up areas.
9. With regard to the above, Policy CS2 of the CS sets out a settlement hierarchy for the location of new housing. Hatfield Woodhouse is identified as a larger defined village where quality infill will be permitted and existing village boundaries will be amended only if necessary to establish new defensible boundaries.

10. The adoption of the UDP predates the publication of the National Planning Policy Framework (the Framework). However, paragraph 211 of the Framework states that policies in the Local Plan should not be considered out of date simply because they were adopted prior to the publication of the Framework, and paragraph 215 advises that due weight should be given to such policies according to their degree of consistency with the Framework. In this respect, the UDP reflects historic assessments of housing need and sought to guide and co-ordinate development up to 2001. Nevertheless, Policies CS2 and CS3 of the CS in seeking to meet housing requirements up to 2028 utilise the existing settlement boundaries defined by the UDP and reflect approaches to protection of the countryside in Saved Policies ENV2 and ENV4 of the UDP. I therefore have no reason to consider that the existing settlement boundaries are no longer relevant to policies for the supply of housing or that Saved Policies ENV2 and ENV4 of the UDP are inconsistent with the Framework.
11. The Framework aims to boost significantly the supply of housing⁵. The Framework makes clear that relevant policies for the supply of housing should not be considered up-to-date if local planning authorities cannot demonstrate a five-year supply of deliverable housing sites⁶. The Council have indicated that there is a deliverable five year housing supply in the Borough. The appellant has not disputed this view and there is no evidence before me which would lead me to a different conclusion. It is therefore reasonable to consider that the relevant policies for the supply of housing are up-to-date. Furthermore, at the current time there is no immediate need to release additional sites to ensure an adequate supply of deliverable housing sites, including those outside of settlement boundaries such as the appeal site.
12. The site and adjoining land to the west are located to the north of the settlement boundary. As such, they define a change in character from the ribbon development of the built up area to the south towards open countryside within which the village hall and its associated facilities are located. As a consequence, the site together with the village hall and its associated facilities to the north are characterised as lying within the countryside rather than forming part of the village envelope. There is a different pattern of development to the east with a settlement boundary located further to the north that broadly aligns with the northern boundary of the site. However, the settlement edge opposite to the site on its eastern side is enclosed by the existing access road. This provides a defensible boundary and distinguishes it from the appeal site and the immediate surroundings to the west.
13. The development of the site would encroach upon the countryside, including enclosing a gap that exists between the village hall and the settlement boundary located at the rear of Field Cottage to the south. The design and layout of the dwellings, garages and enclosures would respect the diverse style of buildings evident in the local area, together with the pattern of residential development immediately to the east and more distant to the west. However, the construction of dwellings on the site would result in built development where there is presently none. The footprint of the buildings and the resultant bulk, scale and massing, together with hardstanding and domestic paraphernalia would inevitably lead to a loss of openness, as the site currently has no buildings or other development on it. The loss of openness would be

⁵ Paragraph 47

⁶ Paragraph 49

observed from existing views available through gaps in hedgerows along the access road and public footpath where they adjoin the eastern boundary of the site. The potential for additional boundary screening or landscaping would not mitigate the resultant change of the site to an urban character and appearance.

14. The impact on the open countryside arising from the loss of openness and loss of rural character would be reduced by the visual containment provided by surrounding built form and established landscaping. Nevertheless, users of the public footpath are sensitive receptors to change and the development would increase the sense of enclosure of built form when walking to and from the larger expanses of open countryside to the north. Furthermore, when compared to the access road that defines the current settlement edge to the east, the development would result in a less defensible settlement boundary to land on its western side, notwithstanding the established hedgerows and trees to this aspect.
15. The absence of existing built development immediately to the western side of the site would reduce the perception of the proposal comprising infill development. In any case, infill development is not encouraged by Policies CS2 and CS3 of the CS outside of settlement boundaries within the CPAA. Consequently, the development would not preserve the openness of the CPAA, the purpose of including the site within it and would not result in a more defensible settlement boundary. I therefore consider that the proposal would be an unacceptable development in the countryside, as it would not comprise one of the types of development that Policy CS3 of the CS permits in the countryside and would harm its character.
16. In reaching the above findings, I have taken into account that the site has been promoted for development through the Doncaster Local Plan process and that the supporting text of Policy CS3 indicates that urban extensions on land previously designated CPA will be required to meet the Borough's housing and employment requirement. However, such changes to address longer term development needs are necessarily undertaken through a plan-led approach.
17. I conclude that the development would be contrary to the approach to the location and supply of housing and which seek to protect the countryside set out in Policies CS2 and CS3 of the CS and Saved Policies ENV2 and ENV4 of the UDP. When taken together these policies seek to direct development towards a settlement hierarchy and restrict development in the countryside to that which requires a countryside location and cannot be accommodated within identified settlements. The policies are consistent with the Framework.

Other Matters

18. The supporting text of Policy CS2 indicates that larger defined villages, which include Hatfield Woodhouse, are relatively unsustainable locations for future housing growth. However, in view of the regular bus services nearby providing links to larger settlements and towns, the site is relatively accessible for a rural location. The proposal would deliver social and economic benefits by providing 5 new homes. In this respect, the development would make a modest contribution to meeting housing requirements and choice in the Borough whilst supporting local services and businesses. There would also be limited benefits in terms of increased natural surveillance of the village hall and its associated facilities, together with improvements to vehicular and pedestrian access. In

addition, there would also be temporary economic benefits arising from the construction activity required to deliver the development.

19. Although the site is not currently needed in order to ensure an adequate supply of deliverable housing sites, there is nothing in the Framework to suggest that the existence of a five year supply should be regarded as a restraint on further development. In this context, I attach moderate weight to the social and economic benefits identified based on the scale of development proposed.
20. The relatively low level of additional traffic could be accommodated on the existing access road, which widens at the junction with Main Street and the surrounding highway network, without a severe impact upon highway safety and pedestrian safety of the public footpath. This would be subject to certain measures, including the formation of the private drive and turning area within the site, which could be secured by planning condition.
21. I am satisfied that the impact of the development on the living conditions of occupiers of neighbouring properties facing Main Street and Somerton Drive would not be significant. The separation distances between the dwellings, garages and neighbouring properties would prevent any impact on outlook and the oblique angle of interface between windows in main elevations would ensure no loss of privacy.
22. The development would result in the loss of grade 3 agricultural land. However, the land is not actively farmed and there is no evidence before me with respect to the supply of agricultural land in the local area. Based on the evidence before me, I consider that the loss of approximately 0.4 ha would not comprise significant development of agricultural land as described in the Framework and therefore only a minor adverse effect would occur.
23. An ecological appraisal and tree survey have been submitted which indicates that there are no trees of significance, but that the hedgerows, trees and scrub within the site provide a wildlife corridor and potential habitats for nesting birds, bats and badgers. Based on my observations of the site and its surroundings, I have no reason to take a different view to this evidence. Consequently, the recommendations in the ecological appraisal could be secured by condition requiring a scheme to be approved and implemented in order to protect and manage the ecology of the site. Such measures include retention of the existing hedgerows, scrub and trees that form site boundaries to safeguard the ecology of the site and avoid significant harm arising.
24. I am satisfied that matters relating to foul and surface water drainage could be appropriately addressed by condition if the appeal were allowed.
25. The appellant has referred to examples of development granted planning permission by the Council within the Borough, including within the settlement boundary of Hatfield Woodhouse and outside of the settlement boundary of Hatfield. However, the examples do not replicate the circumstances of the proposal before me or offer a precedent for the harm identified. I therefore determine this appeal on its own merits.

Planning Balance

26. The proposal would conflict with the approach to the location and supply of housing and protection of the countryside in Policies CS2 and CS3 of the CS and Saved Policies ENV2 and ENV4 of the UDP and would not therefore be in

accordance with the development plan. In such circumstances, planning law and the Framework⁷ indicate that planning permission should not be granted unless material considerations indicate otherwise. I have identified economic and social benefits arising from the provision of up to 5 new homes to which I attach moderate weight and a minor adverse effect relating to loss of agricultural land which I give little weight. The absence of harm relating to highway and pedestrian safety, the living conditions of neighbouring properties, ecology and drainage are neutral factors.

27. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan policies I have referred to, and the resultant harm would not be outweighed by other material considerations.

Conclusion

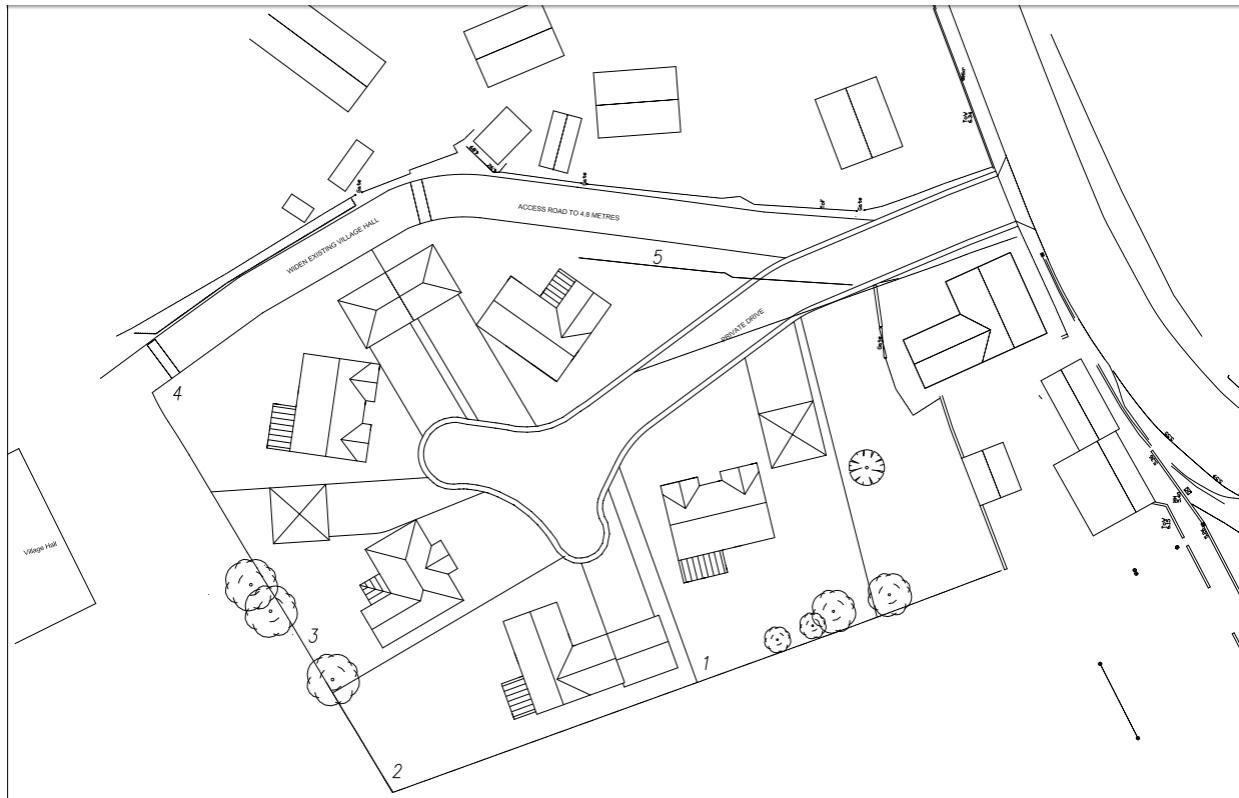
28. For the reasons set out above and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR

⁷ Paragraph 11

APPENDIX 2 – Proposed Site Plan



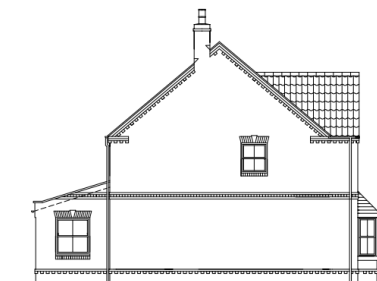
APPENDIX 3 – Plot 1 Elevations (each plot is individually designed)



Front Elevation



Side Elevation



Side Elevation



Rear Elevation



Doncaster Council

Report

Date: 05.03.2019

To the Chair and Members of the
PLANNING COMMITTEE

Application to modify terms of Section 106 Agreement relating to the timing, details of works, implementation programme and safety measures associated with the Railway Crossing Improvement Scheme, in connection with planning application 01/1201/P (mixed use development at Manor Farm, Bessacarr) – application reference 18/00717/DOV.

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr C McGuinness	Finningley	No

EXECUTIVE SUMMARY

1. Persimmon Homes have submitted an application to modify the terms of a Section 106 agreement in order to allow further homes to be occupied on the Manor Farm development before the railway crossing scheme (an underpass) is provided.
2. The original Section 106 agreement states that no more than 100 homes are to be occupied, or no dwellings on Phase 2 are to be constructed (whichever is the later), until a scheme to provide details of the proposed upgrading of the level crossings at Bessacarr Lane and if applicable Carr Lane.
3. During the consideration of the first Reserved Matters application, Network Rail and Persimmon agreed a Heads of Terms document whereby up to 150 dwellings could be occupied, and if the underpass was still not in place, then more than 150 dwellings could be occupied with additional safety measures.
4. The Heads of Terms document was not formalised, despite the parties working within the perimeters of the agreement, and the original Section 106 agreement was not at this time varied. A condition was however imposed,

following consultation with Network Rail, that no more than 150 dwellings were to be occupied prior to 31 December 2015 and the completion of the improvement works (upgrading of the crossing) set out in the Section 106 agreement. This condition was added at the request of Network Rail. A further condition was imposed for a 1.8m high fence running North – South across the site to prevent occupants from phase one of the development being able to access Carr Lane Crossing until the railway crossing scheme (underpass) is in place and open to the public.

5. The fence is in place and Network Rail is satisfied that this measure is effective.
6. Network Rail have assessed the risk of allowing up to 250 homes to be occupied without a railway crossing scheme in place and have produced a report 'House Occupations at Manor Farm Development: Risk/Mitigation of Risk to Rail Crossing Users' dated February 2018. This document considers the evidence and analysis with regard to the relationship of the Persimmon Homes house occupancy with the usage of the Bessacarr Halt Level Crossing. The report sets out that the statutory consultee, Network Rail is satisfied that at the current time sufficient measures are in place to allow a further 100 number of houses to be occupied, giving a total of 250 occupancy.
7. Persimmon must still fulfil their requirement to provide an underpass as part of the legal agreement to support the Manor Farm development.
8. Network Rail, as the statutory consultee, have no objection to the proposal. In considering whether the application is acceptable in principle, the local planning authority rely heavily on the advice and expertise provided by Network Rail on whether risk is acceptable.
9. Since the submission of the Deed of Variation, the 150 dwelling limit has been exceeded, and the occupation level in February 2019 was 187. Network Rail are aware of this and this follows their reassessment of occupancy to 250. Network Rail have supported Persimmon at a Level Crossing Safety Event on the 5th of February 2019, which is one of the soft measures outlined in the report that should be in place to support the increased number. As such, the authority has not considered it expedient to take enforcement action i) because the application to vary the agreement had been submitted and was being determined, and ii) Network Rail were aware of the increased occupancy and raised no objection to the increased occupancy level.
10. A number of representations have been made as a result of the advertisement of the Deed of Variation application. Councillor Neil Gethin has requested that the proposal be decided by the Planning Committee. Councillor Richard Allan Jones has objected to the proposal.

EXEMPT REPORT

11. Not applicable.

RECOMMENDATIONS

12. It is recommended that Members approve a Deed of Variation to the Section 106 agreement to allow up to 250 dwellings to be occupied prior to the underpass being in place.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

13. Until the two level crossings at Bessacarr Lane and Carr Lane are closed and the underpass is in place, there could be a slight increase in users crossing the railway line at the Manor farm development. As such, there remains a safety risk when crossing the railway line.
14. In terms of assessing what this risk will be, the authority have considered Network Rail's assessment which states that the occupation of 250 houses, with mitigation measures, would not pose a significant risk, as the risk level is considered to be as low as reasonably practicable.

BACKGROUND

15. On the 14th of March 2018, Persimmon Homes Limited submitted a formal request to DMBC vary the section 106 agreement attached to application 01/1201/P which was signed 23rd September 2009 and approved on appeal by the Secretary of State on the 13th of January 2010.
16. The Secretary of State agreed with the Inspector appointed to the case that the proposed closure of both railway crossings (Carr Lane and Bessacarr Lane) and the provision of a grade-separated railway bridge at Bessacarr Lane would reduce the potential risks associated with crossing the railway.
17. As set out in the section 106 agreement, no dwellings are to be constructed in Phase 2 or no more than 100 dwellings are to be occupied (whichever is the later) until the developer has submitted, and had approved by the Council in consultation with Network Rail, a scheme to provide details for the proposed upgrading of the level crossings at Bessacarr Lane and if applicable Carr Lane. This scheme is to include details of the works proposed to upgrade the level crossing at Carr Lane and upgrade or replace by means of grade separation the level crossing at Bessacarr Lane. It must also to include an implementation programme for the timing of the works referred to in the scheme.
18. During the consideration of the first Reserved Matters application (11/00719/REMM), Network Rail raised an objection in relation to the increase in risk to pedestrian safety. This objection which was subsequently withdrawn subject to conditions and the requirement of a deed of covenant. One such condition was that no more than 150 dwellings shall be occupied until such time as the underpass has been implemented.
19. Despite not being formally signed, both Persimmon and Network Rail

continued to work to an agreed set of Heads of Terms. As part of this agreement, no more than 150 dwellings were to be occupied until the railway improvement scheme was completed.

20. As part of the Heads of Terms, other provisions were set out in the event that the crossing was not completed by 31st December 2015 and Persimmon wished to allow occupation of more than 150 dwellings. In these circumstances, it was set out that additional safety controls would be agreed between Network Rail and Persimmon and implemented to address any net increased use of the level crossings over that recorded in the full census undertaken in 2009.
21. Whilst the Railway Crossing Improvement Scheme has been agreed in the form of an underpass under reference number 15/02914/PRIOR, the underpass is not yet in place.
22. Before reaching the 150 dwelling trigger, Persimmon Homes asked Network Rail whether any additional safety measures were necessary for more than 150 dwellings to be occupied. Network Rail produced the report 'House Occupations at Manor Farm Development: Risk/Mitigation of Risk to Rail Crossing Users', dated February 2018, and this has been submitted with the Deed of Variation.
23. The report looked at census survey data (pre and post development commencement), considering the population projections and made assumptions about source and destination in considering rail crossing usage, and made an assessment of risk and recommendations for additional safety controls.
24. Network Rail consider that there is scope to increase housing numbers subject to mitigation. It is recognised that in the short term there may be a slight increase in users crossing the railway line, but the measures outlined below are considered sufficient to address the increased number of users and mitigate the increase in risk;
25. Mitigation will include:
 - An agreed plan to move the miniature warning lights to a better position for visibility
 - Awareness days to be undertaken in line with the rate of home occupancy
 - Materials to brief residents regarding level crossing safety
 - In addition to the above, Network Rail will continue to monitor the usage at the crossings during the period until the underpass is in situ.
26. Network Rail summarise that they have considered the evidence and analysis

with regard to the relationship of the Persimmon Homes house occupancy with the usage of the Bessacarr Halt Level Crossing and, it is satisfied that sufficient measures are in place to allow a further 100 number of houses to be occupied, giving a total of 250 occupancy. Persimmon must however, still fulfil their requirement to provide an underpass.

27. Network Rail also state that it was agreed that the developer should implement a steel palisade barrier running North-South across the site to prevent occupants from phase one of the development being able to access Carr Lane Crossing until such times as an underpass is in place, Network Rail is satisfied that this measure is effective in its position. This fence is to discourage new occupants from using the Bessacarr Lane crossing and to stop them from using Car Lane crossing, and according to Network Rail, has proved to be more effective than originally envisaged,
28. As stated earlier in this report Network Rail have already supported Persimmon at a Level Crossing Safety Event on the 5th of February 2019 which is one of the soft measures outlined in the report that should be in place to support the increased number.
29. The local planning authority have requested that trigger points are inserted into the deed of variation for the developer to inform the council at different levels of occupancy to ensure that the figure cannot be further exceeded. This would be at the 210th dwelling and 240th dwelling which enables sufficient monitoring.

OPTIONS CONSIDERED

30. Option 1 (Preferred Option): To approve the Deed of Variation and allow Persimmon Homes to occupy up to 250 homes prior to the underpass being in place and open to use by the public, subject to the mitigation measures set out in the Network Rail Report.
31. Option 2: Refuse the Deed of Variation and serve an enforcement notice to prevent further homes being occupied prior to the underpass being in place. Construction could still however continue.

REASONS FOR RECOMMENDED OPTION

32. The statutory consultee, Network Rail do not object to the proposal. They are comfortable with the proposed occupancy level of up to 250 dwellings subject to the mitigation measures set out in the report.
33. Network Rail are the experts on rail safety, and have provided the local authority with robust supporting information in the form of a report with added mitigation measures.

34. Network Rail are aware that the 150 dwelling trigger has been exceeded and that current levels are at 187 dwellings occupied. As this is within the 250 limit which has been risk assessed, and mitigation is in place, they remain satisfied with this.
35. The proposed trigger points would ensure that the occupancy levels on site are closely monitored.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>This outcome is likely to be unaffected.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>Network Rail are satisfied with the risk to public safety given the mitigation measures outlined.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school 	<p>This outcome is likely to be unaffected.</p>

	<ul style="list-style-type: none"> • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>The assessment report written by Network Rail shows that the occupation of 250 houses would not pose significant risk, as the risk level is considered to be as low as reasonably practicable. Network Rail is also satisfied with the existing and proposed mitigation.</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>This outcome is likely to be unaffected.</p>

RISKS AND ASSUMPTIONS

36. Should the Deed of Variation not be approved, the decision could be appealed and the local authority susceptible to costs. Network Rail would likely be an expert witness for the appellant.

LEGAL IMPLICATIONS [HL 22.09.2019]

Where an application is made to modify or discharge a planning contribution made under the Town and Country Planning Act 1990, the LPA may decide to either:

- (a) continue the planning contribution without modification
- (b) discharge it, if it no longer serves a useful purpose; or
- (c) if it continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications applied for, then allow the modifications, provided it does not place any burden on a third party.

Where the LPA decides not to allow a modification or change, and the agreement has been in existence for 5 years or more the applicant may appeal the determination to the Secretary of State, pursuant to section 106B of the Town and Country Planning Act 1990 (as amended).

FINANCIAL IMPLICATIONS [Officer Initials: DR; 22nd February 2019]

- 37. The proposed Deed of Variation is not expected to give rise to any direct financial implications for the Council.

HUMAN RESOURCES IMPLICATIONS [Officer Initials: AC: 22/02/2019]

- 38. There are no HR implications.

TECHNOLOGY IMPLICATIONS [Officer Initials: NE: 21/02/2019]

- 39. There are no technology implications.

HEALTH IMPLICATIONS [Officer Initials: RS; 24.02.2019]

- 40. There is a potential risk that increasing the number of occupied homes on the Manor Farm development could lead to increased safety concerns at the Bessacarr Halt Level Crossing.
- 41. However, the mitigations put in place by Network Rail appear sufficient for decision makers to approve the recommendation.

EQUALITY IMPLICATIONS [Officer Initials: NE: 22/02/2019]

- 42. There are no equality implications.

CONSULTATION

43. The proposal was advertised by means of site notice posted in 6 locations on the 6th of April 2018. The locations included both sides of each level crossing, Bawtry Road and within the Manor Farm development.
44. Objections have been received from three individuals and highlight the following concerns, officer comments are in italics;
- Allowing more residents poses a greater safety risk (*Network Rail are satisfied with the increase in risk and the mitigation measures, Network Rail are the experts on rail safety*)
 - The proposed construction of the underpass has been going on too long, no date has been fixed for its installation (*Commencement of the works is not within the local planning authority's control. However it is understood that Persimmon Homes committed to delivery of the underpass*)
 - Objection to the construction of the underpass at Kelsey Gardens (*this is not the subject of this Deed of Variation*)
 - The Deed of Variaton cannot be discussed without referring to the proposed Public Right of Way (PROW) diversion request (*Does not affect the ability to consider an increase in occupancy, whilst this will need to be agreed before the underpass is in use, in legislation terms, they are separate processes*)
 - Assumption by Network Rail and Persimmon that the Deed of Variation and PROW applications are going to be approved (*The decision whether to allow the Deed of Variation rests with the Planning Committee. The diversion of a PROW cannot be assumed. If objections to a PROW Diversion Order are received within the specified time limit and are not withdrawn, the Council must refer the Order to the Secretary of State who will take the decision on whether or not to confirm the Order to divert a PROW*)
 - Network Rail confirm that the proposal increases the risk to users of Bessacarr Halt (*They have confirmed that the risk level is as low as reasonably practicable and have no objections*)
 - In paragraphs 3.3 to 3.6 of the above Network Rail's "House Occupation.." document is a claim that the current ALCRM risk figure (i.e., 2018) has reduced despite increased usage. In other words the building site conditions have resulted in a safer crossing than the original farmer's field. (*Network Rail state that in the short term there may be an increase in users as a result of the housing development, for which mitigation measures are in place to address*).

- Concern that Network Rail's monitoring is after the event (*Mitigation is in place, Network Rail will continue to monitor the situation*).
- Concern that there will be a further request for an extension (*This would be subject to further consideration under a separate application for a Deed of Variation, should this be the case*).
- Network Rail are not an impartial consultee (*Network Rail are a statutory consultee for development affecting the railway and are the experts on rail safety issues*).
- Network Rail clearly have an internal issue relating to the safety at Bessacarr Halt. This is evidenced by the April 2014 submission to close that level crossing. There is now a notice attached to the level crossing gates which stated:
"This crossing is closed to vehicular use until the construction of the nearby housing estate is completed."
- Heads of Terms do not mention an underpass at Kelsey Gardens (*Does not affect the ability to consider an increase in occupancy*)
- Road not delivered through the development site to allow maintenance to the East Coast line. (*Does not affect the ability to consider an increase in occupancy*)
- Still outstanding issues with the underpass (final footpath design, PROW not approved) (*Does not affect the ability to consider at increase in occupancy, although the PROW will need to be diverted before the underpass is constructed and brought into use*)
- There is a Stopping Up Order for the Bessacarr Halt B.O.A.T. which was issued in June 2011. It still has not been activated. If Network Rail or Persimmon were genuinely concerned about safety surely they could have activated the Order. (*Not relevant to the increase in occupancy*)

45. Ward Members in both the Finningley and Bessacarr wards have been consulted and the following comments have been received;

- Cllr Gethin objects on safety grounds and convenience given the only current safe walking to local shops is via Warren Lane. There will remain the Public Right of Way across Carr Lane and Bessacarr Lane crossings, at least for now. I am surprised that Network Rail are in agreement with this proposal given their desire to close Level crossings along their rail lines. I also understand there is an expected increase in freight traffic along the line hence increasing the probability of an incident. I also have concerns that the figures using the crossings may be artificially low given that the people of Manor

Farm are denied access to the Public Right of Way across the Carr Lane.

- Cllr Jones objects to the proposal and considers that the underpass needs to progress and should have timescales and other requirements written into the variation as a clear understanding of when the underpass will be completed.

46. Further consultation includes;

- Network Rail – An initial limit of 150 homes was set. As envisaged by the HOTS at para 6.2, this figure has now been reviewed based on an up to date survey and risk assessment. The proposal to extend the limit of occupations at this stage to 250 dwellings is considered acceptable in light of the assessment of risk. Subject to a satisfactory wording of the S106 Network Rail has no objection to the proposal.
- Finningley and Cantley Parish Council – No comments received.
- Safer Communities Manager – No comments received.
- Health and Safety Executive - HSE does not advise, on safety grounds, against the granting of planning permission in this case (*their concern is the gas pipeline and comments provided from them relate to this*)
- Public Rights of Way – No comments received in respect of the increase in numbers.
- Area Manager – No comments received.

BACKGROUND PAPERS

Documents submitted in support of application reference 18/00717/DOV.

REPORT AUTHOR & CONTRIBUTORS

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**Agenda Item No.
Date: 5th March 2019**

To the Chair and Members of the Planning Committee

APPEAL DECISIONS

EXECUTIVE SUMMARY

1. The purpose of this report is to inform members of appeal decisions received from the planning inspectorate. Copies of the relevant decision letters are attached for information.

RECOMMENDATIONS

2. That the report together with the appeal decisions be noted.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

3. It demonstrates the ability applicants have to appeal against decisions of the Local Planning Authority and how those appeals have been assessed by the planning inspectorate.

BACKGROUND

4. Each decision has arisen from appeals made to the Planning Inspectorate.

OPTIONS CONSIDERED

5. It is helpful for the Planning Committee to be made aware of decisions made on appeals lodged against its decisions.

REASONS FOR RECOMMENDED OPTION

6. To make the public aware of these decisions.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

7.

	Outcomes	Implications
	Working with our partners we will provide strong leadership and governance.	Demonstrating good governance.

RISKS AND ASSUMPTIONS

8. N/A

LEGAL IMPLICATIONS [Officer Initials HL Date 21/02/19]

9. Sections 288 and 289 of the Town and Country Planning Act 1990, provides that a decision of the Secretary of State or his Inspector may be challenged in the High Court. Broadly, a decision can only be challenged on one or more of the following grounds:
- a) a material breach of the Inquiries Procedure Rules;
 - b) a breach of principles of natural justice;
 - c) the Secretary of State or his Inspector in coming to his decision took into account matters which were irrelevant to that decision;
 - d) the Secretary of State or his Inspector in coming to his decision failed to take into account matters relevant to that decision;
 - e) the Secretary of State or his Inspector acted perversely in that no reasonable person in their position properly directing themselves on the relevant material, could have reached the conclusion he did;
a material error of law.

FINANCIAL IMPLICATIONS [Officer Initials BC Date 21/02/19]

10. There are no direct financial implications as a result of the recommendation of this report, however Financial Management should be consulted should financial implications arise as a result of an individual appeal.

HUMAN RESOURCES IMPLICATIONS [Officer Initials CR Date 21/02/19]

11. There are no Human Resource implications arising from the report.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 21/02/19]

12. There are no technology implications arising from the report

HEALTH IMPLICATIONS [Officer Initials RS Date 21/02/19]

13. It is considered that there are no direct health implications although health should be considered on all decisions.

EQUALITY IMPLICATIONS [Officer Initials RL Date 21/02/19]

14. There are no Equalities implications arising from the report.

CONSULTATION

15. N/A

BACKGROUND PAPERS

16. N/A

CONCLUSIONS

17. Decisions on the under-mentioned applications have been notified as follows:-

Application No.	Application Description & Location	Appeal Decision	Ward	Decision Type	Committee Overturn
15/01278/OUT M	Outline application for residential development with open space, landscaping and associated access (Approval being sought for access) at Land To The East, Mere Lane, Edenthorpe, Doncaster	Appeal Allowed 05/02/2019	Edenthorpe And Kirk Sandall	Committee	Yes
18/00794/OUT	Outline application to create dwelling following demolition of existing barn at Cherry Tree Farm , Stone Hill, Hatfield Woodhouse, Doncaster	Appeal Dismissed 30/01/2019	Hatfield	Delegated	No
18/02123/FUL	Erection of a dwelling. (Resubmission) at 66 Crookes Broom Lane, Hatfield, Doncaster, DN7 6LD	Appeal Dismissed 18/02/2019	Hatfield	Delegated	No

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PETER DALE
Director of Regeneration and Environment

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Ministry of Housing,
Communities &
Local Government

Mrs Kate McGill
Nathaniel Lichfield & Partners
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Saint Nicholas Street
Newcastle Upon Tyne
NE1 1RF

Our ref: APP/F4410/W/17/3169288
Your ref:

05 February 2019

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY HALLAM LAND MANAGEMENT (JONATHAN COLLINS)
LAND TO THE EAST OF MERE LANE, EDENTHORPE, DONCASTER
APPLICATION REF: 15/01278/OUTM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Frances Mahoney DipTP PGDipTP MRTPI IHBC who held a public local inquiry on 5 to 7 September, 12 – 13 September and 9 – 12 January 2018 into your clients appeal against the decision of Doncaster Metropolitan Borough Council to refuse your application for planning permission for residential development (Use Class C3) with open space, landscaping and associated access, in accordance with application ref: 15/01278/OUTM dated 18 May 2015.
2. On 8 March 2017, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

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

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

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6. In this case the development plan consists of saved policies from the Doncaster Unitary Development Plan (UDP) adopted in 1998, and the Doncaster Council Core Strategy 2011-2028 (CS) adopted May 2012. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR13.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). The revised National Planning Policy Framework was published on 24 July 2018, and unless otherwise specified, any references to the Framework in this letter are to the revised Framework.

Emerging plan

8. The emerging plan comprises a new Local Plan which will cover the period to 2032. This plan has not yet progressed to the Examination stage. In addition, the Edenthorpe Neighbourhood Plan is currently at a draft stage. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the emerging Local Plan and the Edenthorpe Neighbourhood Plan are still at an early stage, any objections are not yet fully resolved and its policies are still subject to change, the Secretary of State considers that they carry limited weight.

Main issues

Accordance with the Development Plan

9. The site is located within a Countryside Protection Area (CPA) as defined by the UDP and in a Countryside Protection Policy Area (CPPA) as defined in the CS. For the reasons given in IR263-266, the Secretary of State agrees with the Inspector that, while UDP Policies ENV 2 and ENV 4 aim to protect the countryside, they do not ensure that sufficient land is available of the right sort in the right place and at the right time to support growth and meet the needs of present and future generations. He agrees with the Inspector in IR269, that CS Policy CS3 identifies the appeal site as part of the CPPA and seeks to develop the protectionist stance of UDP Policies ENV 2 and ENV 4 whilst recognising the importance of urban extensions to the growth and regeneration strategy. He further agrees with the inspector at IR270 that the lack of identified development allocations in the context of CS Policy CS3 Part B) 1 means that, reading this part of the policy in its purest form, the appeal proposal is not a new urban extension development allocation and so Part B) 1 of Policy CS3 is not applicable.
10. Core Strategy policy CS3 Part C identifies the appeal site as lying within an indicative Green Wedge. The Secretary of State agrees with the Inspector at IR272 that this policy does not exempt areas identified as being within a Green Wedge from development. The Secretary of State agrees with the Inspector at IR 279 that UDP policies ENV 2 and ENV 4 are not in line with the direction of travel of local and national policies, particularly in reference to the CPA, which is an historic designation, and is out of date. The Inspector further considers in IR 279, and the Secretary of State agrees, that the Council has relied on saved UDP policies, as the policy development of the CPPA has not evolved. The Secretary of State concludes that these saved UDP policies are the most important for determining this application, given the Development Plan presently places the appeal development site within the CPA and by definition within the 'Countryside'.

11. As a result and for the reasons given in IR 263-279, the Secretary of State considers that UDP Policies ENV2 and ENV4 are the most important policies for determining this application, and are out of date, and that the tilted balance in favour of sustainable development as stated in paragraph 11 of the Framework applies.

Landscape and Green Wedge

12. For the reasons given in IR280-295, the Secretary of State agrees with the Inspector's conclusion (IR295) that the proposal would change but not harm the landscape character of the area and would maintain separation between settlements, and therefore Core Strategy CS17 would not be compromised. The Secretary of State also agrees with the Inspector (IR290) that Green Wedges are currently subject to uncertainty in application and definition, and that Green Wedges do not preclude development.

Best and Most Versatile Agricultural Land

13. The Secretary of State has considered the Inspectors analysis at IR301-305 and agrees with the Inspector's conclusion at IR305 that development of the grade 3a agricultural land would not adversely impact on the economic and other benefits of best and most versatile agricultural land.

Five Year Housing Land Supply

14. The Secretary of State notes that there is some dispute between the main parties as to whether the Council can demonstrate a five year housing land supply (IR318). While he notes that the applicant has used an alternative approach to calculate the figure, the Secretary of State considers that the standard methodology should be used, in line with the Framework. Using this, the Secretary of State considers that Doncaster Council's annual requirement is circa 600 homes per year, and that based on forecast levels of supply, they can currently demonstrate over ten years supply of housing land.

Other matters

15. The Secretary of State has also taken account of the Inspector's consideration of Biodiversity (IR296), Highways (IR297-299), Air Quality (IR300) and Accessibility (IR306-317). The Secretary of State is satisfied that these issues would not give rise to significant harmful impacts, and that the development is in an accessible location.

Planning conditions

16. The Secretary of State has given consideration to the Inspector's analysis at IR243-261, the recommended conditions set out at Annex A of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

17. Having had regard to the Inspector's analysis at IR262, the signed planning obligation, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR262 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework

Planning balance and overall conclusion

18. For the reasons given above, the Secretary of State considers that the appeal scheme is within the CPA and is in conflict with Policies ENV 2 and ENV 4 of the development plan and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
19. As Policies ENV 2 and ENV 4 are considered to be the most important for determining this application, and are also considered to be out-of-date, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
20. The appeal site is washed over by the CPA, but no evaluation has been made of the quality or value of sites in this designation. In addition, the CPA is linked to historic objectives in the UDP of twenty years ago. The updating and translation of the CPA into the CPPA is expected to form part of the emerging Local Plan, and has yet to happen. Therefore, while the scheme conflicts with UDP Policies ENV 2 and ENV 4, and the Secretary of State considers this to weigh against the scheme, he gives limited weight to this conflict, as the policies cannot be considered to be up to date. He considers that no other adverse impacts that would weigh against the scheme have been identified.
21. The Secretary of State considers that the provision of housing, along with transport and accessibility improvements and improved access to open and green space are all benefits that attract moderate weight in favour of the development.
22. The Secretary of State concludes that the identified harm does not significantly and demonstrably outweigh the benefits of the scheme, and considers that there are no protective policies which provide a clear reason for refusing the development proposed.

Formal decision

23. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for a residential development (Use Class C3), with open space and landscaping and associated access in accordance with application reference 15/01278/OUTM, dated 18 May 2015.
24. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

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

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

27. A copy of this letter has been sent to Doncaster Metropolitan Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Authorised by the Secretary of State to sign in that behalf

Conditions

- 1) The development to which this permission relates must be begun not later than whichever is the later of the following dates: -
 - i) The expiration of three years from the date of this permission or
 - ii) The expiration of two years from the final approval of the reserved matters for the first phase (as agreed in Condition 3 (Phasing Plan)).
- 2) Approval of the details of the appearance, landscaping, layout, access and scale for each phase (hereinafter referred to as reserved matters) shall be obtained in writing from the Local Planning Authority before the commencement of any works within a phase to be agreed. Development shall thereafter be implemented in accordance with the approved plans.
- 3) The development and all reserved matters applications shall broadly accord with the following parameters:
 - i) The Parameters Plan (Ref: 5428-L-02-Rev P)
 - ii) The point of vehicular access as shown on the Parameters Plan (Ref: 5428-L-02-Rev P)
 - iii) A minimum of 12.5ha of public open space including formal and informal play areas
 - iv) A footpath within the site connecting the south western corner of the housing area to Mere Lane
 - v) Key surface drainage infrastructure
 - vi) A temporary construction corridor through the open space to facilitate access for vehicles during the construction process
 - vii) Key areas of the public realm to be the subject of a lighting design strategy taking into account the terms of condition 11.

The above parameters shall be illustrated in a composite Development Framework Plan to be submitted to and approved in writing by the Local Planning Authority prior to the submission of the first Reserved Matters application. The Framework shall include the extent of the phases of development, including the timescales for submission of details, commencement and implementation across the development (the Phasing Plan). The development and all reserved matters shall thereafter broadly accord with the approved Development Framework Plan and the Phasing Plan shall be adhered to during the overall construction period.

- 4) Application for approval of the reserved matters for the first phase of development (as identified in the Phasing Plan approved under Condition 3) must be made not later than the expiration of three years beginning with the date of this permission.
- 5) Prior to the submission of the first Reserved Matters a Design Guide shall be submitted to and approved in writing by the Local Planning Authority. The Design Guide will be applied to all subsequent Reserved Matters submissions for development. The Guide shall follow the principles established in the Design and Access Statement, dated July 2017 Update and the Development Framework Plan required by Condition 3. The Design Guide shall refer to and reflect the Council's current design guidance and cover the following key detailed design matters:

- a) Movement hierarchy and street types- the network of streets, footpaths and car free routes and how these integrate into existing networks, using street sections and plans to illustrate the hierarchy, including details of the verged and tree lined avenue to be created within the public highway along the principal routes and the footpath connecting the housing to Mere Lane within the site;
 - b) Urban design principles - how the development will create a permeable and secure network of blocks and plots with well-defined, active and enclosed streets and spaces;
 - c) Legibility strategy - how the scheme will be easy to navigate using gateways, views, nodes and landmarks for orientation;
 - d) Residential character areas - the different areas of housing within the site and details of the key characteristics of each zone in terms of layout, scale, siting, appearance, and landscape;
 - e) Architectural appearance, building details and materials- informed by a local character appraisal;
 - f) Open space character areas - the function, appearance and design principles for each key area of open space;
 - g) Vehicle and cycle parking - including details of allocated and visitor parking strategies in line with the Council's parking standards;
 - h) Hard and soft landscape - including street surfacing, junction treatments, street furniture, signage, management and maintenance, + boundary treatments - details of front, side, rear and plot division boundaries for each street type / character area;
 - i) Building for Life Statement - how BFL principles are to be met by the development (applicable to residential areas);
 - j) The layout of the proposed development shall be based on the findings and recommendations of a tree survey in accordance with British Standards Institute 5837 (2012): Trees in relation to design, demolition and construction - Recommendations. The siting and design of the development platform, all proposed buildings, access roads, private drives and parking spaces shall be informed by the tree survey and shall give full regard to the root protection area and future growth of trees taking into account the aspect and topography of the site. The required tree survey shall be submitted to the local planning authority as part of the Design Guide illustrating the design response to the outcome of the survey. The position and proximity of the protected trees within Long Plantation shall be taken into account, accommodated and safeguarded.
- 6) Prior to the commencement of development in each phase (as set out in the Phasing Plan), details of the proposed external materials for the buildings in that phase shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
- 7) Prior to the commencement of development in each phase (as set out in the Phasing Plan) a scheme for the protection of all retained trees in that phase that complies with section 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the Local Planning Authority. Tree protection shall be implemented on site in accordance with the approved details (including a timetable for implementation) and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment,

machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

- 8) No development shall take place in each phase until a detailed hard and soft landscape scheme to cover the public realm consistent with the Development Framework Plan (condition 3) and the Design Guide (condition 5) including a timetable for implementation and details of future maintenance for that phase has been submitted to and approved in writing by the Local Planning Authority. Hard landscaping details should include; street surfacing materials and materials for drives, footpaths and patios to individual paths. The scheme shall include a soft landscape plan; a schedule providing details of the species, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock – Specification for Trees and Shrubs Part One and planting distances of trees and shrubs; a specification of planting and staking/guying; a timescale of implementation; and details of aftercare for a minimum of 5 years following practical completion of the landscape works. Thereafter the landscape scheme shall be implemented in full accordance with the approved details/timetable and the Local Planning Authority notified in writing within 7 working days to approve practical completion. Any soft landscaping which fails to achieve independence in the landscape or that is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.
- 9) Prior to the submission of any reserved matters application, an archaeological evaluation of the application area will be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this field evaluation stage, a mitigation strategy, including a timetable for implementation, for any further archaeological works and/or preservation in situ shall be submitted to and approved in writing by the local planning authority and then implemented.
- 10) Prior to submission of the first reserved matters application for the development of the site, a site wide drainage plan shall be submitted to and approved in writing by the Local Planning Authority. The drainage plan shall include details of the proposed sequence of development across the entire site, the extent of the development phases /plots, including reference to the type and extent of development envisaged and include timing information (by reference to any date, the commencement or completion of development of any phase or provision of any element or to any other applicable trigger point) for:-
 - a) Strategic foul water drainage features including the points of connection to public sewer, sewerage, pumping stations and any other necessary infrastructure. A pumped discharge of foul water into the public sewer shall not exceed 10 (ten) litres per second in total for the whole development;

- b) Surface water drainage features including SUDS, sewerage and outfalls plus any other necessary infrastructure identified as part of a surface /storm water management plan. Any off-site implications for surface water run-off should be considered. The details shall include:
- i. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, the points and rates of discharge and the measures taken to prevent pollution of the receiving groundwater and /or surface waters;
 - ii. a timetable for its implementation; and
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime .

The discharge of surface or foul water for each phase shall not commence until the approved scheme for that phase has been implemented in accordance with the approved details. The whole scheme shall be maintained in working order in accordance with the approved management and maintenance plan.

- 11) On the submission of reserved matters for each phase, a lighting design strategy for the public realm within that phase specifically relating to bats shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- likely presence and location of bats based on survey baseline data in relation to the proposed development;
- mitigation measures along with technical specifications to reduce /eliminate the impacts of lighting spill on bats.

The development for that phase shall be carried out in accordance with the approved strategy.

- 12) Prior to the commencement of construction on a phase a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP for each phase shall include:

- + A risk assessment of the potentially damaging construction activities in relation to wildlife and habitats;
- + A method statement for the protection of reptiles and other terrestrial fauna that may be encountered on site;
- + Measures to protect the adjacent Local Wildlife Site, Long Plantation;
- + The use of protective fencing, exclusion barriers and wildlife safety measures;
- + An assessment of the risks posed to groundwater quality during the construction phase, including foundation works;
- + The implementation of mitigation measures designed to protect groundwater;
- + Details of the size and design of any site compounds, including how any potentially polluting materials will be stored to minimise the risk of pollution;
- + Pollution incident management plan.

The development on that phase shall thereafter be constructed in accordance with the approved CEMP.

- 13) No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved in writing by the Local Planning Authority.
- a) The Phase 1 desktop study, site walkover and initial assessment must be submitted to the Local Planning Authority for approval in writing. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
 - b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved in writing by the Local Planning Authority prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the Local Planning Authority for approval in writing.
 - c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved in writing by the Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.
 - d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written prior notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease and the Local Planning Authority notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the Local Planning Authority for approval in writing. The associated works shall not re-commence until the reports have been so approved by the Local Planning Authority.
 - e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation

detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved in writing by the Local Planning Authority.

- 14) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the Local Planning Authority prior to any soil and soil forming material being brought on to site.
- 15) No development shall take place in each phase until a scheme including an acoustic fence, if deemed necessary, to protect residents in the proposed dwellings in that phase from road traffic noise along the A630 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in line with the recommendations of the noise assessment, reference 14/0085/R01, submitted with the application. All works which form part of the approved scheme shall be completed before occupation of any of the dwellings within that phase, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.
- 16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) The hours of construction operation including any piling activity;
 - ii) Contact details for a nominated person responsible for dealing with any complaints about construction activity;
 - iii) The location of site compounds;
 - iv) The parking of vehicles of site operatives and visitors;
 - v) Loading and unloading of plant and materials;
 - vi) Storage of plant and materials used in constructing the development;
 - vii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) Measures to control noise and the emission of dust and dirt during construction, including wheel washing facilities;
 - ix) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - x) Management and timing of deliveries.
- 17) No phase of development shall commence until a Construction Traffic Management Plan (CTMP) for that phase of development has been submitted to and

approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction phase. The CTMP shall contain information relating to (but not limited to):

- + Volumes and types of construction vehicles;
- + Identification of delivery routes;
- + Identification of agreed access point;
- + Contractors method for controlling construction traffic and adherence to routes;
- + Size, route and numbers of abnormal loads;
- + Swept path analysis (as required);
- + Construction Period;
- + Temporary signage;
- + Measures to control mud and dust being transferred to the public Highway; and
- + Timing of deliveries.

18) Notwithstanding the submitted plans, prior to the commencement of development, drawings illustrating the general arrangements for access and egress and carriageway re-alignment shall be submitted to the Local Planning Authority for approval in writing, and shall include as appropriate:

1. A design for a roundabout related to the current arrangements of the A630, suitable to accommodate the whole development hereby permitted and/or,
2. A design for a roundabout suitable to accommodate the whole development hereby permitted on the basis that the A630 is dualled as part of the West Moor Link Dualling scheme.

Such details shall be accompanied by a scheme setting out the timing/timetable and delivery of the proposals and the transition between them, as is necessary to ensure their implementation, removal and replacement or amendment as the case may be, to accommodate the development safely and in accordance with the current or future arrangements for the A630.

No development shall take place until written approval to such details and such delivery scheme has been given by the Local Planning Authority. The development shall be carried out in full accordance with the approved drawings and scheme of delivery.

19) No development shall commence until a scheme of works (including timing relative to dwelling occupation) in accordance with the Highways Statement of Common Ground dated December 2017 prepared by Croft Transport Solutions has been submitted to and approved in writing by the Local Planning Authority to deliver the highways improvement works at the following junctions in general accordance with the associated plans, adjusted where necessary to take into account any works that have already been undertaken. The scheme of works shall then be implemented in accordance with the approved plans and to the approved timings. The junctions and associated plans are as follows:

- *Junction 1 - A630/Hatfield Lane - Plan 22A.*
- *Junction 2 - A630/West Moor Lane/Yorkshire Way - Plan 24.*
- *Junction 4 - Mill Street/Church Street/Nutwell Lane - Plan 28.*

- *Junction 5 - A18 Leger Way/Armthorpe Road - Plan 29.*
- *Junction 6 - A18 Thorne Road/A18 Leger Way/Leger Retail Centre - Plan 25.*
- *Junction 7 - A18 Thorne Road/A630 Wheatley Hall Road/Ogden Road - Plan 20A.*
- *Junction 8 - A630/A18 Thorne Road/Sainsbury's Access - Plan 16A.*

20) Prior to the occupation of the first house in each phase as set out in the Phasing Plan, that part of the site within the phase to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

21) Prior to the occupation of the first dwelling hereby permitted a Travel Plan along with a scheme for its implementation both in the short and long term, as well as the means for monitoring shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be based on the submitted Framework Travel Plan and shall include a timetable for implementation and provision for monitoring and review. All measures contained within the approved Travel Plan shall be implemented in each relevant phase in accordance with the timetable and scheme of monitoring and review.

22) Prior to the commencement of work on a particular identified phase of development (condition 3), details of electric vehicle charging provision, along with a timetable for installation, for the dwellings in that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Each dwelling in any particular phase shall not be occupied until the approved connection for that dwelling has been installed and is operational. The approved infrastructure shall thereafter be retained.



Report to the Secretary of State for Housing, Communities and Local Government

by Frances Mahoney DipTP PGDipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Date: 1 November 2018

TOWN & COUNTRY PLANNING ACT 1990

DONCASTER METROPOLITAN BOROUGH COUNCIL

APPEAL BY HALLAM LAND MANAGEMENT (JONATHAN COLLINS)

Inquiry commenced on 5 September 2017

Land to the east of Mere Lane, Edenthorpe, Doncaster

File Ref: APP/F4410/W/17/3169288

<https://www.gov.uk/planning-inspectorate>

File Ref: APP/F4410/W/17/3169288**Land to the east of Mere Lane, Edenthorpe, Doncaster**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Hallam Land Management (Jonathan Collins) against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 15/01278/OUTM, dated 18 May 2015, was refused by notice dated 18 November 2016.
- The development proposed is residential development (Use Class C3) with open space and landscaping and associated access.

Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.

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Procedural Matters

1. The Inquiry sat from 5 -7 September, 12 – 13 September 2017 and from 9 – 12 January 2018 with an accompanied site visit on 14 September 2017. The Closing submissions of the parties were submitted in writing and the Inquiry subsequently closed on 23 January 2018.
2. This appeal was recovered on 8 March 2017 under Section 79 and paragraph 3 of Schedule 6 of the above Act by the Secretary of State (SoS), because the appeal involves proposals for residential development over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities¹.
3. The planning application was considered by the Council on the basis that all matters were reserved other than the main point of access from the A630². However, as part of the appeal process the appellant company has requested that the proposal be determined on the basis of access also being a reserved matter³. This was in response to concerns relating to the impact on the future dualling of the A630. The Council has not opposed the access being a reserved matter. It is satisfied that, in principle, a suitable access arrangement is capable of being designed and can therefore be required by condition⁴. The appellant company has indicated that the access point would be situated on the southern side of the site along the A630⁵ but that the exact location of the access point would be best dealt with as part of the reserved matters, integrated into the design process. Based on the submitted evidence it seems to me that the reservation of the access details would secure greater control in determining the most appropriate access solution as part of the wider design process encapsulated in the reserved matters stage. I shall deal with the appeal on this basis.
4. The appellant company also seek that alternative plans be considered as part of the appeal process⁶. These plans⁷ along with a revised Design and Access Statement⁸ have been submitted by the appellant company following discussions with the Council and the refusal of planning permission contrary to officer recommendation. The alternative plans continue to show the provision of a green infrastructure corridor along the frontage of the site with built development set back from the A630 some 100-140 metres to the east of the

¹ Direction of recovery letter dated 8 March 2017.

² The original planning application was recommended by officers to be granted subject to conditions and a S106 agreement. See planning committee report dated 15 November 2016.

³ Statement of Common Ground (SofCG) Appendix 5.

⁴ Inquiry Doc 25 – Appendix 1 para 24.

⁵ Inquiry Doc 25 – Appendix 4.

⁶ The only plan for formal determination is the Site Location Plan (ref 5428-L-01 Rev B (CD1.3) – SofCG para 3.6 + Appendix 1.

⁷ Parameters Plan 5428-L-02-P, Indicative Layout 5428-L-03-G & Connectivity & Movement 5428-L-08-D.

⁸ CD2.16.

access point. To the west there is no change⁹. Consequently there would be an overall reduction in the overall residential developed area from 16.49 hectares to 15.34 hectares. This would likely reduce the number of dwellings to up to 600 units¹⁰. The frontage green space would in essence form a new community park which is apparent in the original design as is the school playing fields, and the footpath links, although the alternative does include a new footway/cycleway.

5. The original submitted plans, other than the location plan, were in the main for illustrative purposes only. These indicative plans and the Design and Access Statement offered a vision of how the development could be accommodated within the site but were not definitive. The appellant company relies on the detailed submissions set out in their Inquiry Note from the first day of the Inquiry in this respect¹¹. The proposed alternative plans do not change the application, they merely offer an alternative which the appellant company consider would better address the context and constraints of the appeal site. The number of units and the layout were never matters for determination and the proposed changes to what is an indicative scheme, in any event, presents a potential enlargement to the open space, an improvement in connectivity and has the potential for a reduction in the likely number of units proposed.
6. The appellant company outlined a process of consultation in Inquiry Note 1 which took place well in advance of the Inquiry¹². All the main parties, along with those who addressed the Inquiry were aware of the alternative plans and made comment in the context of them where appropriate. As such I am satisfied that there would be no prejudice to any interested party in accepting the alternative plans. Matters of detailed design and layout would be dealt with by condition in any case¹³.
7. As part of the appeal process on-going discussions between the Council and the appellant company produced a Highways Statement of Common Ground (December 2017) (HSofCG)¹⁴. This related to access and any traffic impacts of the proposed development¹⁵. It confirms that with modest off-site improvements the effects of the development will not be severe and that the West Moor link dualling (WMLD) will not be prejudiced by the development proceeding. It is agreed that conditions can address both the off-site improvements and the means of access to the site. In essence the areas of agreement centre on:
 - The proposal would not have a severe impact on the local highway network as a result of traffic generated by the development, subject to the implementation of minor off-site highway works;

⁹ The original parameter plan showed a set-back of 80 metres to the east of the access point, whilst to the west it increased from 80-200 metres.

¹⁰ From between 600 and 650 units.

¹¹ Inquiry Doc 1.

¹² Inquiry Doc 1 para 3.3.9.

¹³ Reserved matters application required by condition.

¹⁴ Inquiry Doc 25 – Appendix 1.

¹⁵ There is no objection from Highways England or from the Council's Highways and Transportation Team (Highway Authority) and a contribution to the WMLD Scheme has been secured through the S106 agreement Inquiry Doc 18.

- The proposal would not have a detrimental impact on the WMLD Scheme; and
- The proposal can be satisfactorily accessed from the A630 with or without the WMLD Scheme.

As a result of this agreement the Council confirmed that they would not be offering any evidence in the defence of reason for refusal¹⁶. The accessibility of the site by non-car modes remains a matter of concern for the Council.

Edenthorpe Parish Council (Rule 6 Party) do not take issue with matters covered by the HSofCG, but centre their concerns on the general accessibility of the site, and the suitability and sustainability of the access arrangements. These matters will be addressed later in this report.

8. The parties refer to a planning appeal decision (APP/F4410/W/16/3158500 - The Dunsville decision¹⁷) issued in July 2017. This involved an outline proposal for the erection of 97 dwellings. Planning permission was granted but the Council subsequently challenged the decision. The chief concern was establishing that the Inspector's conclusions on the five-year housing land supply (5YHLS) were flawed, rather than necessarily securing a quashing of the decision itself. Therefore, the Council sought a declaration that the Inspector had fallen into error as an alternative to a quashing order.
9. The Council secured such an agreement that the Inspector had erred in respect of the key reason she gave for concluding it did not have a 5YHLS, and the SofS (and interested party) secured agreement that her flawed assessment of the 5YHLS did not by itself render her decision to grant planning permission invalid given that as paragraph 103 of her decision¹⁸ makes clear, she would have granted permission regardless of her conclusion on the presumption in favour of sustainable development (and thus the five-year supply). As a result the decision was not quashed. However, I have considered it in the context of a 'health warning' in relation to the matters found to be flawed¹⁹ as well as to a lesser extent other matters which the Council raised as other grounds in their initial challenge but were not adjudicated upon within the Consent Order²⁰.
10. Following the close of the Inquiry a revised National Planning Policy Framework (the Framework) July 2018 was issued and comments from the main parties were canvassed. Those received have been taken into account in the consideration of this appeal²¹. The references to the Framework in this report refer to the newly issued Framework.

¹⁶ Inquiry Doc 25 – Appendix 2 + Appendix 7.

¹⁷ CD 4.6.

¹⁸ CD 4.6 para 103 – includes Consent Order.

¹⁹ Inspector commenting that the Council's models assume that economic activity rates and employment rates will rise to exceed the national average in the future.

²⁰ Inquiry Doc 13 – whilst the decision may not be specifically reference within the reasoning section relevant aspects have been considered.

²¹ Inquiry Docs 38, 39, 40, 41 & 42.

The Site and Surroundings

11. The appeal site extends across an area of some 31.5 hectares of predominantly open, flat, agricultural land with only a few sparsely scattered trees, to the east of the Main Urban Area (MUA) of Doncaster, being the suburb of Edenthorpe, a well-established and mixed residential area (including a small caravan park). The appeal site is bounded to the south by the A630 (West Moor Link Road) connecting Doncaster with the M18 motorway and to the north and east by Long Plantation, a continuous curving belt of dense, mature woodland²². To the west there is intervening open land (including further woodland) in recreational²³, as well as agricultural use. To the south beyond the A630 is the neighbourhood of Armthorpe, a settlement of similar character to Edenthorpe and which adjoins to the east the West Moor Park/Armthorpe Industrial Estate which includes particularly large massed distribution centres of national retail chains. These buildings have some considerable prominence in the landscape providing a backdrop to the appeal site context when viewed in an easterly direction from along the A630 and, to a much lesser extent, from the approaches to the appeal site.
12. The appeal site is crossed from Mere Lane (to the west) along the southern section of the appeal site by a well-trodden public footpath (No 11), linking in with the footpath wholly contained with Long Plantation (to the east) and also accessing the roundabout junction of Hatfield Lane providing ready access to Armthorpe.

Planning Policy

13. The Development Plan includes the following relevant documents:
 - Saved Policies of the Doncaster Unitary Development Plan (UDP)²⁴ – adopted 1998 – sought to guide and co-ordinate development up to the year 2001²⁵. The relevant saved policies are UDP Policies ENV2 Countryside Policy Area and ENV4 General Development Control Policy Area (CPA) as defined on the Proposals Map²⁶;
 - Doncaster Council Core Strategy 2011-2028 (CS)²⁷ – adopted May 2012 – intended to provide a planning framework up to 2028 to deliver the vision and aspirations of the Borough Strategy. The Council consider the proposal is not fully in accordance with CS Policies CS1 Quality of Life, CS3 Countryside, CS9 Providing Travel Choice, CS14 Design and Sustainable Construction and CS18 Air, Water and Agricultural Land. It is an agreed position between the Council and the appellant company that the proposed development is in accordance with all other relevant CS policies including CS2 Growth and Regeneration Strategy, CS4 Flooding and Drainage, CS10 Housing Requirement, Land Supply and Phasing, CS12 Housing Mix and

²² Local Wildlife Site and covered by Tree Preservation Order.

²³ Children's play area.

²⁴ CD3.1.

²⁵ Did provide some housing supply up until 2003.

²⁶ Agreed in SofCG para 4.10.

²⁷ CD3.4.

Affordable Housing, CS16 Valuing our Natural Environment, CS17
Providing Green Infrastructure and CS20 Minerals Safeguarding Area²⁸.

14. Following the adoption of the CS a draft Sites and Policies DPD (S&PDPD) was submitted for Examination in December 2013. It was intended that this would function alongside the CS identifying land use allocations required to deliver the overall Strategy. However, the Examining Inspector identified that it was not based on an objective assessment of housing need and the Council withdrew the S&PDPD and abandoned any further work on this document. As a result it is an agreed position that no weight should be given to the S&PDPD.
15. The Council is now preparing a new Local Plan. The emerging Local Plan (ELP) will cover the period to 2032 and will be a new planning strategy for the Borough, including detailed development management policies. It has yet to progress to the Examination stage²⁹.

The case for the appellant company³⁰

Planning Policy

16. The Dunsville Inspector's decision provides a useful and recent starting point for interpretation and consideration of policy³¹. It finds UDP Saved Policies ENV 2 and ENV 4 to be out of date regardless of housing land supply issues³². There have been no changes of facts or policy that would affect those conclusions in relation to the UDP³³ or for that matter, Core Strategy policies³⁴. The UDP was adopted in 1998. Its housing policies were to apply until 2003 and it was prepared when national policy was very different. It was saved in 2007 in order to ensure a continual supply of housing.
17. All land not in the urban area or Green Belt is identified as Countryside Protection Area (CPA). It is agreed³⁵ that without allowing development in the CPA the Council cannot cater for anticipated growth, whether in line with the CS or the emerging draft plan. Application of the UDP policies ENV 2 and ENV 4 is therefore inconsistent with delivery of the CS, the most recent part of the Development Plan³⁶.

²⁸ SofCG para 4.6.

²⁹ National Planning Policy Framework (The Framework) para 48.

³⁰ Based on appellant company's Closing Submissions Inquiry Doc 36.

³¹ CD4.6.

³² CD4.6 at paragraph 63.

³³ Suffolk Coastal judgement (CD 5.1 para 63) makes clear that regardless of five-year housing land supply issues, the UDP should be judged out of date because it has gone past the period it was supposed to apply.

³⁴ The legal challenge has been addressed, leaving the decision in place and lawful. An error was agreed because of the inspector's comments in two paragraphs, wrongly identifying the EAR/ER assumptions of the Council's HNA. This has no bearing on the Inspector's conclusion in paragraph 103 of her decision that the proposal was consistent with the development plan in addition to the conclusion that the tilted balance applied, regardless of the 5 year housing land supply position.

³⁵ Edwards cross examination.

³⁶ UDP Policies ENV2 & ENV4 are overtaken by changed circumstances and national policy – Bloor Homes CD 5.5.

18. The objectives of UDP Policy ENV 2 are also inconsistent with the Framework³⁷ as they seek to apply a Green Belt approach to safeguarding the countryside from encroachment, the setting of towns, prevention of coalescence and a host of other Green Belt policy matters. The UDP³⁸ makes clear that it applies Green Belt control to all countryside. The Dunsville Inspector³⁹ found UDP Policy ENV 2 inconsistent with the Framework in that respect.
19. The UDP approach to countryside protection contains no assessment of quality. A similar finding was made by the Inspector considering the Sites and Policies DPD⁴⁰. UDP Policy ENV 4, which applies ENV 2, does not allow consideration of the wider economic benefits to the Borough capable of being brought by large scale residential development, only benefits at a local "rural" level. There is no contemplation of how to meet the overall housing needs of the Core Strategy, without the ability to balance wider benefits against harms⁴¹.
20. The boundary to the CPA was defined 19 years ago and does not allow the ability to meet the terms of Core Strategy Policy CS2. The timeframe it was intended to apply for has passed and the quantity and location of development in Policy CS2 cannot be accommodated without development of CPA. It is agreed the CPA boundary will be changed in the new plan, when it emerges and should be given less than full weight⁴².
21. The appellant company's case is that whilst the UDP Policies ENV 2 and 4 are conflicted with, they are out of date and should be given limited weight. The boundary of the CPA is also out of date and to be given limited weight as well. The conflict however also needs to be considered in light of the clear compliance with the Core Strategy growth and regeneration policy, which itself in this case has been found to prevail in terms of the key issue of policy compliance.
22. CS Policy CS2 is a policy that the Council confirm both in evidence and the statement of common ground is complied with. The site is described by the Council as an urban extension to Edenthorpe, itself part of the MUA of Doncaster⁴³. The CS makes clear that growth is not to be met solely from within the MUA. Extensions are necessary and CS Policy CS3 specifically anticipates these. The site is higher in the hierarchy than those instances where the Council has recently granted planning permission, at Hatfield. CS

³⁷ It is not consistent with the Framework to apply a blanket protection of the countryside for its own sake and that paragraph 170 of the Framework deals with recognising the countryside, not protecting it whilst balancing a number of objectives including delivery of homes and economic development.

³⁸ At paras 5.23 and 5.24.

³⁹ CD 4.6, para 60.

⁴⁰ CD 3.8 at paragraph 38, Sites and Policies DPD Inspector made clear finding that CPA land had not been identified for any special qualities and the policy seemed to elevate its status in a manner that is misleading.

⁴¹ Anita Coleman case – CD 5.24.

⁴² Dunsville CD 4.6 para 65 – Council has granted planning permission for 2 sites on the basis they are necessary to meet CS Policy CS2, a policy the appeal proposal is also agreed to comply with.

⁴³ The policy defines the settlement hierarchy and the appeal site is an extension to the top of that hierarchy, the largest town and to be the main focus for growth and regeneration.

paragraph 3.12 confirms that the chosen distribution is to locate development where it will do the most good in terms of prosperous and sustainable communities and improving economic performance. CS paragraph 3.17 further confirms this and 3.18 confirms the quantum of development to be located there is 50% to 65%.

23. CS paragraph 3.18 recognises Edenthorpe as a location for an urban extension⁴⁴. The reference to consideration of coalescence with Armthorpe clarifies that it is almost certainly referring to the area in the vicinity of the appeal site.
24. The appeal proposal not only complies with Policy CS2, but is needed to deliver the Growth and Regeneration strategy. There are many more houses to be built to meet that strategy than have been or have permission.
25. The opening line of Policy CS3 deals with protection of the countryside, having regard to the principles set out in the policy. These principles have to be applied in considering the approach to protection. Part B of the policy continues countryside protection in general terms and uses the term Countryside Protection Policy Area (CPPA), across an area that is yet to be defined in detail, other than by reference to the key diagram. The key diagram, as with all such diagrams, provides no specificity to the area of the CPPA. The definition in the glossary⁴⁵ describes the CPPA as something that will update and replace the CPA. It cannot be the same thing. It is an update. The Dunsville Inspector found it likely to be similar⁴⁶ but not the same and Mr Edwards describes it as the same for the most part, but with urban extensions⁴⁷. The anticipation of the Core Strategy was that the CPPA would progress hand-in-hand with a development plan document that would allocate sites⁴⁸. This is relevant to understanding the language used and approach it takes. It didn't contemplate allocations not being made. It is also clear from CS paragraph 3.39 that urban extensions on land previously designated CPA will be required to meet the Borough's housing and employment requirements.
26. The Council argues that new urban extension development can only be considered through allocations under part B1, but proposals which are outside development allocations must be resisted because they fall within the UDP CPA and are protected by Policy CS3 (C). This is effectively trying to have your cake and eat it. The reference to development allocations in part B1 and part C⁴⁹ uses exactly the same language. The first part identifies the allocations that will be created and the second explains what will happen outside them. The Dunsville Inspector lawfully concluded that Policy CS3 is capable of coming into effect before the adoption of a site allocations DPD⁵⁰, but it is critical to read the whole of her comments in paragraph 69 as well as 68. The effect of the Inspector's approach is that although the UDP CPA is out of date, there isn't a complete absence of some form of protection. Paragraph 69 of her

⁴⁴ At least by the clear implication.

⁴⁵ Page 115.

⁴⁶ Para 68.

⁴⁷ Proof 3.6.

⁴⁸ Paragraph 1.3.

⁴⁹ The part of the policy that restricts development.

⁵⁰ Dunsville paragraph 68.

decision states; "However as there are no allocations of land within the potential growth town due to a lack of adoption of the local plan, if the appeal development is considered to be necessary as part of the Council's growth and regeneration strategy, ie compliant with Policy CS2, the proposal would also be compliant with part B1 of Policy CS3". She clearly equated compliance with Policy CS2 as being necessary to meet the growth and regeneration strategy.

27. Any proper and fair reading of Policy CS3 leads to a continued level of protection in general terms, but subject to support for Policy CS2 compliant urban extensions. Both parts of the policy have to be read side by side and a balanced judgement applied as to the effect of the proposal in each case. The Council's approach makes no sense. It seeks to apply protection to an entire UDP area that is out of date, whilst accepting that there is a need to develop some of that land. It accepts there will have to be allocations on UDP CPA land to meet the Core Strategy, but also that those allocations will not exist for several years. The position is all the more confused given the Council is making no claim as to prematurity and that in the meantime, the Council has no strategy as to how to meet the growth and regeneration strategy of the Policy CS, other than to grant permission on an ad hoc basis on sites that meet Policy CS2. This is supported by Mr Hepburn's analysis of how far behind the Council is with completions in the MUA and that even with all planning permissions there is a need now for more development⁵¹. This is a matter returned to later, but all previous decision makers dealing with the meaning of necessary to meet the growth and regeneration strategy have determined this matter as Policy CS2 compliant. It is pointless to say this matter turns on the prospect of meeting the housing numbers of Policy CS2 in the future at some unknown time. At this time there is a need for more development to meet the growth and regeneration strategy of the most recent part of the development plan and the appeal site is consistent and gains direct support from this.
28. To suggest that the development allocations referred to in Part C of Policy CS3 are the UDP allocations runs counter to the whole point of Part B of the policy and whilst the allocations referred to in Part C may include the allocations of neighbourhood plans, such allocations as exist don't cover the Borough and certainly not Edenthorpe.
29. The relationship between the UDP and Core Strategy and in particular the interpretation of Policy CS3 has been considered by others on a number of occasions. The SofS first considered this matter when dealing with the 2012 appeal at Armthorpe⁵². The Inspector in that case concluded^{53/54} that urban expansion should take place notwithstanding the protection afforded by the UDP countryside policies and Core Strategy Policy CS3. He went on to state

⁵¹ As the Councils closing points out at page 20, in/adjacent the MUA sites with permission that are deliverable and those units already built amount to 3,938 and 2,080 respectively this = 6018. The CS requires at least 9,225. Everything else is without permission and the Council definition of developable sites cannot offer hope for the foreseeable future as this includes land in green belt, flood zone and subject to a range of other policy constraints. There can be little doubt that more land is needed and the appeal site is well placed to meet that need in line with the strategy for urban extensions.

⁵² CD 4.2.

⁵³ Paragraphs 111-113.

⁵⁴ And the Secretary of State agreed.

that whilst there was conflict between the Armthorpe proposals, the UDP and part of Policy CS3, overall Policy CS3 was more up-to-date, recognised the importance of extensions to meeting the growth and regeneration strategy of the CS, was more closely aligned with the Framework, carries greater weight and that the proposals in that case, an urban extension to a lower order settlement, would not be inconsistent with the objectives of Policy CS3. The Inspector concluded that that proposed development would be appropriate in principle and consistent with the broad thrust of planning policy in the Core Strategy. The SofS agreed. There was no relationship between that finding and the effect of the Armthorpe Neighbourhood Plan (ANP). Indeed the ANP did not exist and was only at the stage of requesting area designation at the time⁵⁵. Any proper understanding of this finding is that the UDP was out of date in terms of countryside protection, Policy CS3(C) was conflicted with, but a balance had to be made against that and the support for the proposal due to compliance with Policy CS3 (B) (1) in considering overall compliance with the development plan. The same line of argument and explanation has been presented by the Council's evidence to another appeal on the same site in 2017⁵⁶. The reasoning of the Inspector and SofS in the previous appeal is reaffirmed by the Council. Any suggestion that the reasoning is affected by the draft allocation in the ANP does not bear scrutiny. The analysis of Development Plan compliance takes place in 7.1 to 7.8 of the Council's Appeal Statement, without any reference to the ANP indeed it notes that the site in question is not an allocation that would meet what it calls the "specific provisions of CS3"⁵⁷. The ANP is dealt with separately in the Statement under the topic of prematurity as a basis for refusal, not approval. The report on the recent approval follows the same line⁵⁸.

30. When granting planning permission to the Unity development at Hatfield the Council approached the matter in a very similar way. As explained by Mr Edwards, the basis for the grant had nothing to do with the five-year land supply position but everything to do with meeting the Policy CS2 growth and regeneration strategy and its distribution of housing. Hatfield is a lower order settlement and it is common ground that the MUA does not have sufficient completions or planning permissions to meet CS Policy CS2. The Doncaster Road site at Hatfield⁵⁹ was also granted on the basis of meeting Policy CS2, even though there were at that time sufficient permissions for residential development to meet Policy CS2 in that settlement. Mr Edwards confirmed it was granted on the basis that the permission at Unity may not deliver enough in the plan period. Both of these approvals were justified by the Council on the simple basis of meeting Policy CS2, were in the UDP CPA, were not development allocations, were not justified on the basis of 5 year land supply (there was no assessment of that matter at all) and were granted after applying the same approach to the interpretation of policy as the appellant company now recommends to the SofS in this case.

⁵⁵ IR paragraph 123.

⁵⁶ MH rebuttal Appendix 6.

⁵⁷ 7.6 of the Council Statement.

⁵⁸ See MH update note.

⁵⁹ MH appendix 8 para.

31. The instance of a decision in Doncaster indicating an alternative interpretation is distinguishable. The New Mill Field appeal was written representations and it isn't clear how much the matter was explored or argued. It was a small site for a few dwellings that could not be considered an urban extension. As a consequence consideration of Policy CS3 B)1 simply did not apply, as the Inspector in that case noted.
32. As a matter of law it is clear that the most recent development plan document, the Core Strategy, takes precedence over the UDP. When properly applied, consistent with all other relevant decisions and consistent with the officer report on this application, Policies CS2 and CS3 support the grant of planning permission. The Dunsville Inspector was clear in her decision⁶⁰ that compliance with Policy CS2 met the Policy CS3 B)1 approach of being necessary to meet the growth and regeneration strategy. The Development Plan has to be read as a whole. Conflict with the UDP has to be considered against the support given by the Core Strategy. CS Policy CS3 has to be considered as a whole as well. Any conflict with Policy CS3 C) has to be balanced with the support from CS3 B). Fully in line with all past decisions this leads to a conclusion that the proposal is in accordance with the plan overall in respect of countryside policy. This interpretation of policy led to the reason why any commenting error by the Dunsville Inspector about the Councils HNA did not warrant the permission she granted being quashed, due to the fact that permission would have been granted anyway because of her findings, entirely in line with the reasoning above, culminating in paragraph 103 of her decision.

Green Wedge Policy

33. The SofCG⁶¹ confirms the Council agreed that CS Policy CS17 is complied with.
34. CS Policy CS3 C) refers to green wedges outside development allocations. These allocations are not yet in existence⁶² and green wedges are not yet defined⁶³. Policy CS 17 is designed to clarify the approach to green wedges once they are defined⁶⁴. CS Policy CS3 explains what is meant by protection, enhancement, retention and improvement of green wedges. The Council do not suggest a conflict with any element of Policy CS17 or the principles. When the SofCG concession was withdrawn the only reliance placed on Policy CS17 was in relation to Part A (4). As the Council's case evolved, somewhat organically, it appears that if the green wedges had been defined, development (Policy CS17 does not use the term allocations but proposals) would still be supported⁶⁵ within them if the loss of the green infrastructure asset is unavoidable, for example to accommodate development and the benefits of the development outweigh that loss⁶⁶. Even if green wedges were defined, which they are not, the policy that implements Policy CS3 C) in relation to them does not preclude development, indeed quite the reverse.

⁶⁰ Para 69.

⁶¹ At paragraph 4.7.

⁶² Save in one NP.

⁶³ Were not previously defined in the UDP there being no green wedge policy in the UDP.

⁶⁴ Goodall cross-examination.

⁶⁵ This is the language used in Policy CS17 A) and there is no language to indicate the means to test refusal.

⁶⁶ Goodall cross examination.

The suggestion that this is subverted by the supporting text of the CS at paragraph 6.28 because the site is not an allocation for development does not bear scrutiny. First the supporting text cannot change the policy. Second the text was drafted when allocations were expected to follow and the language of the text simply reflects that. Thirdly that text says nothing and is silent about the situation that exists with no allocations, but that cannot mean the reverse applies; that development is resisted. The reference in paragraph 6.28 to CPPA adds nothing to the point. CPPA and Policy CS3 are dealt with fully above.

35. As a matter of principle, given green wedges are not identified in the UDP and the idea only came into existence in the 2012 Core Strategy, it cannot be concluded that the site falls within such a wedge. This is an important distinction from the CPA/CPPA debate. The definition of green wedges is a matter for a future plan. That has to be a Development Plan as it goes to the issue of the development and use of land⁶⁷. The Core Strategy does not define them and Map 9 is indicative only⁶⁸. As explored later, the 2015 SPD⁶⁹ does not purport to define the extent of green wedges either. It's Figure 1 is no more than an identification of locations for the purposes of understanding the rest of the text of that document, which itself talks of development not allocations for housing. That the ANP Examiner misunderstood this, does not alter the point.
36. The Core Strategy⁷⁰ makes clear that green wedges will be identified where development allocations need to be sensitive to strategic rural gaps between settlements and that it is envisaged these will include the areas shown indicatively on Map 9. The expectation is that the wedges will be identified hand-in-hand with development allocations. Neither exist now. It is not within the power of an SPD to define either.
37. As already indicated, paragraph 6.28 of the CS states that green wedges will overlay CPA and areas identified for development⁷¹. It uses the future tense. It is clear from this paragraph that identification of an area as being within the green wedge (ie in the future) would not in itself exempt it from development. Whilst the text goes on, as it is a plan making policy, to comment that green wedges can overlay allocations, this does not suggest that development cannot be approved when both green wedges and allocations have yet to be defined⁷², only that in due course both can coexist. The text defines how development and green wedges can coexist; there will be an expectation that development must deliver an extensive buffer and exceptionally high standard of landscape to prevent complete merger of settlements and provide access to the countryside. This is exactly what the appeal proposal does. Green wedges are intended, where associated with development, to function as a type of positively created green infrastructure, not merely be open land that is

⁶⁷ Something that can only be lawfully dealt with in a proper Development Plan Document. An SPD cannot do this- see Regulation 5(1) (iii) of the 2012 Local Plan Regulations and *Skipton Properties v Craven DC* [2017] EWHC 534.

⁶⁸ Edwards cross-examination.

⁶⁹ CD 3.35.

⁷⁰ At 6.27.

⁷¹ Not allocations- development.

⁷² The position now.

undeveloped. To create green wedges and achieve the objectives defined for them in paragraph 6.28 of the Core Strategy, development is a pre-requisite. They are to provide a focus on landscape and amenity. That is what the appeal proposals will deliver.

38. Paragraph 6.29 of the CS refers to a Proposals Map that will provide further detail of the green infrastructure network and identify green wedges. It is referring to the Proposals Map of the intended site and allocations plan. The glossary to the CS defines the Proposals Map⁷³ as "formal allocations made through Development Plan Documents"- the S&P DPD.
39. Three other non DPD documents have looked at green wedges; the 2014 Green Infrastructure Strategy⁷⁴, the 2013 Green Wedge Study⁷⁵, and the 2015 SPD⁷⁶.
40. The Green Infrastructure Strategy contains no plan to define green wedges. It was the evidence base for a failed allocations plan and it refers to a Proposals Map that does not exist. The Map was to be in the S&P DPD that has been withdrawn⁷⁷. It was withdrawn because it was unsound, in part due to its approach to the identification and selection of sites, including concerns about using flood plain and Green Belt for development. Notwithstanding this, the approach to green wedges is further clarified by paragraph 3.72 where it refers to green wedges identified where development needs to be sensitive. Paragraph 3.73 states that green wedges will, in a new plan, overlay areas where there will be expectation that development⁷⁸ must deliver a series of objectives. The recognition of the need for sensitivity to achieve these objectives carries with it clarity that development and green wedges can go hand in hand and that an acceptable outcome is a matter of planning judgement, not that green wedges are to prevent development. The objectives are the same as the Core Strategy; prevention of complete merger, and the means of delivery of that objective is leaving a buffer, high quality landscaping, enhancement to the visual appearance of settlement edges and the improvement of access to the countryside, to positively create accessible green infrastructure.
41. The Green Wedge study follows the same approach. At page 11 it refers to the objective of preventing complete merger with the same means of achieving this as the previous document. This was also a document prepared as the evidence base for the now withdrawn S&A DPD. Paragraph 2.24 confirms the purpose of the study was to guide the form, scale and layout of urban extensions within or on the edge of green wedges. Section 4 deals with how green wedges and development are to coexist. Pages 30 and 31 deal specifically with the Armthorpe and Edenthorpe area restating the need to avoid complete merger and that a green wedge should provide a strong buffer. It recognises that the Strategic Housing Land Availability Assessment (SHLAA) identifies a number of potential housing sites in this area. The appeal site is

⁷³ Page 118.

⁷⁴ CD 7.4.

⁷⁵ CD 3.36.

⁷⁶ CD 3.35.

⁷⁷ See paragraph 1.24 of the document specifically relating Proposals Map to the S&P DPD.

⁷⁸ Not allocations.

one of these. The Housing & Economic Land Availability Assessment (HELAA) did the same and found the site suitable for development.

42. The 2015 SPD is just that. It is not a Development Plan Document to create policies for the development and use of land, allocations or the definition of the green wedge. It is to help explain existing CS policies, not define the areas a green wedge policy should specifically apply. It does not attempt to introduce land use, development, allocations or management policy⁷⁹. It could not lawfully define the extent of green wedge and does not seek to do so. This is not a question of an SPD doing something unlawful that may not now be challenged, but an SPD doing something lawful. It does not define allocations or provide policy that deals with land use, development or management. The Council's argument to the contrary, however, also runs against their case. If this SPD is doing the job of a DPD⁸⁰, it supports the development. It makes no mention of supporting allocations in green wedges, but anticipates development in green wedges.
43. Page 79 of the SPD confirms that green wedges are areas where development needs to be sensitive to openness, that development that overlays green wedges will be expected to provide buffers and landscaping and that where development would otherwise result in coalescence, a significant proportion of the site should remain open and undeveloped. The text defines how development should take place, not that it shouldn't. Figure 1⁸¹ identifies⁸² the appeal site, together with the adjacent Council land. It anticipates new development in this location stating⁸³ that it will need to provide an extensive buffer, comprising high quality landscape and open space to prevent coalescence. This can't sensibly be interpreted as only applicable to the Council owned land. The text⁸⁴ also clarifies how buffers should be created and that if the guidance is followed, how such buffers will contribute to maintaining the distinct identity and physical setting of settlements in line with CS policies CS2, CS3 and CS17. The point could not be clearer, delivery of the set out objectives on the land north of the A630, predominantly the appeal site, results in development that complies with those policies of the Core Strategy.
44. In this case, as recognised by officers in the committee report, fully aware of the Armthorpe NP allocations, the appeal proposal⁸⁵ provides a substantial landscape buffer, publicly accessible green infrastructure, prevents coalescence and merger and the illustrative material shows development no closer to Armthorpe than exists at present. This can all be secured by condition. Mr Coles' visualisations particularly figures 31 to 41 show how separation will be maintained. The A630 and its dualling, together with new planting, will provide a visual context avoiding merger. That context, as

⁷⁹ Agreed by Mr Edwards in cross-examination.

⁸⁰ Which it is not.

⁸¹ Page 81.

⁸² For the purpose of its comments- not definition of the green wedge.

⁸³ Page 80.

⁸⁴ Page 80- below the table.

⁸⁵ Even in the original illustrative form.

explained by Mr Coles, is fundamentally different to the relationship of the appeal site to Edenthorpe, of which it is part in visual and functional terms.

45. The Council has been unable to articulate what harm there would be to the proposed green wedge as a consequence of the development. The clearest presentation of the Council's case is that it would harm the character and appearance of the area through change, yet no landscape harm case is made and no townscape quality is relied upon. Mr Goodall's point was no more than that development would result in change.

Landscape Character and Quality

46. The SofCG clarifies no conflict with CS Policy CS 17, nor any disagreement with the Landscape & Visual Impact Assessment (LVIA), nor any concern with design and layout, trees and hedges ecology and wildlife, and no concern with impact on paths and no issue with open space provision. The LVIA concludes the site is not valued, is not of particular quality, is ordinary and is unremarkable. It is agreed that the site is not a valued landscape⁸⁶ and the Framework does not apply a blanket protection to countryside.
47. No LVIA assessment has been carried out by the Council. Mr Goodall refers to scenic quality in relation to the Long Plantation, but he does not claim to have assessed even that indicator of quality as required by Guidelines for Landscape and Visual Impact Assessment⁸⁷; there is no evidence that the sense of place, aesthetic and perceptual qualities are out of the ordinary⁸⁸. Relevant Council evidence base documents address the capacity of the site and wider area for development and provide the mitigation necessary to address all issues including the Long Plantation, all of which can be met and are shown in the illustrative material of the appeal proposals.
48. The 2010 Landscape document⁸⁹ was prepared to determine, in more detail, the capacity of land for development. The appeal site is identified as HOU2 along with the land north of Armthorpe. It is not distinguished from that land, which is now proposed to be allocated for development in the ANP and has been granted permission. The visual sensitivity of the area is described as medium, as is the landscape sensitivity and the landscape value. Whilst there is reference to Long Plantation, the mitigation proposals in the document require a restriction on development from encroaching into the woodland⁹⁰, not the avoidance of development near it. The mitigation suggested is creating a woodland block, connecting Long Plantation to Shaw Wood. In practical terms, the development of the appeal site can achieve a meaningful contribution towards this. This is a positive intervention that can only realistically be delivered alongside development. The text on mitigation points out this would provide separation between the two settlements. The text also clarifies that in order to prevent convergence of settlements a green corridor/landscape buffer along the A630 is required. This is exactly what the

⁸⁶ In the terms of para 170 of the Framework.

⁸⁷ CD10 - 3rd bullet point on page 85.

⁸⁸ Goodall cross-examination.

⁸⁹ CD 7.3.

⁹⁰ Which the appeal proposals achieve.

appeal proposal provides. The 2010 Capacity Assessment does not distinguish any part of the appeal site as having more or less capacity for development, or distinguish it from the land north of Armthorpe.

49. The site is not properly described as isolated or disconnected from Edenthorpe. Mr Goodall explained that his view would change to an acceptable position if the Council land adjacent to the site were to come forward for development. This clarifies the extent of the Council's point. It isn't about the distance to the current edge of Edenthorpe or the location of the appeal site. It's no more than that the area between the two is not currently built up. The Council owned land is identified in the HELAA as suitable for development alongside the appeal site. The Council's apparent concern about allowing a further footpath connection is all about maintaining flexibility for the future expected development of this land. The Council's intention as landowner is clear; it wants to promote development of that land.
50. The distance between the part of the appeal site where houses are proposed and the existing edge of Edenthorpe is some 250/300 m. There is strong intervisibility between the two. It is not credible to call this far away from other places or remote to use the dictionary definition of "isolated". The scale, location and nature of the Council's site is not such that it would isolate the development from Edenthorpe any more than parks, recreation land or schools sites elsewhere. The visual context is far different from the relationship between the development and Armthorpe⁹¹.
51. Of relevance to several topics in this appeal, including landscape, a significant part of the Council's justification for dualling the A630 is the ability to accommodate up to 3000 new homes in this area⁹².

Agricultural Land

52. The agricultural land report is undisputed. Of the site 26.4 ha is grade 3b and only 3.7 ha (12%) grade 3a. Only the grade 3a is best and most versatile agricultural land (BMVAL). The Framework, at paragraph 170 does not suggest refusal of permission that utilises agricultural land. It requires decisions to recognise the economic and other benefits of BMVAL. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. This is a response to meeting the Growth and Regeneration Strategy and it is common ground the appeal proposal does that.
53. The better quality land on the site is incapable of separate or more beneficial cropping regimes. The 3a land is closest to residential areas and already is subject to urban fringe pressures. The land is a small fraction of the total area of the farm and is unlikely to have any economic effect on its continued future viability. The total area farmed is 1500 acres.
54. The terms of the Framework only apply to substantial losses of land and the loss of best and most versatile here is of only 3.7 Ha or 12% of the site. CS Policy CS18 follows a similar approach.

⁹¹ Including as extended.

⁹² Mr Wooliscroft's appendix 34 section 8 and plan at page 853.

55. All the available information does not provide complete coverage of the Borough in respect of the grading of agricultural land. However, it is clear that 90% of all the land surveyed, is grade 3 with almost half of it being grade 3a. Of the 48 sites surveyed only 5 have a lower percentage of best and most versatile land than the appeal site. They are small and incapable of accommodating material amounts of development, a matter to be seen in the context of the amount of development focussed on the MUA. Adjacent to the main urban area, the main focus for development in the Growth and Regeneration Strategy of Policy CS2, no site is identified as having a lower amount of grade 3a land. All available material shows that the appeal site contains a very modest amount of best and most versatile land and there is no evidence that there are more suitable sites with less.

Accessibility

56. Being adjacent to the MUA the site is, at a broad level, where most development is to be located. The CS confirms the MUA is the location that is to be the focus for development because it is well connected. The site was found by the HELAA to be suitable for development with the only issue being local policy, not concerns regarding accessibility. The site is inherently closer to the town centre, major retail facilities and employment than the outlying settlements of the Borough where the Council has approved development recently.
57. The provision of land for a school is a requirement of the Council. Appendix 1 to Mr Goodall's proof requires land and a financial contribution⁹³. Existing local primary schools have some capacity⁹⁴, but in the longer term an additional school is most likely to be part of the solution. Provision of school land and funds, is a matter to be given great weight⁹⁵ and should not be underestimated.
58. In the short to medium term, Edenthorpe primary school has capacity⁹⁶ to accommodate the needs of the development, providing time for the provision of new facilities on the site. If a school is built as part of the Armthorpe development and a school on the appeal site is not needed, that Armthorpe school will be close and accessible from the site.
59. The Council's evidence is that secondary school capacity exists. The secondary school is also walkable.
60. The development proposals are not dependent upon access to existing bus services, though these exist with good frequency on Thorne Road. Instead the appellant company is proposing to fund an extension to service 76 in order to

⁹³ By 2021 local schools are likely to be full – with 5% capacity allowance.

⁹⁴ Edenthorpe Primary is within easy walking distance of the appeal site.

⁹⁵ Framework paragraph 94.

⁹⁶ To 2021.

provide a 15 minute service with 20 minute service off-peak throughout the day and throughout the week⁹⁷.

61. In terms of walk distances, there is minimal dispute on actual distances. All are measured without the additional path across the Council owned land. The South Yorkshire Residential Design Guide⁹⁸(SYRDG) suggests as a rule of thumb about 1200 m walk to local services (15 minutes) and 1600 m to primary health and education (20 minutes). Using the detailed walk times from the Institute of Highways and Transportation (IHT) this is 1260m and 1680 m.
62. A sensible judgement should be made about the prospect of walking. It is also important to have regard to other evidence bases. IHT preferred maximum is an acceptable walk distance⁹⁹, and indicates a walk of 2000 m for commuting and to schools. This is greater than the SYRDG. Manual for Streets also promotes a preferred maximum of 2000 m for all purposes. Survey data from the National Travel Survey indicates that the 85th percentile distance people are prepared to walk to all facilities is 1950 m. It also indicates¹⁰⁰ that 85% of people will walk 1600 m to undertake their shopping, a greater distance than suggested by the SYRDG.
63. When these matters are taken into account Mr Wooliscroft's evidence at page 39 defines the facilities that are within 2000 m. There is a large range of individual facilities and importantly the nature of the destination in terms of the size and quality of the offer, provides a significant draw. The analysis of compliance with all different standards is set out in Mr Wooliscroft's pages 43 and 44 and as a matter of fact the only areas of dispute are in relation to the distance to a local shop where the difference is 68 m, the distance to Tescos where the difference between the parties is 94 m, the distance to Sainsbury's, where the difference is about a hundred metres and to the doctors which is about a 40 m difference. In practical terms none of these distances make a material difference to the outcome of the judgement. In some respects they are disputed by Mr Wooliscroft in any event.
64. What is clear is that of the primary, important facilities, the primary school is in a comfortable walking distance¹⁰¹, the new bus network fully complies with the SYDG and will provide a good level of service, the closest retail provision is fractionally¹⁰² beyond the SYDG but only a little distance further is a full Tescos, the doctors is within an acceptable walk distance, as is the pharmacy. There is, in accordance with SYDG, full compliance with walking distances to education and health care and, within the bounds of measuring accuracy, full

⁹⁷ Section 106 will fund the service for at least 5 years or 400 dwellings whichever is the later and the route is to the town centre, via Sainsbury's. The evidence is that the service will be self-sustaining – Wooliscroft Appendix 23 and update note and correspondance.

⁹⁸ CD 6.7.

⁹⁹ It states it is the maximum acceptable.

¹⁰⁰ In line with the Sedgefield decision (CD 4.18) which also utilised a 1.6 km distance to local services as its benchmark of acceptability- somewhat more than the 1200/1260 m in SYRDG.

¹⁰¹ Future on-site provision will be even closer.

¹⁰² 8m or 68m depending on walk speeds.

compliance with walking distances to local facilities. Only a little further is access to a wide range of properly high order retail and other facilities.

65. Mr Wooliscroft provides a real world check as to how the Council considers accessibility normally. He has looked at all sites granted planning permission in Doncaster since the introduction of the old Framework that are over a hundred units. The appeal site fares well, being 4th out of 8. The Council does not dispute the outcome of this analysis.
66. The walking route from the site to Mere Lane will be direct, short, lit and level. At the time of the determination of the application a formal footpath connection was proposed across the Council land and the application was not objected to by Council officers in terms of safety or usability. The Assets Management Team are recorded as content to allow it to be put in. Since then the appellant company has proposed an upgrade in the location of the existing footpath and have offered a comprehensively costed undertaking to allow the path across the Council land to be put in as well. The non-Council land route would be of a similar distance and of a similar nature to the route across the Council land in all material respects. In the view of officers the route across the Council land was all that was required in order for the site to be completely acceptable in terms of accessibility. This narrow point helps define the extent of the real difference between the parties. The nature of that route will be no more or less overlooked, no more or less convoluted, no more or less capable of being followed or legible than the current proposal. The true difference between the parties is therefore very small. The Council's current position in relation to delivery of this route seems to be opportunistic. The appellant company's unilateral undertaking continues to make the offer which includes the cost of construction, maintenance and relocation to address the Council's development aspirations for their land. The original position of the Asset Management Team is clear in the committee report- no concerns. In reality, if planning permission is granted pursuant to this appeal there is every prospect and no hindrance for this route to be put in place, if it is really needed and indeed the strong likelihood is that the Council land will come forward for development.
67. The appeal site is appropriately accessible by foot and public transport to a good range of high quality services. The routes to all relevant facilities by foot are sufficiently direct, level, lit, overlooked and legible and there is no proper basis for refusal on accessibility grounds. The existing paths are well used, as is the play area and the appeal proposals will reinforce and enhance this.

Response to CPRE/Parish Council

68. Mr Wood presented several policy arguments similar to those of the Council. In terms of matters that were additional, the principal point was that the development of the site could be laid out in a different fashion. When this was explored it was plain that there was no particular aspect of the SYRDG which would lead to a different or better outcome. No evidence was provided to support the notion that a single point of access was unacceptable or that there was an alternative means of access that was better than the approach of the appeal scheme.

69. The argument that a plan-led approach would produce a better outcome for delivery of the site doesn't bear scrutiny. No prematurity case is relied upon by the Council and Mr Wood could not articulate one. The tests are set out in the NPPG¹⁰³. This makes clear that arguments as to prematurity are unlikely to justify the refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. That is not the case here. There are two further tests, both of which need to be satisfied. The second test is that the plan has reached an advanced stage. That is not made out. NPPG makes clear that refusal will seldom be justified where a draft plan has yet to be submitted for examination. The second test relates to the effect the grant of permission would have on the emerging plan. This is not a proposal so substantial that to grant permission would undermine the plan making process on a matter that is central to it.

Objectively Assessed Needs for Housing

70. The appellant company's position is not predicated upon the lack of five-year housing land supply. The fact UDP Policies ENV 2 and ENV 4 are considered out of date requires the tilted balance in paragraph 11 of the Framework to be applied and that those policies should be given little weight regardless of matters of five year housing land supply.

71. The consultation recognises¹⁰⁴ that LPAs are able to plan for economic growth and infrastructure provision and in doing so, promote higher figures. If they are to do this they should do so by properly aligning homes and jobs. Doncaster has always sought to plan for economic growth and there is no indication to the contrary in the future. The Core Strategy is predicated on substantial job growth and the emerging plan¹⁰⁵ continues to promote growth, with an expectation of some 474 Ha of new employment land and 20,000 jobs. Doncaster also proposes significant investment in infrastructure, not least the dualling of the A630, the business case for which is in part to facilitate development of some 2,500 homes in the vicinity of the appeal site.

72. All appeal decisions since the publication of the Consultation have consistently given it little or limited weight.

The Council's Housing Needs Assessment

73. The Council's HNA¹⁰⁶ does not provide a robust and credible basis for determining housing needs. Whilst there is no material difference between the parties in terms of the demographic starting position and only a marginal difference in relation to the effect of partial catch up of younger age cohorts¹⁰⁷, the principal difference between the parties is in relation to job growth and economic activity rates (EAR)/employment rates (ER). This is a matter of

¹⁰³ See paragraph 021b.

¹⁰⁴ Paragraphs 28 and 46.

¹⁰⁵ CD 3.24 at pages 9 and 10.

¹⁰⁶ CD 3.9.

¹⁰⁷ About 70 dpa (FB XX) - A number that makes no difference to the presence or absence of a 5 yr HLS.

planning judgement and requires a view of the realism of the EARs and ERs rising at the rates suggested by the Council.

74. The NPPG¹⁰⁸ requires assessment of the likely change in jobs based on past trends and/or forecasts. This assessment requires one to look at all of the likely change in jobs, not just part of the change. It is the total job demand, not just the demand it is felt could be met by worker supply.
75. For determining realistic job growth the Council has used the Sheffield City Region (SCR) in every aspect of the HNA. The HNA describes it¹⁰⁹ as having come from independent expert advisers. It is based on credible assumptions. The Council doesn't rely upon Experian job growth or historic trends to determine the OAN. The Council doesn't rely upon the so called baseline position referred to by the SCR work. As explained by Mrs Braithwaite¹¹⁰ this is in any event four years old and projects forward recessionary factors. The job growth forecasts relied upon are those from Ekosgen¹¹¹ of 1,182 jobs per annum or 20,103 for the new plan period to 2032. The HNA¹¹² provides clear and reasoned examination of an expected reduction in public administration jobs by almost 30% and growth in other areas. The SCR jobs growth figure does not rely upon past public sector growth. Instead there is clear analysis of future growth described as realistic and credible. The Council accept that this job growth figure is the most appropriate to be used for assessing housing needs¹¹³. The appellant company's analysis supports the Council's conclusion and shows that the SCR is predicting job growth below historic trends over a 15 year period, indeed dramatically below the growth in jobs experienced in the period between 2011 and 2015¹¹⁴. The SCR jobs growth figure can be relied upon with confidence. It is therefore common ground that the SCR job growth expectations are the best and most reliable. They are not policy on, but a reasonable prediction of the future.
76. Mr Brown accepts that it is appropriate for Mrs Braithwaite to use PopGroup as a relevant modelling tool to translate jobs to homes needed¹¹⁵ and this is also used by the Council in Method 2 of the HNA. HNA Method 2 produces an OAN of 1,146 dpa before adjustment for empty homes. It is the highest of the three methodologies used by the Council and the closest to Mrs Braithwaite's 1,370 dpa. Method 2 was undertaken by external consultants applying their own judgements on population to dwelling conversion factors. These used lower EARs than Mr Browns Method 3. They are only a little more than Mrs Braithwaite's¹¹⁶. There is no suggestion in the HNA or from Mr Brown that the EARs used in Method 2 of the HNA are wrong, inconsistent with the claimed underlying approach of the SCR jobs growth figure, or unreliable. They are materially less than the approach in Method 3¹¹⁷.

¹⁰⁸ paragraph 18.

¹⁰⁹ pages 71 and 72.

¹¹⁰ See rebuttal pages 19-24.

¹¹¹ Produced as part of the Sheffield City Region work.

¹¹² Page 73.

¹¹³ Brown proof para 71.

¹¹⁴ Braithwaite proof pages 62-64 and in particular Figures 6.3, 6.4 and 6.5.

¹¹⁵ Brown cross-examination.

¹¹⁶ Braithwaite rebuttal at Figure 3.1.

¹¹⁷ A Brown cross-examination.

77. Method 3 is the part of the HNA carried out by Mr Brown himself. It provides a crude conversion for jobs to homes. It applies a series of "what if" economic activity rates or employment rates to determine the extent of decrease in available future labour force caused by demographic change¹¹⁸ and then combines that outcome with the number of workers needed to meet the accepted SCR job growth figures. It takes no account for vacancy. It leaves the unemployment position unclear and it provides a reduction to its final outcomes based upon in-commuting patterns (25% reduction claimed to come from the 2011 Census). The reliability of this approach, regardless of the question of the EAR/ERs used is highly questionable. The commuting ratio in particular is inconsistent with the 5% net out commuting ratio utilised in Method 2 by Edge Analytics from the 2011 Census.
78. There is no justification to support the EAR/ERs used in each sensitivity test of Method 3, simply an explanation of what it is. The figures used are not forecasts.
79. Mr Brown's evidence, in an attempt to indicate the reasonableness of Method 3 EARs and ERs presents what he expects to happen in graphical form. The graph at the bottom of page 24 of his proof is the most relevant to define what is expected by the Council as it shows ERs for the whole of the working age population¹¹⁹. The Method 3 outputs used by the Council to produce their OAN are ER 2 and ER 3 both with ER o2. The graph purports to plot ER2 /ER o2¹²⁰, however it is agreed the pale green line is wrong. Mr Brown accepts it should be set materially above where it is shown. The graph does not show ER3 ER o2 at all, which would be further above ER2 ER o2. Regardless of this, the Council's case as to the reasonableness of the Method 3 outcomes¹²¹ rests on the claim that the red line will rise to a point materially above the pale green line on the graph. This is implausible and lacking in evidence. There is no reliable explanation of what would cause this. To suggest it will be brought about by the demand for labour and education¹²² does not sit comfortably with the factors that Experian say effect activity rates¹²³. There is no clear correlation between jobs growth and EARs¹²⁴. In addition it is apparent that there has been no real growth in 16+ Employment Rates since 2010, with only one year in 6 exceeding the 2010 rate before a decline and now effective parity with where we were 6/7 years ago. Mr Brown's suggested trend line appears highly implausible. It also relies on a continuing year on year improvement, something which has simply not happened, especially post-recession. It is a projection and as clarified by Mrs Braithwaite it is unlikely to be achieved¹²⁵.
80. All of the HNA Method 3 ER's and EAR's are "what if" scenarios. They are not based upon any official forecast. The extent of fluctuation and lack of growth

¹¹⁸ Population fall in 16-64 year olds and rise in 65 and over.

¹¹⁹ The HNA prefers ERs and the whole working population provides the most relevant picture- Brown cross-examination.

¹²⁰ It is agreed the key is wrong.

¹²¹ Which are material lower in OAN than either Method 1 or 2- see HNA page 82.

¹²² Mr Brown's case.

¹²³ See C Howick Appendix A page 2.

¹²⁴ See FB proof Fig 6.3 compared to 6.5.

¹²⁵ FB Re-examination.

since the recession shows their lack of realism. Employment rates cannot rise indefinitely. There is a finite position that the Borough can achieve. Mr Brown's evidence would tend to suggest that point has been reached.

81. At the Dunsville Inquiry Mr Brown accepted that it was appropriate to use OBR based EAR/ERs¹²⁶. He continues to accept the point¹²⁷. Whilst different Inspectors have reached different views, the Inspector in the Long Bank Farm inquiry¹²⁸ recorded the highly relevant facts that the OBR was set up to provide independent economic forecasts to Government, has a statutory duty under the National Audit Act 2011 to report on the sustainability of public finances and those forecasts are used by the Government for the most important activities of state. As accepted by Mrs Howick they are the only official forecasts. She also agrees that the use of the 2017 OBR fiscal sustainability report is a reasonable choice as it takes into account rising state pension ages and other matters¹²⁹. It is for these reasons that Mrs Braithwaite has used OBR EARs in all her work.
82. In order to be robust the HNA should have done sensitivity tests with falling, lower or static EAR/ERs. That is the purpose of sensitivity testing. This omission, when the real purpose of Method 3 is to test Methods 1 and 2¹³⁰, lacks objectivity.
83. The over 65 population of Doncaster is growing, whilst there is decline in the younger age cohorts. This is a factor which is bound to impact upon the available labour force. Even with increasing activity for the over 65's, that level of activity is dramatically less than the activity for the younger cohort whose population is decreasing. The result¹³¹ is a smaller pool of available workers.
84. As indicated above, Method 2 of the HNA approaches the calculation of the OAN in a similar way to Mrs Braithwaite. It produces the highest OAN of 1,146. The principal difference is economic activity rates but as Mrs Braithwaite's rebuttal¹³² shows, the difference in EARs to the figures she has used is modest. At no point does the Council suggest the use of PopGroup and the activity rates used in Method 2 are wrong. There is no claimed methodological inconsistency in using these rates and in particular there is no claimed inconsistency between the EARs it uses and any underlying SCR job growth assumptions¹³³.
85. The Dunsville Inspector looked at all of these matters and provided clear and robust conclusions as to the robustness and reliability of Mrs Braithwaite's work¹³⁴. In addition the Inspector who considered the Sites and Policies DPD

¹²⁶ See paragraph 26 of CD 4.6.

¹²⁷ A Brown cross-examination.

¹²⁸ CD 4.8 at para 20.

¹²⁹ CH Proof at 3.7.

¹³⁰ But in effect provides a means of pulling down the outcome from both of those external party assessments.

¹³¹ See FB first rebuttal paragraphs 7.30-7.32.

¹³² 1st rebuttal at page 14- Figure 3.1.

¹³³ Whatever they may be, as explored below.

¹³⁴ Paragraph 34.

(SPDPD) made clear findings that the housing requirement he was being asked to examine¹³⁵ would only support a fraction of the jobs in the Council's economic growth expectations¹³⁶. That inspector was commenting about the job growth from the SCR. This is the 20,000 jobs utilised as the job growth in the HNA, as is apparent from the dates of the documents¹³⁷. It is clear he was indicating that 1,230 dwellings per annum would not meet the SCR jobs growth figure. The SP DPD inspector also referred to the Council's reliance on increasing activity rates and commuting, indicating that he saw no evidence to demonstrate the Council's assumptions were accurate. His comments relate directly to the points being put forward by the Council in the HNA now.

86. Whilst empty homes account for only a modest part of the difference between the parties, empty homes can only be relied on as a supply side matter if there is robust evidence¹³⁸. Mr Brown's proof produces no new evidence that was not before the Dunsville inspector and simply mentions at paragraph 60 the average number of empty homes brought back into use. We don't have any cogent analysis of the true empty homes position other than that which is set out in the HNA¹³⁹. This sets out what has happened in the past but doesn't distinguish between long-term and short-term empty and does not determine any figure for the re use of empty homes that is realistic for the future. It doesn't distinguish between newly occupied empty property and what has been counted as existing stock. It acknowledges that there will always be a baseline of empty homes, but leaves unanswered the question about what of the remaining long term empty homes are likely to be reoccupied. The HNA records¹⁴⁰ that caution needs to be applied when considering the level of progress in tackling Doncaster's empty properties, that consideration needs to be given to in-depth investigations on the actual number of empties and there needs to be research in relation to the baseline level of empty homes in order to get a true reflection of the problem and resources that need to be allocated. This is exactly the area where the PPG says caution is needed¹⁴¹, particularly with double counting. The position remains just as poorly evidenced as it was in front of the Dunsville Inspector¹⁴².
87. Mr Brown refers to the effect of BREXIT. This is also an argument run in the same way in front of the Dunsville Inspector and not accepted. Reduction in immigration from the EU has already been factored into the 2014 ONS projections¹⁴³. There is no evidence that economic growth post BREXIT will be different to that anticipated. Mrs Braithwaite's rebuttal shows revised growth upward rates since the BREXIT vote.

¹³⁵ 1,230 dpa.

¹³⁶ CD 3.8, paragraph 18.

¹³⁷ SPDPD Inspector letter was June 2014- the SEP (CD 10.7) was March 2014 and the HNA was August 2015.

¹³⁸ Paragraph 039 of NPPG- robustly evidenced at examination, testing the deliverability of the strategy, and avoiding double counting – not counted within the existing stock.

¹³⁹ At pages 52 and 3.

¹⁴⁰ At page 50.

¹⁴¹ NPPG ID: 3-039.

¹⁴² On the requirement side of the equation.

¹⁴³ These projections assume a 90% reduction in immigration from the EU.

88. There is no evidence that changes to HS2, itself never intended to be operational until 2033, will have any impact on the SCR job growth, or that HS2 had any material connection to the jobs growth figure in the first place.
89. Although affordable housing is not relied upon by either party to increase their OAN, the relevance of it is that Mrs Braithwaite's OAN allows for most of the true affordable need to be met. The Council's position on affordable housing need however remains obscure. The Council runs two arguments. The first is to rely again¹⁴⁴ on the 36% who failed to bid for property in order to suppress the affordable housing need, the second is to undertake a recalculation of affordable need, using an entirely different approach and methodology to the HNA or the HNA update, without any written evidence to support it. The Dunsville Inspector said there was no evidence that people were cherry picking from the waiting list or getting on the list to wait for a house at a future point. This remains correct. Mr Brown's proof tells us that there is work underway to analyse the matter but it isn't complete and it isn't put forward. There may be many reasons why people aren't bidding for properties. These people will be amongst the most vulnerable in society who have the most difficulty in addressing these matters. As the Dunsville Inspector noted¹⁴⁵ the Council's approach is unique, with no basis in the NPPG or SHMA guidance¹⁴⁶.
90. Finally Mr Brown's approach to determining OAN by past levels of development has no basis within national policy or guidance and clearly fails to take account of limitations on supply, the reasons for past performance, viability and other constraints. All of these matters were noted by the Inspector at Dunsville¹⁴⁷.
91. In contrast to the HNA Mrs Braithwaite has presented a clear analysis of her methodology, inputs and approach. This was found sound and reliable by the Dunsville Inspector and preferable to the HNA. The terms of the consent order leaving that permission in place do not affect this finding.

Criticism of Mrs Braithwaite

92. The criticisms of Mrs Braithwaite's work fall into three main topics; the so-called logical inconsistency, the reliance upon SCR job growth with OBR EARs and partial catch up of household formation amongst younger people. A fourth point is made by Mrs Howick in relation to past rates of job growth. Whilst of some relevance it is important to recognise that this was not relied upon by Mrs Braithwaite to determine the OAN, only assessed in a range of possible job

¹⁴⁴ As at Dunsville where the argument was rejected- para 21-23.

¹⁴⁵ Dunsville- paragraph 22.

¹⁴⁶ Mr Brown's explanation of the new methodology for determining need is also unconvincing. There is no hard evidence to back it up. We do know that the newly arising need has increased from last year and that the supply has gone up by less. The difference in Mr Brown's new assessment of need all comes down to the backlog need, where apparently the priority need has gone up, the contribution from those unable to tackle repairs has been omitted altogether and those sharing facilities has been discounted to 42%. Mr Brown's approach to justify these changes of approach is not set out and is far from straightforward or transparent.

¹⁴⁷ Paragraph 27- albeit in connection with a different matter – adding a modest amount to OAN for past trends.

scenarios to determine the reasonableness of, amongst other things the only job growth scenario relied upon by the Council; the SCR job growth.

93. Mrs Howick confirmed that her work is not intended to provide an alternate OAN to the HNA. The outcomes of her evidence claiming "logical inconsistency" are not a substitute for the Council's OAN and are put forward only as an illustration of the claimed error of Mrs Braithwaite's approach¹⁴⁸. Mrs Howick's work is contradictory of the HNA and undermines the Council's own evidence base. Nothing that she says supports the Council's claimed OAN. Indeed the reverse is true.

94. As an overview, the appellant's response is as follows;

- The so-called logical inconsistency is based on a principle that fails to address real job demand. Mrs Howick's evidence relies on wholly unrealistic EARs, derived from Experian to try to illustrate her point and an Experian job growth figure which is particularly low (when seen in the context of the Council's reliance on SCR) and is not relied upon by the Council in the HNA.
- The SCR is the Council's preferred¹⁴⁹ job growth scenario, there are no underlying true EAR assumptions set out within it and Mrs Braithwaite is quite entitled to use realistic EARs to determine the OAN.
- The partial catch up point is a matter of judgement, it is agreed that policy allows local circumstances to be taken into account, but in any event this makes a marginal difference to the position of the parties.
- The past jobs growth assessment by Mrs Howick produces unreliable and unrealistic outcomes, but past job growth is not used by Mrs Braithwaite in the calculation of the OAN anyway. She uses the Council's accepted SCR jobs growth and dampens this down, perhaps too reasonably, with Experian job growth.

95. Mrs Braithwaite's approach is to consider a range of different job growth scenarios, test their reliability and reasonableness and then determine the most appropriate and reasonable approach to both jobs growth and economic activity rates. It is based upon considering both forecasts and the past. When viewed properly, it is an approach that is not only consistent with the NPPG but unaffected by the logical inconsistency point for similar reasons to those set out in Chelmsford¹⁵⁰.

96. The so called logical inconsistency criticism relates only Mrs Braithwaite's consideration of the Experian jobs growth scenario, not to the SCR or the assessment of past job growth. Mrs Braithwaite in her proof¹⁵¹ explains the Experian jobs growth figure is unrealistically low particularly when compared to the Council's preferred SCR jobs growth figure and past trends, therefore it is

¹⁴⁸ Howick cross-examination.

¹⁴⁹ Indeed only utilised scenario.

¹⁵⁰ CD 5.12 and as explained in FB Rebuttal 1 at pages 24-27.

¹⁵¹ Page 65 and 66.

not relied upon by her to determine the OAN other than as a reducing factor against the SCR derived OAN.

97. Mrs Howick accepts that the use of OBR is a reasonable choice in principle and that there is no official alternative¹⁵². There is however an unexplained difference between the OBR used by Mrs Braithwaite, and that suggested by Mrs Howick as being the Doncaster OBR figure¹⁵³.
98. It is agreed that OBR activity rate figures take account of future changes in pension age and greater activity of certain cohorts, including more activity of women in the work force¹⁵⁴.
99. When explored with Mrs Howick it is clear¹⁵⁵ that the Experian approach is controlled to the national totals for potential job supply. When the real point behind this was explained by Mrs Howick, it means that, at a national level, when Experian activity rates are applied to population projections, there is a constraint on the amount of labour force available. This constraint defines the amount of labour demand from employers. Labour demand is assumed to be equivalent to labour supply, whether or not it is. Mrs Howick/Experian then assume that all local authorities must take a share in this national labour supply, so defining the labour demand of that area. The problem with the apparent neatness of this approach is that it effectively predetermines the number of jobs local employers are assumed to need, regardless of the view they may have of growth, investment, markets and opportunities. Mrs Howick's/Experian's approach takes no proper account of local variations and the ability for workers to migrate from one location to another. It is a closed system that assumes that there can be no more jobs provided than the total population can supply. Fundamentally it runs counter to the objectives of the Framework, a matter which Mrs Howick attempted to slough off as just planning policy¹⁵⁶.
100. The NPPG requires an analysis of the likely changes in jobs having regard to the growth of the working age population¹⁵⁷. It is agreed that this is all jobs employers want to fill. It is also clear from the Framework¹⁵⁸ that the economic role of national policy is to ensure sufficient land of the right type, in the right places is available at the right time to support growth. This isn't just some of the job growth needed by employers. It is all of it. NPPF paragraph 17 requires planning to proactively drive and support economic development, to deliver amongst other things, what business and industry for the country needs and it explains the Government is committed to securing economic growth in order to create jobs and prosperity¹⁵⁹. Mrs Howick's/Exprian's closed system of analysis determines the jobs that employers "want" from the labour supply available at a national level, then assumes that the sum of all local areas will equate to the same thing. There is a mathematical attraction to the point, but it means that

¹⁵² Proof 3.7.

¹⁵³ In percentage terms the difference is modest, but small differences make large effects

¹⁵⁴ Howick XX

¹⁵⁵ Indeed set out in her proof at 3.10

¹⁵⁶ Howick XX

¹⁵⁷ Paragraph 18 of CD 3.19

¹⁵⁸ Paragraph 7

¹⁵⁹ Paragraph 18 of NPPF

at a local level, genuine job demand from employers may have to go unmet. It also effectively assumes that all assessments at a local level are done at the same time and on the same basis. It frustrates the policy objectives of the Framework. Indeed this approach begs the question of why there is any step in the NPPG analysis of OAN requiring examination of local job growth at all. The practical effect of Mrs Howick's approach is that job growth in Doncaster is constrained by a function of the population and the EAR assumptions made, regardless of the needs of employers. This is demonstrated by her own work. Table 3.1 of her proof shows that the 741 jobs pa job growth of Experian's forecast¹⁶⁰ can be accommodated with no more¹⁶¹ homes built, if the very high Experian activity rate is used. The point is almost perfect in its circularity and is brought even more clearly to the fore when Table 3.2 shows us that by changing (reducing) EARs¹⁶² and nothing else, the outcome is that local employers apparently need less workers. This can't be a remotely sensible position. What Mrs Howick simply shows is that if the population is less economically active, there is less labour supply. To claim that this means employers don't need the workers anymore is more accurately explained as those employers cannot have the workers they need. In fact of course they can, through migration at a local level to match the jobs being created. This alternate approach of assuming in-migration, is exactly the principle in the HNA (albeit with EARs/ERs that are themselves too high) and in Mrs Braithwaite's approach. It is common ground with Mr Brown, that if a business has expansion plans and needs employees to meet them, then if the local population at the appropriate activity rate cannot provide this, there are only two outcomes; labour migrates into the area or the business's growth is not realised. Mrs Howick's approach is the latter. She says businesses will, in that situation, simply not actually need to grow.

101. Mrs Howick's Table 3.1 relies upon wholly unrealistic economic activity rates. These are far higher than anything in the HNA. The effect of using these is to suppress housing needs. The activity rates used by Mrs Howick for 16 to 64-year-olds are almost 80%. This is higher than the sensitivity EAR 4 in the HNA, rejected by the Council for lack of realism. The rate used by Mrs Howick is 2.6% above the national rate at the 2014 peak. It is simply off the scale of the graphs used by Mr Brown to try to illustrate what he believes is realistic.
102. Not only are the EAR assumptions of Mrs Howick inconsistent with the HNA, but so too are the outcomes and the basic principles of what she has done. Even the flawed approach of Mr Brown's HNA Method 3 seeks to determine how many homes will be needed to meet the number of jobs, not reduce the number of jobs to fit.
103. Mrs Howick's SCR argument is unrelated to her logical inconsistency argument. She simply says that if SCR job growth is to be relied upon, and the Council's position is that it is, then higher activity rates should be utilised. This is truly the central point of the whole OAN issue. Both parties say the SCR jobs growth is correct and reliable. The issue is what ER/EAR should be applied to it. The Experian /logical inconsistency and the skirmish over past jobs growth

¹⁶⁰ A fraction of that indicated by past trends and the SCR figure.

¹⁶¹ To all practical effects.

¹⁶² Claimed to be to OBR , but to a level above the OBR used by Mrs Braithwaite.

have no bearing on this central issue and it is important to avoid the distraction they could create.

104. No one can point to any activity rates that underpinned the SCR job growth conclusions with any particularity. The Independent Economic Review¹⁶³, July 2013, predates the Strategic Economic Plan¹⁶⁴. It comes to a different conclusion regarding job growth, 40,000 or 55,000, not the final 70,000 and the section of the document that sets the job growth numbers¹⁶⁵, does not mention any activity rate. It refers to three elements to a successful transformation. The first is an increase in employment above the level forecast and in all likelihood above the national average. What this means is opaque, but it seems to be the rate of job growth, not the activity rate. There is nothing to clarify an activity rate having been used as an underlying basis for prediction of job growth. The same text talks about lowering unemployment and increasing employment levels but does not say to what or how that aspiration has factored into the prediction of job growth. The connection the Council tries to make is tenuous. The principal part of this document, relied upon by Mrs Howick is at pages 31 and 37. However, page 31 simply states as a matter of fact, that job density is lower in the Sheffield Region than in other areas and this produces a shortfall of 58,000 jobs compared to the national average job density. This is no more than a statement of fact. It does not define any assumption of economic activity rates. When read alongside page 37, the same point is continued. Eight percent job growth would produce 58,800 jobs. There is no explanation of activity rates. Activity rates are driven by many factors, particularly those identified by Experian in Mrs Howick's Appendix A. These matters are not based upon the level of job growth, but changes in public policy, the likelihood of participation of certain parts of the population, such as women and older age groups and worker's behaviour connected with longevity, health and changes in industrial composition.

105. The Strategic Economic Plan¹⁶⁶ contains the 70,000 jobs growth figure, later described by the HNA as the SCR figure. Whilst it refers to narrowing and economic gap, to what and by what rate is not made clear¹⁶⁷. Narrowing the gap, whatever that means, is clearly narrowing the current gap¹⁶⁸ from the local position to the national position at that time. This is made clear by the title to Figure 11 on page 28. This is not a question of aiming at future convergence with national rates. Mrs Braithwaite's economic activity rates do narrow that gap. OBR assumes material increases in activity in the future. There is no suggestion in Mrs Braithwaite's evidence that the job growth is met merely¹⁶⁹ from inward migration of workers.

106. At page 22 the SEP talks about increasing jobs to the prerecession peak employment levels. The Ekosgen report itself¹⁷⁰ talks of a return to the previous employment rate peak for the City Region, also referring to the

¹⁶³ CD 10.29.

¹⁶⁴ And the Ekosgen work Inquiry Doc 29A.

¹⁶⁵ Page 64.

¹⁶⁶ CD10.7.

¹⁶⁷ See page 6 of SEP.

¹⁶⁸ Agreed in cross examination with Mrs Howick.

¹⁶⁹ Council closing at para 8.

¹⁷⁰ Para 2.5.

recession, with the potential to rise further. If we were to take anything from this as representing an underlying assumption to the SCR/Ekosgen jobs growth figures, then it is relevant to look at what the prerecession peak was on Mr Brown's graphs¹⁷¹. Whilst Mr Brown's graphs are Doncaster and not the City Region it is clear that for the critical 16+ cohort, whether we are dealing with EAR's or ER's, the prerecession peaks are at or marginally below the current position. If that is the aspiration underlying the SCR job growth then Mrs Braithwaite's future growth of EAR through OBR are indeed appropriate and consistent. Mrs Howick's criticism is therefore completely hollow.

107. If the SEP shows anything on the topic of EARs/ERs it is the over ambition in the HNA sensitivity assumptions, not the under ambition of Mrs Braithwaite's assumptions.
108. Mrs Braithwaite has looked at past trends of employment growth in order to establish whether the SCR employment growth is reasonable and to clarify¹⁷² that the Experian employment growth is unrealistically low. She does not rely upon it in order to support her final OAN.
109. The criticism by Mrs Howick is unjustified. Mrs Braithwaite has considered a long period; 15 years, covering economic cycles. She has taken an average of each of the individual year's increase or decrease rather than a simple average, she has cross checked this against the data from Oxford, Experian and ONS¹⁷³.
110. Mrs Howick's alternative trend approach is unsupported by guidance or precedent¹⁷⁴.
111. Mrs Braithwaite's assessment of past trends shows the SCR job growth to be reasonable, robust and reliable, exactly as the Council claims.
112. The partial catch up (PCU) point is a matter that makes very little difference to the total outcome, as noted by the Dunsville inspector¹⁷⁵. It does not make enough difference to be a tipping point¹⁷⁶. That Inspector agreed with Mrs Braithwaite regarding the need for an adjustment to reflect local demography, not caught by past trends. In doing so she referred to recent trends in Doncaster, with falling rates of household formation and the slowing in decline of household size.
113. Most of the material relied on by both Mrs Howick and Mr Brown, to present their argument on PCU was also presented to the Dunsville Inspector¹⁷⁷. It is also relevant that this material predates the 2014 projections and reflects a national academic based view, but does not consider the circumstances in Doncaster.

¹⁷¹ pages 22 or 24 of his proof.

¹⁷² Consistent with the approach of the Councils HNA.

¹⁷³ Page 63 of her proof.

¹⁷⁴ Appeal decisions or otherwise.

¹⁷⁵ Paragraph 19.

¹⁷⁶ The OAN would have to fall from 1370 to 1223 to tip the balance to there being a 5 year supply on the basis of the appellants case on all other matters.

¹⁷⁷ Including the documents by Ludi Simpson and MacDonald and Whitehead. See page 3 of CD 10.16.

114. The MacDonald and Whitehead document¹⁷⁸ argues that in the future there will be push and pull factors between economic growth and structural changes in welfare reform that could offset the effect of that growth. The balance between these is unclear and particularly at a local level. Guidance specifically encourages local level circumstances to be taken into account¹⁷⁹.
115. Mrs Braithwaite's PCU does not rely on a return to the 2008 household formation rates. It suggests only a return to half way between those and the 2014 rates. Mrs Braithwaite's first rebuttal looks at the position of the younger age cohorts in Doncaster specifically. Given the terms of the NPPG, it is important to look at the local circumstances. In contrast Mrs Howick has no local evidence and has no evidence to indicate that the picture presented in the graph at Figure 7.2 of Mrs Braithwaite's first rebuttal is anything other than specific and local to Doncaster. What that shows is clear; between 1991 and 2001 the household formation rate for the 25-34 age cohort in Doncaster was constant¹⁸⁰. There is then rather dramatic change with household formation having fallen by 2011, deviating from the past trend. Mrs Braithwaite's proposition is simply that the "flat" historic trend in Doncaster will return. This is fair, reasonable and there is no contrary evidence of local circumstances. It was accepted by the Dunsville Inspector for good reason.
116. Overall Mrs Braithwaite's evidence is balanced, reasonable, cogent and transparent. There is every reason to understand why the Dunsville Inspector accepted it. The OAN is properly to be concluded to be 1,370 dwellings per annum.

Supply

117. There is relatively little difference between the parties in relation to five-year housing land supply. The relevance of five year supply has already been explained. It is only one means of coming to the conclusion that paragraph 11 of the Framework and its tilted balance is engaged. It is important to note that there was no reliance upon the absence of five-year housing land supply in the committee report recommending approval of this application, or in the two permissions granted by the Council at Hatfield. It is also important to note that the Council accepted that any error made by the Dunsville Inspector in relation to one narrow aspect of 5 year housing land supply in parts of paragraphs 24 and 30 of her decision had no bearing on her overall decision to grant permission on the basis that the proposal accorded with the Development Plan overall. The supply the Council now claims is 8300.
118. The majority of the difference is made up by the Council rejecting the Inspector's findings from the Dunsville Inquiry on windfall. If the Dunsville approach to windfalls was taken, the supply would be 7,748. As Mr Hepburn sets out, when properly calculated, utilising a housing requirement of 1,370, this leaves a shortfall in five-year housing land supply of some 1,235 dwellings, equivalent to a 4.31 year supply.

¹⁷⁸ Quoted by Mrs Howick at 2.12 of her proof.

¹⁷⁹ NPPG at ID: 2a-017.

¹⁸⁰ The start and end point was the same as these are the known census points.

119. The issue of windfalls was no part of the challenge to the Dunsville Inspector's decision. The evidence before us is no different to that before the Dunsville Inspector¹⁸¹. There is simply now a graphical presentation of past windfall as distinct from the numbers themselves. The Dunsville Inspector was fully aware of past windfall delivery¹⁸². This is a matter of planning judgement. The volume of completions from windfalls has been the inevitable consequence of not having an up-to-date plan. There is no rational basis to doubt the planning judgement that approximately 10% of the supply is a more reasonable view of future windfall from the point when a new plan is in place; years 4 and 5 of the 5 year period.
120. Mr Hepburn's rebuttal shows that windfall completions were a small proportion of total completions when the UDP was adopted in 1998. They rose as allocations were used up until the recession and are now, post-recession almost 2/3 of the total supply. As agreed by Mr Edwards¹⁸³ looking forward, windfall supply is likely to be from sites smaller than 5 units that don't currently have planning permission, given the very thorough exercise the SHLAA and HELAA has already gone through¹⁸⁴.
121. The relevant policy test is set out in the NPPF¹⁸⁵. The windfall allowance has to be realistic, having regard to the SHLAA and not just past, but expected future trends. Even if the Council's position on windfalls was accepted the 5 year supply would be 4.6 years.
122. The second aspect of unknown supply is empty homes. This has been dealt with above. The policy test in the NPPG¹⁸⁶ is that there must be robust evidence, deliverable strategies, and the avoidance of double counting¹⁸⁷. There are none of these. If the Council's position on empties was accepted the 5 year supply would be 4.49 years. Even if the Council's position on both windfall and supply was accepted there would be 4.77 years supply.
123. In calculating the five-year land supply there are two issues of dispute; the buffer and the question of undersupply. It is agreed¹⁸⁸ that whatever the buffer is, it is to be addressed in the five-year period and it is also agreed¹⁸⁹ that any undersupply is to be caught up in the five-year period.
124. The question regarding the buffer is a matter of planning judgement; has there been persistent under supply? There was a challenge to Dunsville on the question of the buffer, but as with most of that challenge it was dropped and the Consent Order makes no mention of the matter. There are two initial issues; how long you look back and what to measure against. There is then a need to form a view on whether there has been persistent past undersupply.

¹⁸¹ See CD 10.15 Mr Edwards proof to Dunsville.

¹⁸² Dunsville 44.

¹⁸³ Edwards cross-examination.

¹⁸⁴ 5 units is the cut-off point for these documents so everything larger than that has already been assessed.

¹⁸⁵ Para 48.

¹⁸⁶ ID: 3-039.

¹⁸⁷ Counting as part of existing stock and as new supply.

¹⁸⁸ Edwards cross-examination.

¹⁸⁹ Edwards cross-examination.

The test is persistent, not persisting. It is clear from the NPPG¹⁹⁰ that it's important to take a long-term view¹⁹¹. Over the 10 years preceding 2015, as a matter of fact, the Council has been under the requirement defined by the policy extant at the time, every year. The total undersupply is almost 4,500 units. Only in the last 2 years has the Council exceeded its OAN by some 387 units, with last year being less than the year before¹⁹². The appellant's OAN has never been exceeded. This modest recent improvement and then decline presents a clear story of persistent under delivery, with no clear sign of addressing the problems of the past. In terms of targets for the last 10 year period, there was only the Core Strategy and the Regional Strategy pertinent and relevant at the time, apart from potentially in the last two years if the Council's OAN is used. The Council's OAN is not and has never been claimed to be a means of defining housing need prior to 2015. As made plain by the Courts¹⁹³ it is a matter of judgement as to the reasonable period of time. The appellant's position is to look back longer than the Council and that is clearly more consistent with the PPG. The Dunsville Inspector agreed. Whilst the Cotswold case does provide an Inspector with a choice to look either at the previous plan or an alternative, the truth here is that there is no alternative prior to 2015. All we have is the CS and RSS prior to that. As made plain by the Boston Spa decision¹⁹⁴, dealing with the same arguments¹⁹⁵, the Secretary of State endorsed using a previous plan¹⁹⁶ as the most appropriate means of determining persistency even when there were questions about that plan. The issue is about judging delivery against the target of the time, not the degree of criticism of that target with the benefit of hindsight.

125. The topic of undersupply is largely related to the choice of OAN. It only arises with the Council's OAN. However, as recorded by the Dunsville Inspector, the notion of over supply does not arise because the housing requirement is a minimum and not a ceiling. Once again this matter was part of the Dunsville challenge but was dropped. Reducing the supply to be delivered in future years has the effect of treating the requirement as though it was a ceiling. This would be inconsistent with the Core Strategy¹⁹⁷. This is not a question of waiting to the end of a five-year period to determine whether there has been under or oversupply but looking at the delivery since the base date and applying the accepted position that the figure is not a ceiling. The recent Wendover¹⁹⁸ case confirms the Dunsville approach.

126. The Appellants conclude there is no five-year housing land supply. Even if there was a five-year housing land supply, that is no basis for refusal of planning permission and there is ample material to conclude that the policies in relation to which there is any conflict are out of date in any event.

¹⁹⁰ ID: 3-035.

¹⁹¹ Agreed by Mr Edwards.

¹⁹² See Mr Edwards' table at proof page 13.

¹⁹³ Cotswold CD 5.29 at 47.

¹⁹⁴ CD 10.36 (para 15 decision letter para 223-225 IR).

¹⁹⁵ Boston Spa at 223, 224 and 225 confirms that the Council's concern in that case as here was that RS and population projections were wrong.

¹⁹⁶ Also in that case the RSS- with claims that it contained an overstatement of requirement.

¹⁹⁷ Para 5.10.

¹⁹⁸ Council reply to update at appendix 1- see 118-120.

Emerging Plan(ELP)

127. The existing approach of the Core Strategy is to place the majority of development in or adjacent to the Main Urban Area. Six years into the Core Strategy period the MUA should have delivered between 3,258 and 4,170 dwellings. There is a current shortfall of between 1,178 and 2,090 units against this target. The area where most development should take place has not seen anything like enough. Even against the figures in the draft Local Plan Consultation¹⁹⁹ there is a need for more land in the MUA than has permission, by well over 2000 units.
128. The only means for addressing this undersupply is granting planning permission or sorting out a new plan to make allocations. At the moment there is not even a draft plan that identifies allocations. The furthest the matter has got is issues and options and the prospect of a first draft plan in the near future is limited²⁰⁰. The Council has confirmed²⁰¹ progress on the plan has been suspended in the light of Dunsville, that an independent review of housing numbers is being undertaken and that this will delay the first draft plan. In any event the Council is making no claims as to prematurity.
129. In the meantime, the Council has no strategy for the delivery of housing to meet housing needs. It has to maintain a continuous five-year, rolling land supply and can't stand still on the matter. This will require the grant of new planning permissions on sites not allocated but which accord with the current growth and regeneration strategy in CS2 throughout the period until a new plan is in place. In practice that is what the Council has done, albeit ad hoc and in the case of the appeal site, inconsistently.
130. The appeal site itself is identified in the HELAA²⁰² as being available, suitable and developable with²⁰³ some 831 units suitable for development and 140 of those coming forward in the first 5 years. Mr Edwards candidly accepts that as a deliverable site it is possible that it could be allocated to meet the housing needs of the emerging plan period. He suggests however there is a need to determine whether it is the most sustainable site. The problem is that there is no ability to judge relative sustainability without a plan and there is no prospect of a plan for several years. All this whilst the Council runs no prematurity case.
131. Mr Hepburn has done a very careful assessment of the constraints that exist around the MUA²⁰⁴. Green Belt surrounds the MUA from the south east round to the north and the land that is not Green Belt is flood zone 3 all the way around the edge of the MUA to the north east. There is very limited opportunity to extend the MUA except in the vicinity of the appeal site. Much of the land to the east of the MUA is protected open space, for example at the Warren, or is racecourse. Armthorpe, whilst to the east of the MUA and not

¹⁹⁹ CD 3.7 page 12.

²⁰⁰ The draft plan is intended for publication as a consultation document in September 2018.

²⁰¹ Mr Hepburn's rebuttal appendix 4.

²⁰² Mr Edwards' proof at 7.9 confirms this.

²⁰³ In total, combined with the adjacent Council land.

²⁰⁴ In his rebuttal proof at appendix 3.

entirely affected by flood zone 3 is a separate settlement in hierarchy terms with a different and separate housing allocation to find.

132. The choices for expansion of the urban area are very limited indeed. In this regard it is important to note that Mr Edwards' analysis of potentially available supply confuses deliverable land with what he calls developable land. His definition of developable land includes land that is in the Green Belt in flood zones 2 and 3, in the setting of listed buildings and other heritage assets and otherwise subject to an assortment of local policy opposition. When all of this is properly considered there is no basis for concluding there is any materially better site than the appeal site to meet future development needs. The appeal site has some of the least constraints and is in an area which is the focus of substantial public spending planned on increased road infrastructure through the Sheffield City Region Investment Fund (SCRIF), specifically designed to assist with substantial housing growth.

133. The Council accepts that there will be a need for greenfield urban extensions to the MUA and that this will involve sites that are currently in the UDP CPA²⁰⁵. The Council's case is also that such sites will be supported²⁰⁶ where they meet CS Policy CS2²⁰⁷. Given that it is common ground that the appeal site does meet CS Policy CS2, it becomes difficult to see what the real basis for refusal is.

*Revisions to the appellant company's case following the issuing of the Revised Framework (July 2018)*²⁰⁸

134. The appellant company continue to be of the mind that the tilted balance²⁰⁹ in this case still applies regardless of the 5YHLS issues. Following the issuing of the Revised Framework in July 2018 the Council's submission proceeds on the basis that the local housing need for Doncaster is the outcome from the standard method. Guidance in this regard is incomplete and this is not a proper interpretation of the Framework.

135. Paragraph 73 of the Framework, with its reference to determining 5YHLS against local housing needs where the strategic policies are more than 5 years old, requires an understanding of the definition of local housing needs. This is in the Glossary which defines local housing need as "the number of homes identified as being needed through the application of the standard method set out in national planning guidance, *or a justified alternative approach*". The appellant company maintains that its alternative approach is fully justified as an exception to the standard method given the job growth and infrastructure plans of Doncaster.

²⁰⁵ Supported by Hepburn analysis in his rebuttal proof and in particular appendix 2.

²⁰⁶ Indeed have been granted permission.

²⁰⁷ XX Edwards and approach in his proof at 7.15.

²⁰⁸ Inquiry Docs 39, 40 & 42.

²⁰⁹ Para 11 of the Framework.

The Case for the Council

Five-year supply

- OAN

136. For the purposes of this appeal, the demographic starting point can be taken as +582-588 dwellings per annum²¹⁰.

137. The appellant company promotes the position that an adjustment should be then made to the demographic starting point to take account of factors²¹¹, such as undersupply or worsening affordability, which may have constrained past household formation rates, providing for a partial catch within younger age groups to the formation rates predicted in the 2008-based SNHPs. The adjustment itself is relatively modest (from +588 dpa to +621 dpa). The justification given is that the 2014-based SNHPs do not take sufficient account of the effect of the recession in suppressing formation rates within these groups. However, the PPG makes clear that the official projections are “statistically robust and based on nationally consistent assumptions” and that only “local changes” are permissible, on the basis of “robust evidence” of “specific local circumstances” affecting “local demography and household formation rates”. The recession was clearly not something that was merely “local” to Doncaster. The Council contends that the lower formation rates in the 2012- and 2014-based SNHPs reflect long-term trends, rather than falsely projecting forward a temporary blip caused by the recession. Therefore, there is no justification for making any adjustment to allow for a return, or even a partial return, to 2008 rates.²¹²

138. However, there is a large difference between parties regarding the extent to which the demographic starting point should be uplifted in order to cater for future jobs growth (980 dpa vs 1,370 dpa). It is common ground that this large difference is due primarily to different assumptions regarding Economic Activity Rates and Employment Rates.

139. Mrs Braithwaite’s evidence presents a number of different ‘employment-led scenarios’. Her method is the same in each: she starts with a given figure for jobs growth (which varies depending on the scenario in question), then calculates, using the Popgroup model, how many homes would be required in order to accommodate the additional labour force necessary to fill them. In order to do so, she has to make assumptions regarding the EARs of the future population since the size of the available labour force is determined not only by the size of the local population but, crucially, by what proportion of it can be expected to be economically active. In that regard, she applies the same assumption across all of her scenarios: namely, that Doncaster’s EARs will move in parallel with the future national average (which she takes from the

²¹⁰ The Council’s Housing Needs Assessment calculated the demographic need as 582 dpa using the 2012 based Subnational Household Projections (SNHP). The appellant company, using the 2014 based SNHP, calculated it at 588 dpa a slightly (but not materially) higher figure.

²¹¹ Reference ID: 2a-015-20140306 and para: 017017 Reference ID: 2a-017 20140306.

²¹² Howick Proof paras 2.1 to 2.34, pp.3-9.

Office of Budget Responsibility (OBR)). However, this method is fundamentally flawed. The reason it is flawed is that it implicitly presupposes that future jobs growth is unaffected by EARs (otherwise she could not consistently apply the same assumption regarding EARs across all of her scenarios which have differing jobs growth figures). This, however, is false, as Mrs Howick explains: EARs are one of the factors which determine the level of future jobs growth since, for example, the less economically active the UK population is as a whole, the less it has to spend, the lower the demand for production and thus jobs.

140. This can be seen clearly in the case of Mrs Braithwaite's Experian scenario – one of the two on which she relies directly in calculating her OAN. Mrs Howick contacted Experian who have confirmed that its jobs forecast for Doncaster, which Mrs Braithwaite has used, does indeed rest on assumptions regarding UK EARs which are incompatible with the OBR's views of the same. Furthermore, by rerunning its forecast using the OBR's EARs rather than its own, it has shown that applying consistent assumptions regarding EARs to both the jobs forecast and the estimate of future labour supply makes a huge difference. If Experian's assumptions are applied consistently, the future jobs uplift is +12 dpa (+600 dpa = 588 + 12). Conversely, if the OBR's assumptions are applied consistently, it is +29 dpa (+617 dpa = 588 + 29). In either case this is far lower than that which Mrs. Braithwaite arrives at by applying the assumption that she does lopsidedly (only to the estimate of the future labour force).
141. The same is also true of the jobs target in the other scenario that she uses to calculate her OAN, the SCR scenario. Again, the inconsistency does not depend on whether the OBR's view regarding future national rates is correct or not. Rather, it derives from the fact that Mrs Braithwaite's assumption that local EARs will merely track changes in national rates is incompatible with the essential aim or purpose of the SCR's jobs growth target, which is to 'narrow the gap' between the city region ER and the UK average, as Mrs Braithwaite ultimately accepted in cross-examination. Furthermore, as Mrs Braithwaite also accepted, one cannot improve ERs merely by importing new population to fill jobs²¹³. Necessarily, one must improve the proportion or ratio of those employed in order to do that. Accordingly, it follows inevitably that, it assumes that if the plan to increase jobs in line with the SCR jobs target succeeds, ERs (and, consequently, EARs, since they are closely related and the great majority of the economically active are the employed) will have to rise significantly faster than the national average, which contradicts Mrs Braithwaite's assumption that they will move in parallel. On the other hand, of course, this is entirely consistent with the assumptions relied on in the Council's modelling.
142. Whilst Mrs Braithwaite's OAN was calculated on the basis of the outputs of these two scenarios alone, she also initially placed emphasis on the output of her 'past trends' jobs scenario as at least providing reassurance that her OAN was realistic having regard to them. Her reliance on it was, however, also flawed for two principal reasons.

²¹³ See also the Exogen Report Inquiry Doc 29A – para 2.6 page 7.

143. Firstly, the Planning Practice Guidance is clear that regard may be had to forecasts and/or projections “as appropriate”. This begs the question therefore whether it is appropriate to have regard to a projection of past trends in jobs growth at all in this case. As Mrs Howick explained, such a projection implicitly assumes that the future will be like the past. Consequently, if there is good reason to think that it is not, then projecting forward what happened in the past is not likely to provide appropriate guidance at all. Here, it is common ground that two key factors will not be the same in the future as in the past. The first relates to the drivers of employment growth locally. Local employment growth in the recent past was driven to a very large extent by growth in public sector employment, yet this is now expected to reverse or reduce. The national factor is the ageing of the population, which the OBR (and others) predict will result in significantly lower employment growth nationally²¹⁴. Whilst it is possible, the Council hopes and expects, that it will do better than the national average that is on the basis of the SCR scenario, not simply a continuation of past trends. Mrs Braithwaite’s approach is in fact circular. She assumes that future growth will be like the past despite the fact that the drivers of growth will not be the same on the basis that this is what the SCR is based around, ie she uses her SCR scenario to validate the past trends scenario, which she is using to validate the realism of the SCR scenario.
144. In any event, however, there are other issues. First, Mrs Braithwaite’s figure of 1,466 jobs per annum(jpa) is not a true trend but an average between two dates. Second, since it is just a measure of the average increase between the beginning and the end dates it does not take account of anything that happened in between (eg employment could have dropped dramatically and then risen steeply in the final year but the average would remain the same). Thus, it does not seek to show the “direction of travel”, which is the point of a projection. Mrs Howick’s evidence shows that if one instead draws a trend line using the data used by Mrs Braithwaite the result is a much lower figure (c776 jpa)²¹⁵. Third, the beginning and end dates used are essentially arbitrary. Mrs Braithwaite confirmed they were simply the earliest and latest dates for which there was information. If instead similar points in the economic cycle had been used (peaks or troughs), it is evident that Mrs Braithwaite’s average would have been much lower again.
145. In conclusion, it is evident that, but for the errors in each of the three methods on which Mrs Braithwaite relied, the appellant company would not have arrived at an OAN anywhere near as high as 1,370 dpa (and most likely would, in fact, have indicated one lower than that of the Council).
146. In fairness to the Dunsville Inspector, the evidence on which the Council has principally relied to demonstrate these flaws was not before her. However, the error into which she fell in the first (and apparently primary) reason she gave for preferring the appellant company’s OAN over that of the Council was one which was reasonably apparent on the evidence before her and which therefore she ought not to have made, namely that the Council’s Method 3 depended on assumptions about future EARs/ERs which were unrealistic

²¹⁴ Howick Proof - fig 3.3 p24.

²¹⁵ Howick Proof p23.

because they indicated Doncaster's rates would "continue to rise and eventually pass the national average".

147. This was demonstrably incorrect (and was conceded to be by the SofS in the recent High Court proceedings). As one can see from pp 75 and 78 of the HNA 2015 the Council made no such assumption. On the contrary, the two combinations of sensitivities which fed into its OAN in Method 3 assumed only that:

- Doncaster's ER for the 16-64 year group would reach the historic Doncaster 2004-2014 by 2032 + the ER for the 65+ year group would remain at its 2014 rate until 2019 then rise by 0.5% to the city region average thereafter (SENS-ER2/ERo2)
- Doncaster's ER for the 16-64 year group would reach the historic national 2004-2014 peak by 2032 + the ER for the 65+ year group would remain at its 2014 rate until 2019 then rise by 0.5% to the city region average thereafter (SENS-ER3/ERo2)

148. Given that these merely involved returning to an historic local peak (or an historic national peak) within a period of 15 years, having the general upward trend in Doncaster's ER, coupled with the efforts being made to improve education and employability in the area referred to in Mr Brown's evidence, all against the backdrop of the plan to boost employment and economic growth within the SCR, it is hard to see how, if Mrs Braithwaite had understood the position correctly, she could have reached the same conclusion.

149. In any event, the additional evidence on which the Council now relies provides substantial further support for its position which was not available at the time of the Dunsville Inquiry. For example:

- Experian's revised forecast – the data presented in Mrs Howick's table 3.2 shows that even the most optimistic assumptions regarding EARs in the Council's unused sensitivities (e.g. SENS-EAR4) suggested future EARs for Doncaster below those of Experian. Given the latter's status and reputation as one of the leading forecasting houses, this lends considerable credibility to Doncaster's more modest assumptions.
- Past trends projection if a true trend line is drawn based on the data used by Mrs Braithwaite in her 'past trends projection', suggests a level of future jobs growth just over half that suggested by Mrs Braithwaite and, if used to derive an OAN, would produce one lower than that of the Council²¹⁶.

- *Supply*

150. A 'base supply' of 7,784 is agreed between the parties. The only areas of significant disagreement relate to oversupply, windfalls and empty homes.

151. *Oversupply* - The Council's case is that there would have been an oversupply of 387 units in the first two years of the new emerging plan period. The Council submits that it is right to take this oversupply into account when calculating what residual supply is required for the next five years in the same way that any undersupply would be taken into account. Mr Hepburn disagrees

²¹⁶ Howick Proof 3.61 p23, i.e. 870 dpa.

and contends that there is no true equivalence since, whilst undersupply would be 'bad' and this ought to be addressed by upping the requirement in future years, oversupply is not and therefore there is no need to do so. This response misses the point. The point of the five-year requirement is simply to work out how much housing is needed to meet objectively assessed needs. If there is a source of supply (ie past oversupply) which is available to do so there is no logical reason why it should not be taken into account like any other source of supply. The question of whether oversupply is a bad/good/indifferent thing does not come into it. However, for the avoidance of doubt, it is important to bear in mind what was said by Sales LJ in *Gladman* regarding the Framework paragraph 47²¹⁷, namely that provided the supply meets the 'standard' set by that paragraph, the imperative to boost significantly the supply of housing in it has no further implications for decision-making (ie it is not encouraging the provision of more housing than is actually required to meet objectively assessed needs).

152. *Windfalls* - The difference between parties is whether the allowance should be 684 (Appellant) or 1,200 (Council). Mr Edwards explains the Council's position in detail at page 12 of his proof and page 13 of his rebuttal. The key points are in short:

- The Framework paragraph 70 states that the allowance should be "realistic" having regard to the evidence of availability, historic windfall delivery rates and expected future trends;
- Neither party makes any allowance for windfalls in the first two years of the five-year period to avoid potential double-counting;
- Windfalls in Doncaster have consistently averaged well over 400 dpa in the period since 1999, with relatively few points where it has dropped below that (and then only slightly);
- There is no reason not to expect this historic pattern to change significantly so as to make the higher allowance suggested by the Council at all unrealistic;
- Unlike the Council's position, the appellant company's is based on an essentially arbitrary percentage.

153. *Empty homes* - Again, this makes only a small difference (+60 dpa). However, since it is possible that it may make a difference to the outcome of the five-year supply calculation depending on what conclusion is reached on other matters it is necessary to address it.

154. In the Dunsville appeal Mrs Braithwaite objected to the Council's allowance for empty homes coming back into use on the basis that it was treated as a factor which reduced the 'need' for new housing whereas she contended that it was only relevant to supply. She did not, however, suggest there was any reason not to make an allowance for it in the supply calculation. In cross-examination Mr Brown explained that he had done so because he was considering the need for 'new' housing but that, since it made little difference which side of the equation it forms part of, he was content to treat it as a supply-side issue. The Dunsville Inspector agreed with Mrs Braithwaite that it

²¹⁷ *Gladman v Daventry DC*, para.40 per Sales LJ - CD5.25.

was irrelevant to housing need but also agreed that it was “relevant to housing supply”. However she did not then make an adjustment to the supply to take account of it when she came to that, and did not explain why she did not. It is unclear, therefore, whether this was a simple omission or whether she had particular reasons (which she did not express) for doing so.

155. In this case, the only objection raised to doing so is in Mr Hepburn’s rebuttal where, whilst he does not dispute that it can be made in principle, he states that it has not been properly evidenced. However, at paragraph 67 of his written evidence, and again in his oral evidence, Mr Brown explained that the Council had considered the past record of empty homes coming back into use in arriving at the 60 dpa figure and referred to a number of initiatives approved as part of the Council’s Housing and Empty Homes Strategies. Accordingly, it is clear that the Council’s expectation that at least 60 dpa will come back into use is realistic and robust.

- *Buffer*

156. It is not in dispute that the CS requirement was not met over a number of years. That is insufficient in itself to justify the application of a 20% buffer. Rather, the question is whether that demonstrates a *persistent* record of under-delivery, ie one that is likely to continue so that, without a 20% buffer, there is no realistic chance that the required supply will be provided.

157. The answer to this is dependent on whether or not the Council’s OAN is accepted. If it is, it follows that the Council has oversupplied against that in the first two years of the new emerging plan period. Furthermore, having regard to the very healthy supply that would exist on that basis, there would clearly be more than a realistic prospect of the required supply being provided in the future. Consequently, since the only purpose of applying a 20% buffer is to ensure that there is such a “realistic prospect” of the required supply being delivered, there would be no warrant for the higher buffer in those circumstances. Mr Hepburn’s approach of only looking backwards is wrong. The point of the buffer is to look back, but only to judge what is necessary to achieve what is required moving forward.

Development in the Countryside

- *UDP Policy ENV 4: CPA*

158. The development is located in the open countryside to the east of Edenthorpe within the area designated as CPA in the UDP²¹⁸. UDP Policy ENV 4 provides that, within the CPA, development will not normally be permitted for purposes other than those specifically listed, which are considered appropriate to a countryside location. It is common ground that the appeal proposals – comprising, as they do, a large scale new housing estate – do not fall within any of those purposes and, consequently, are in conflict with this policy.

159. UDP Policy ENV 4 is the sort of policy which is found in development plans up and down the country. Furthermore, it is accepted that the mere fact that

²¹⁸ Policy ENV 2 - CD3.1 and Proposals Map - CD3.2.

it was adopted some time ago does not, of itself render it out-of-date or inconsistent with the Framework²¹⁹. Nevertheless the appellant company contends that its approach to development in the countryside is inconsistent with the approach to such development required by the Framework. This, however, is incorrect.

160. The Framework sets out that planning should recognise the intrinsic character and beauty of the countryside²²⁰. Although the Framework does not elaborate further on the meaning or effect of the principle, it is clear that it applies to the countryside in general. This is signalled by the use of the expression “intrinsic” (i.e. belonging to it by its very nature as countryside) and is confirmed by the PPG which explicitly states that it applies to the “wider countryside”²²¹.
161. Furthermore, it is clear that the principle is not inconsistent with policies which seek to protect and strictly control development in the countryside. This is clear, firstly, from the PPG which specifically states that “local plans should include strategic policies for the conservation and enhancement of the natural environment, including... the wider countryside”. Secondly, case law shows that there is nothing obviously or intrinsically inconsistent with policies that apply “strict control” over development in the countryside outside settlement limits. Arguments to that effect were firmly rejected by the Court of Appeal in *Daventry*²²² and are also inconsistent with *East Staffs BC v SSCLG and Barwood Land*²²³. In that case, a development was found to be contrary to the development plan due to conflict with a policy (SP8) which also imposed similar “strict control” over new development in the countryside outside settlement limits. Not only was that policy deemed Framework compliant by the local planning authority and the Inspector who, respectively, adopted and examined the East Staffordshire Local Plan, but neither the Inspector who considered its application in the context of the appeal leading to the court proceedings, nor any of the parties or judges in those proceedings, considered it to be inconsistent with the Framework either. Whilst there is at least one case²²⁴ that arguably goes the other way, firstly, it is a High Court decision (whereas *Daventry* and *East Staffs* are Court of Appeal), second, the judge’s attention does not appear to have been drawn to *Daventry* (her judgment also pre-dated *East Staffs*) and, thirdly, in any event her finding was merely that an Inspector had been entitled to find that a policy of strict control in that case was inconsistent with the Framework, not that decision-makers are legally bound to regard them as such in all cases.
162. The weight to be given to such a policy may, of course, be reduced for reasons other than intrinsic inconsistency with the Framework. In particular, it may be appropriate to give reduced weight in a case where a local planning authority cannot demonstrate a five-year supply in accordance with

²¹⁹ See also *Gladman v Daventry DC*, para.40 per Sales LJ - CD5.25.

²²⁰ Framework para 170 b).

²²¹ PPG reference ID: 8-001-2014030, cf. Framework para.170 “valued landscapes”.

²²² Paras 11 and 42 per Sales LJ (CD5.25) discussing a policy (HS24) which was older and, if anything, more restrictive than UDP Policy ENV 4 in this case.

²²³ CD5.28. See paras.26 and 42.

²²⁴ *Telford and Wrekin BC v SSCLG* (CD5.22).

Framework paragraphs 67 and 73 (and it is shown that the development of greenfield countryside sites is necessary to address the shortfall). Although the Supreme Court has recently confirmed that policies such as UDP Policies ENV 4 are not to be regarded as “relevant policies for the supply of housing” (and thus are not deemed to be “out-of-date” in the event of a shortfall in the five-year supply), it is clear that this does not mean that the need to release land in order to boost supply cannot still be regarded as a good reason to give them less weight²²⁵. However, this is simply not such a case. The Council has a very healthy supply of housing land, more than sufficient to meet the requirements of both the Framework and its own CS.

163. Consequently, this case falls into the same category as cases such as *Daventry* and *East Staffs* in which policies of strict control were properly given full weight²²⁶, rather than ones such as *Hopkins Homes* where the lack of a five-year supply was held to entitle Inspectors to give reduced weight to relevant policies, whether or not they were strictly “for the supply of housing”.

164. It is acknowledged, of course, that the Dunsville Inspector came to a different conclusion in this respect. However, for the reasons set out above it is respectfully submitted that she was clearly wrong to do so. The appellant company has sought to suggest that the consent order in the s.288 proceedings somehow undermines the Council’s argument that the Inspector was wrong to do so. This is completely misconceived. Firstly, because the lack of reference to this issue in the consent order does not imply that the Council agreed that the Inspector did not err in law in this respect. Second, because in any event, even if she did not err in law, it does not follow that it was right as a matter of planning judgment to reach that conclusion. On the contrary, her conclusion was flatly inconsistent with the approach taken by Inspectors and Judges in other cases.

165. Another reason given by the Dunsville Inspector for reducing the weight she gave to the conflict with UDP Policy ENV 4 in that case was that she felt that there was a tension between ENV 4 and CS Policy CS3 which, since CS3 was more up-to-date (and was not held by her to be inconsistent with the Framework) and that it should be resolved in favour of CS3. However, this was based on a misunderstanding of Policy CS3 and its relationship to the Growth and Regional Strategy (GRS) in CS Policy CS2, as explained below.

- *CS Policy CS3*

166. The overarching purpose of CS Policy CS3, like UDP Policy ENV 4, is to ensure that the countryside is “protected and enhanced” having regard to the principles set out. It is agreed that those in part A) of the policy are not relevant (since they relate to the Green Belt). However, the parties disagree over which in parts B) and C) are relevant.

167. The appellant company’s argument that part B) 1 is engaged and that the proposed development complies with it is wrong. Part B) 1 is expressly

²²⁵ *Hopkins Homes et al v SSCLG*.

²²⁶ See footnote 18 of Inquiry Doc 34 Council’s Closing Submissions.

concerned with plan-making (ie allocations), not decision-taking, and thus an application can neither comply nor conflict with it²²⁷. Furthermore, its purpose is to impose tight control over the extent of development in the countryside (ie “new urban extension allocations will be confined to those necessary to deliver the GRS” and otherwise only rather than, as the appellant company has suggested, to present a very “positive” framework for such development).

168. The Council accepts, however, that this does not mean that any need for development to deliver the GRS is necessarily irrelevant in the context of a planning application, it is just that it is not relevant to determining whether proposals comply with Policy CS3 or not (ie if a site is needed to deliver the GRS, this may be a material consideration to balance against conflict with the plan²²⁸). However, even on this basis, there is no reason to conclude that the appeal proposals are necessary to deliver that strategy. In particular:

- Policy CS2 sets out an “indicative housing allocation” for the MUA of 9,225-11,808.
- In order to be “necessary” to deliver the GRS for the MUA therefore one could say a minimum of 9,225 homes should be delivered (nb the appellant company’s submission that “necessary” to deliver the GRS in Policy CS3 means simply “consistent with Policy CS2” is wrong: any scheme for development in the MUA would be consistent with Policy CS2, given it is the “main focus for growth...”. Consistency and necessity are entirely different things).
- This, however relates to the whole plan period, ie to 2028, which is still 11 years away (at the time of the inquiry).
- The evidence of Mr. Edwards²²⁹, which is not challenged in this respect, is that:
 - 7,031 new homes have been permitted already
 - 2,080 of those had been completed by the start of the Inquiry
 - 4,377 of those not completed still have permission
 - 3,938 of those not completed but still with permission are considered deliverable within five years
 - A further 1,535 units are deliverable within five years on land without permission
- Therefore, the MUA total of completions plus sites within the five-year supply = 7,553 (ie 2,080 + 3,938 + 1,535).
- On top of this, Mr. Edwards identifies around another 12,000 units on land identified as developable from the HEELA. Mr. Hepburn takes issue with most of this supply and reduces it to 2,242.

²²⁷ Mr. Hepburn appeared to accept that the proposed development would not conflict with B) 1 even if, as the Council believe, there is no need for it to be released to achieve the GRS in Policy CS2. However, he nevertheless maintained that the proposal complied with it because, in his view, there is such a need. However, it makes no sense to say that a policy can be complied with if it is impossible to conflict with it. The possibility of both must exist if a policy is to function as any kind of yardstick to judge development proposals.

²²⁸ This is consistent with the approach taken in the officer report: Whilst the proposal is not in conformity with CS Policy CS3, which seeks to protect Doncaster’s countryside, Part B does support new urban extension allocations within the Countryside Policy Protection Area.

²²⁹ Mr. Edwards POE §7.

- However, this takes the total supply to 9,795, which is over the minimum required in the GRS under Policy CS2.
- Consequently, even with 11 years still to run on the CS plan period, more than sufficient land has already been identified even on the basis of Mr. Hepburn's own evidence to deliver the GRS for the MUA (in respect of its housing ambitions).
- Furthermore, whatever doubt there is about the timescale of the emerging Local Plan, it is altogether implausible to think that the new plan will not have been adopted several years ahead of the expiry of the Core Strategy period. Consequently, since that will allow for sites e.g. in the Green Belt to be removed from it, it is not unreasonable to expect that such land is likely to be a source of supply in future, before the end of the Core Strategy period.
- Whilst it is true that there may not be certainty that all of the sites identified will come forward or deliver at the rate expected, that is no different from the position with respect to the five-year supply which only requires that there be a "realistic prospect" of development within five years. It would be absurd to require more certainty in respect of sites in the portion of the housing supply which is required to meet the GRS for the MUA in the Core Strategy than is required by the Framework for housing supply generally.
- The test cannot be, in particular, "certainty" (which was the test applied by the Dunsville Inspector). If that were, then it would be impossible to argue that additional permissions in the countryside around the MUA are unnecessary until nearly all the required units have actually been built – to the obvious and great detriment of the countryside since there would then be a huge stockpile of permissions far in excess of the required amount of housing. Furthermore, CS Policy CS3 part B) 1 expressly sought to "confine" new allocations to the minimum necessary to deliver the GRS. It is fundamentally inconsistent with that to suggest that one should not merely allocate, but grant permission for, a number well in excess of that.

169. The appellant company's position regarding the applicability of part B)1 of CS Policy CS3 also sit ill with its position on part C) which, it claims, can have no application until such time as new allocations have been made, ie the appellant company is claiming that a provision which expressly relates to allocations can be applied instead to applications before any allocations are made but that a set of provisions which expressly related to applications (ie sites outside allocations) cannot be applied in the same circumstances.

170. In any event, however, this is not a position any decision-maker who has ever considered the application of Policy CS3 has ever agreed with. It is contrary to the position taken by the Dunsville Inspector who accepted that there was conflict with part C) of Policy CS3²³⁰, the position of the Inspector

²³⁰ See Dunsville decision para.69 (CD4.6). Mr. Hepburn raised the possibility in cross-examination that the inspector may only have been recording agreement that there "would" be conflict – if Policy CS3 part C) applied. However, this is a misreading of the decision. The developer's planning witness in that conceded in cross-examination in that part C) did apply and that is what the Inspector was referring to – see Council's closing submissions para.9 (CD10.21).

and the SofS in the Lazarus appeal²³¹ and the position of the Council's planning officers who advised that the proposal would conflict with Policy CS3, as well as UDP Policy ENV 4, and was therefore a departure from the plan notwithstanding their recommendation ('on balance') to approve²³².

- *CPPA*

171. Initially the appellant company's position was that the CPPA as such does not yet exist as its boundaries have not been precisely defined in the policies map. However, not only was this contrary to the conclusions of the Dunsville Inspector who found that, despite this, the indication of its general extent on the Key Diagram was sufficient for the relevant parts of Policy CS3 which refer to it to be applied, but it was also inconsistent with the approach taken to the York Green Belt in the appeal decision referred to by Mr. Hepburn, in which, in reasonably similar circumstances it appears, an Inspector adopted the earlier view of the SofS that the relevant policies in that case could be applied.

172. In view of this, Mr. Hepburn conceded that the same applies here. Accordingly, there is now no disagreement on this point.

- *Conclusion on development in the countryside*

173. UDP Policy ENV 4 and CS Policy CS3 are highly relevant to the proposal and, as Mr. Hepburn accepted in cross-examination, critically important policies in the context of the development plan as a whole, both in terms of their application to a wide geographical area and their comprehensive coverage of different forms of development. Consequently, it is difficult to see how any proposal which conflicts with them in any significant way could be regarded as nevertheless conforming to the development plan as a whole.

174. Here, the nature, scale and location of the development means that there is obviously significant conflict with both policies. Furthermore, the development would manifestly appear as isolated and disconnected from the settlement to which it purports to be a sustainable urban extension.

175. In addition, there is no reason to reduce the weight to either of the policies cited in the first reason for refusal, or the conflict with them, on account of inconsistency with the Framework, lack of a five-year supply, or tension between them.

Green Wedge

176. There is a fundamental dispute between the parties over two key matters. Firstly, whether green wedges (GWs) have in fact been identified and thus whether the relevant parts of CS Policies CS3 and CS17, which refer to them, can be applied. Second, if so, whether the CS is permissive, in principle at least, of development within GWs, not only in the case of allocations, but also unallocated sites.

²³¹ CD4.2 DL8-10, IR113.

²³² Officer report, §§1.1, 8.5 and 9.2 "the proposal is not in conformity with CS3".

177. On the first point, the CS made clear that GWs would be identified²³³ but it did not prescribe how. In particular, it did not *require* them to be identified in a DPD (although, that was the expectation originally – see the Green Wedge Study²³⁴). Following the abandonment of the DPD process, the Council's Development Guidance and Requirements SPD went through the statutory procedures and was adopted. This document plainly does identify specific areas as GWs (p 81).
178. The appellant company, however, disputes that this was the intention or is the effect of the SPD, and argues that what is shown is merely indicative potential future areas for GWs. However, that is not the case. The SPD refers to them as *being* GWs and they are "described in detail" (p 79). Furthermore, the fact that those shown in the SPD differ from those originally proposed in the Green Wedge Study demonstrates that they were not simply taken from the latter document in order to illustrate potential locations for them but rather were the result of specific deliberation and choice.
179. The appellant company further contends that it would have been unlawful for the SPD to perform the role of identifying GWs. The appellant company has not spelt out the details of its argument in this regard. However, so far as it is understood, it appears that what is being suggested is that, since a SPD is defined by the 2012 Regulations as "any document of a description referred to in regulation 5 (except an adopted policies map or a statement of community involvement) which is not a local plan", it can only contain statements of the description in r 5(1)(a)(iii) (ie concerning environmental, social, design and economic objectives)²³⁵. This, however, is a misreading of the Regulations. Whilst it is true that a document is not a SPD unless it contains statements of that nature, and conversely cannot contain statements of a nature that would make it a local plan (ie those in r 5(a)(i), (ii) or (iv) such as ones which make allocations or concern the development or use of land), it does not follow that it cannot contain other kinds of statement or perform other functions. Indeed, SPDs frequently do contain other sorts of statement and also perform other functions apart from making statements. Equally, the fact that the definition of a SPD distinguishes them from policies maps does not mean that they cannot identify areas to which policies in the development plan apply. It merely means that, if a document is a policies map, it is not a SPD. A SPD, however, may still do some things a policies map might do without necessarily becoming a policies map (see r 9, which provides for what constitutes a policies map).
180. On the second point, it is plain that both CS Policies CS3 and CS17 seek the retention and enhancement of GWs. Whilst the CS makes clear that, where there are allocations overlaying GWs, development can occur (subject to an extensive buffer, maintaining adequate separation etc), it also makes clear that if land falls within both a GW and CPPA development will be ruled out (para 6.18). Therefore, given that the appellant company now accepts that the CPPA does exist and, given that this site clearly falls within the general

²³³ CD.34 para.6.27.

²³⁴ CD3.36.

²³⁵ Town and Country Planning (Local Planning) (England) Regulations 2012, r 2(1).

extent of it illustrated on the Key Diagram that inevitably means that this proposal contravenes the relevant policies in the plan.

181. However, even if it were not the case, the scale of the loss of GW here is so substantial that the same result would ensue. In particular, the effect of the development will be to reduce the separation between Armthorpe and Edenthorpe to roughly the same distance as will exist between the proposed development and the western edge of Edenthorpe's existing urban edge on Mere Lane. However, whereas the appellant company says the former will be more than satisfactory to prevent a perception of coalescence, the latter will be close enough that the proposed development will not appear isolated or disconnected. The appellant company's position is therefore self-contradictory.
182. It is also to be noted that the Armthorpe NP examiner specifically recommended that the proposed GW for Armthorpe was unnecessary and should be dealt with on basis of there being a significant GW to the north (ie the one shown on p.81 of the SPD). Not only does this imply that the SPD does identify GWs but also that the Armthorpe allocations were approved by him specifically on the assumption that the appeal site would remain undeveloped. Conversely, since the Armthorpe sites have now been approved, this proposal has to be considered in light of its cumulative effect together with the development permitted on those sites.

Accessibility/sustainable location

183. The national policy position is clear, and was agreed with Mr. Wooliscroft in cross-examination. In order to be sustainable, a development of this scale must not just allow for the use of sustainable transport modes but provide a real choice and be located where their use can be maximised.
184. In the Council's submission, the proposed development would singularly fail to do this. Not only because of the distances to various primary destinations but also, importantly, because of the nature and character of the routes.
185. As regards distances, it was agreed with Mr. Wooliscroft that (as is evident from his and Mr. Goodall's tables) a number of primary destinations lie outside the preferred maximum distances in the IHT and/or walking times in the South Yorkshire Residential Design Guide (SYRG) whilst, even in the case of those that fall within them, they are virtually at or very close to the limit. Furthermore, if the lower 'acceptable' distances in the IHT are (as the Council suggest is appropriate having regard in particular to the nature and character of the route) the more appropriate standard for this site, then almost all of them fall outside them.
186. As regards the nature and character of the routes, it is clear that the site will be disconnected from Edenthorpe and the routes to the majority of the nearest primary services there would involve a convoluted and unattractive route (particularly for those living in the northern part of the site).
187. Similarly, whilst the proposed extension of the 76/76A bus service would plainly be of benefit in terms to trips into/from Doncaster, it will do nothing to improve accessibility to those services which will, therefore, remain poor, and thus well below the standard expected in the case of large sites such as this by the Framework.

Loss of agricultural land

188. Framework paragraph 112, along with CS Policy CS18, seek to avoid the loss of Best Most Versatile Agricultural Land unless it is necessary. Therefore, unless it is concluded that the release of the site is necessary either to achieve a five-year supply or to deliver the GRS for the MUA, this represents a further reason why permission should not be granted.

*Revisions to the Council's case following the issuing of the Revised Framework (July 2018)*²³⁶

189. The appropriate way to assess housing need is now by using the new standard method. Paragraph 73 of the Framework states explicitly that the required 5 year supply is to be assessed by reference to the Council's adopted housing requirement or "their local housing need" where the requirement is more than 5 years old, as is the case here. Paragraph 60 of the Framework makes clear that, even in the context of plan-making, assessments of "local housing need" are to be conducted by reference to the standard method unless exceptional circumstances justify an alternative approach. To look beyond the figure produced by the standard method to determine whether or not this, or some other number, should be the housing requirement is not part of the job of the decision-maker in a Section 78 appeal. The fact that the figure produced by the standard method is described as representing the "minimum number of homes needed" (paragraph 60 of the Framework) does not mean that the need may actually be higher. The "minimum number of homes needed" expressed by that figure simply is *the local housing need*.

190. The Council's assessment of its local housing need using the new standard method is 585 dwellings per annum (ie 2,925 in total over five years);

- Projected growth: 548 dpa
- Market signals (affordability) adjustment = 1.68%
- Housing need = 548 x 1.068% = 585 dpa
- 585 x 5 years = 2,925

191. Therefore, even if a 20% buffer is applied, and even on the appellant company's own assessment of the supply, it would be sufficient to provide more than 11 years' worth of the housing required (ie 7,784 divided by (585 + 20% = 702) = 11.1).

192. Further, even if, following the review of the standard method, the Council's need were to *double*, the appellant company's assessment of the supply would still be sufficient to provide over 5 years' worth of the required housing including a 20% buffer (ie 585 x 2 + 20% x 5 years = 7,020).

193. However, paragraph 73 of the Framework states that a 20% buffer should only be applied where there has been significant under delivery of housing over the previous three years. The evidence to the Inquiry showed that there had been significant *over*-delivery over the preceding three years (ie 881 in 2014/15, 1,025 in 2015/16 and 1,049 in 2016/17, significantly above 585).

²³⁶ Inquiry Docs 38 & 41.

Furthermore, the completions data for the latest year (ending March 2018), although not yet finalised in accordance with the RLA methodology, shows a similar surplus (the Council's figure for 2017/18 is 1,173).

194. Accordingly, it is clear that the appropriate buffer is 5% and therefore the supply is even greater than already indicated.

195. The Council disputes the appellant company's position on the base supply that it should be reduced from 7,784 to 6,381. That notwithstanding, the Council consider that even if the lower figure of 6,381 were applied it would represent 10 years' worth of the required supply with a 5% buffer or more than 9 years' worth with a 20% buffer. It does not then actually matter even if the appellant company was right on the deliverable supply as the new lower figure would still provide well in excess of the required 5 year supply.

196. Framework paragraph 72 states that the supply of large numbers of new homes can often be best achieved by planning for larger scale development. However, firstly, this clearly refers to *plan-making* (ie allocations) and therefore does not support *windfall* applications such as this which are in conflict with an adopted plan. Secondly, in any event, it is subject to the proviso that the development must be well located and have good access. Therefore, it is this standard by which the accessibility of the site should be judged (ie it would be illogical to apply a lower standard in determining an application than would be applied if the site were being considered in the course of plan-making). Consequently, it is not sufficient for the appellant company to show that the site would merely be acceptable in terms of access to local services etc. In the Council's submission, given the disconnection between the site and Edenthorpe, the fact that many services lie outside even the preferred maximum guidelines distances and the convoluted and unattractive character of the route to them, the site plainly cannot be said to be well located or have good access.

The Case for the Edenthorpe Parish Council (Rule 6 party)²³⁷

197. The main areas of disagreement with the appellant company and where there is agreement with the Council, are the status of policy; the status of green wedge and the impact on it, including the green infrastructure offer; and the accessibility of the site.

Policy

198. The proposal must be judged against CS Policy CS3 C)²³⁸, since it is in the CPPA and is not an allocated site. This also means that:

- CS3 B) does not apply;
- The provisions of CS paragraph 6.28 do not apply, because they pertain solely to situations where development *allocations* overlay a green wedge.

²³⁷ Based on the Closing Statement of the Edenthorpe Parish Council Inquiry Doc 35 and Inquiry Doc 37 Additional submissions on Revised Framework.

²³⁸ CD3.6 page 33.

Whilst issues of housing supply in the Borough may impact on the weight to be given to some policies, the policies themselves cannot change their meaning or relevance.

199. The two Armthorpe decisions (east²³⁹ and west of Hatfield Lane) and the decision at Westminster Drive, Dunsville²⁴⁰, are not comparable with the appeal scheme:
- the Dunsville scheme is much smaller and fulfills a different role with respect to the settlement hierarchy;
 - the two Armthorpe schemes are consistent with the Armthorpe Neighbourhood Plan (ANP), which is now at a late stage in preparation and has been shown by these decisions to carry weight.
200. The Draft ANP Examiner's Report (30 Aug 2017)²⁴¹ supports the interpretation of the status of relevant policies in that:
- the statutory development plan currently comprises the Core Strategy and the saved UDP policies and the UDP proposals map (plus the joint waste plan);
 - the UDP saved policies and proposals map remain material considerations;
 - the Development Guidelines SPD, whilst not a development management document in its own right, is also a material consideration.²⁴²
201. The Wynn-Williams High Court judgement (EWHC3374 - para 17)²⁴³ confirms that *"the NPPF is a material consideration (albeit an important one)"*. The Framework paragraph 48 requires local authorities to assess their policies for consistency with the Framework but it remains for the decision-maker in each case to determine the weight to give to the Framework itself and to other material considerations in relation to the Development Plan policies²⁴⁴. In this case CS Policy CS3 C) has full application.

Green Wedge

202. The DANP Examiner's Report at paragraphs 5.74 and 5.75 relies upon the protection afforded to sites by CS Policy CS3 C), and upon the existence of the identified green wedge which covers the appeal site as defined in the Development Guidelines SPD, to support and complement the policies and site allocations of the DANP. The DANP Report, paragraph 5.83, sets out that the Armthorpe elements of the green wedge are identified in the DANP on the explicit understanding that the remainder of the green wedge has been identified by the Development Guidelines SPD.

²³⁹ CD4.2.

²⁴⁰ CD4.6.

²⁴¹ CD6.8.

²⁴² All accepted by Mr Hepburn in cross-examination.

²⁴³ Inquiry Doc 29.

²⁴⁴ Points accepted by Mr Hepburn.

203. The DANP Examiner, paragraph 5.199, also draws on the proposals map from the withdrawn S&PDPD to show the relationship between the elements of green wedge identified within the DANP, and the adjacent elements of the green wedge outside the DANP. This supports the promoted approach that although the S&PDPD has been withdrawn, the evidence base behind that DPD does not cease to exist.
204. Any evidence base is constantly evolving and simultaneously informs a range of documents and decisions, so the withdrawal of one of those documents cannot realistically render that evidence base out-of-date or meaningless without also voiding all the other documents that it informs. Further a neighbourhood plan can only directly shape policies and decisions within its boundaries, but it is entitled to rely upon the available evidence from the rest of the Borough, especially those areas immediately outside its boundaries.
205. In short, it is quite likely that the DANP Examiner may have reached different conclusions about the green wedge elements of the DANP, if he had had doubts about the robustness of the evidence for the status and extent of the green wedge immediately outside the DANP boundary, including the appeal site. Therefore, the DANP gives weight to the green wedge status of the appeal site.

Green Infrastructure

206. The appellant company²⁴⁵ cited the green infrastructure provision in the appeal scheme as a mitigation within the terms of CS para 6.28²⁴⁶, with the provisions being complementary to that in the adjacent Armthorpe development. The notion of new woodland planting to create a contiguous woodland from Long Plantation to Shaw Wood was also raised.
207. This is a flawed approach as the provisions of CS paragraph 6.28 do not apply to non-allocated sites, and therefore mitigation measures do not come into play. Further the combination of the appeal scheme and the approved Armthorpe scheme only amount to a narrow band of trees either side of the A630, not a woodland. In addition, there is no basis for implementation, because the appeal scheme's green infrastructure plan is only indicative, and there are no proposals as part of this appeal to make the approval of this outline application conditional on the full implementation of that plan. This leads to the fear that the green infrastructure plan is just window dressing.
208. The appellant company²⁴⁷ presented the A630 road as a major physical and visual barrier that would prevent the coalescence of Armthorpe and Edenthorpe, with the additional help of a landscape buffer on either side of the road. Conversely the appellant company considered there was no problem with the remaining, vastly-reduced green wedge being cut in two by a very busy road that can only be safely crossed through a tunnel. This seems a

²⁴⁵ Mr Coles in evidence.

²⁴⁶ CD3.4 page 82.

²⁴⁷ Mr Coles in evidence.

perverse contradiction. The enjoyment of such open spaces so close to a major road would be impossible, particularly taking into account air quality.

Accessibility

209. There has been no assessment of the proportion of all journeys generated by the development that would be expected to be by non-car modes. If the scheme is to be regarded as a 'sustainable urban extension' of the main urban area, then it would be expected to be significantly more walkable, and significantly more characterised by non-car journeys, than would be the case for a development that did not make this claim.
210. The walking distances associated with the development are approximately double the 800m catchment that characterises 'walkable neighbourhoods' (as per CIHT's *Planning for Walking*²⁴⁸ and the *Manual for Streets*²⁴⁹). However, it is not just about distances. Pedestrian access arrangements for the site would tend to deter journeys by foot as a modal choice compared to journeys by car.
211. The following points are matters of disagreement with the position of the Council who do not take issue in these matters, aspects of highways impacts; the primary school land; and affordable housing.

Highway impacts

212. It is undesirable to have a single point of vehicular access. This scheme would introduce a residential development accessing directly onto a motorway link road, and that would change the nature of the highway from a motorway link road into a radial artery *within* the main urban, residential area. This would not be an acceptable highways arrangement.
213. There are no plans for the A630 to have a reduced speed limit or surface pedestrian crossings, as would characterise a residential artery. This is despite the prospect of having a new primary school on at least one side of the road, if not both. This would mean that either the characteristics of the A630 would be transformed to make it a slow, calm street that is safe and comfortable for pedestrians to cross and to walk alongside or that the appeal scheme must be found unacceptable in terms of its accessibility and relationship to the highway. The latter scenario is the most likely in the circumstances of this appeal.

School Land

214. Land is offered for a primary school within the appeal site, as a community benefit to be secured under a S106 agreement, even though the school would be immediately adjacent to the busy A630 and accessed directly from it. This has clear potential impacts on road safety and childrens' safety that have not been assessed. It is for these reasons that the school on this land is considered to be unacceptable in planning terms in its own right, and cannot

²⁴⁸ CD6.2.

²⁴⁹ CD6.3.

therefore be offered as a legitimate community benefit under a S106 agreement.

Affordable housing

215. Affordable housing in the Borough is considered to be of the highest priority, in terms of community needs. The reduction of the full requirement for affordable provision of 26% down to only 10%, on viability grounds, which the appellant company justifies on the basis of the financial contribution to the West Moor Link Road project (WMLR) is strongly opposed. Whilst the level of contribution to the WMLR project has been agreed between the appellant company and the Council, it is not accepted as being sufficient to warrant a reduction in the level of affordable housing.
216. The WMLR project is not financially dependent on the appeal scheme. The potential benefits of the WMLR project have been substantially overstated in the SCRIF bid, since it suggested that approximately double the number of homes might result from the project than seem likely to be built even if the appeal scheme goes ahead²⁵⁰.
217. The business case for the WMLR project seems much weaker than the SCRIF bid suggests, which further weakens the justification for the appeal scheme to contribute to it.
218. The adjacent scheme in Armthorpe has been approved on the basis of a full 26% affordable housing contribution, and a significantly smaller WMLR contribution. It is not clear if a reduced WMLR contribution was sought that this might lead to more affordable housing on the scheme.
219. This situation does nothing to re-assure the community that a good outcome can be achieved for Edenthorpe in the event that the appeal scheme goes ahead.

Conclusion

220. The appellant company has sought to justify this scheme on the basis of a policy interpretation that confounds logic, and runs exactly opposite to the spirit and meaning of Doncaster's planning policies. If approved, the appeal scheme would create a development that would prioritise drivers over pedestrians, and highway engineering over affordable housing. It is inconceivable that such a form of development could be considered to constitute a sustainable urban extension and the appeal should be dismissed.
221. Framework paragraph 7 reaffirms that the purpose of the planning system is to contribute to the achievement of sustainable development. The appeal scheme cannot be realistically considered to represent sustainable development for the reasons set out above. The scheme should therefore be dismissed on the basis of paragraph 11 d) ii of the Framework "adverse impacts...would significantly and demonstrably outweigh the benefits". The

²⁵⁰ Wooliscroft proof Appendix 34.

proposal would fail to achieve healthy, inclusive and safe places without the provision of social, recreational and cultural facilities and services the community needs²⁵¹. Further this significant development would not be focused on a location which is or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes²⁵².

Third parties who addressed the Inquiry

Paul Bissett – local resident²⁵³

222. Edenthorpe is one of three 'garden villages' which provided Pilkingtons Glass Factory with a workforce. With recent infill and a possible further 2,500 houses²⁵⁴ increasingly the village is losing its character. Coalescence with Armthorpe is a real danger. The Armthorpe Neighbourhood Plan (ANP) has been examined and the report received. Planning permission has been sought for the ANP northern allocations between the existing edge of the village and the A630 (south of the appeal site) thereby reducing the gap between the two villages.

223. Edenthorpe is already deficient in green open space and the proposal of such a size²⁵⁵ would remove the only remaining access to open green space where villagers can walk in the countryside with their children and dogs. This proposal will form part of an urban sprawl of housing and commercial development within the green corridor out to the M18. The proposal will not enhance the area but destroy it.

224. It is an isolated housing site to the main part of Edenthorpe, without any vehicular link to the village. There would be an intended bus service but this will not be used to access the village or one of the nearby supermarkets. The site can only be accessed by car via the A630 which is a busy main route into and out of Doncaster and is heavily trafficked at peak times with congestion in the vicinity of the Sainsbury's supermarket. With large housing developments already committed this will just add to the congestion which already exists.

225. The new school would be built close to the A630 with associated problems of access at the start and end of school. Children would also be exposed to increased air pollution due to the proximity of the road. Some children would use local schools. They would have to walk and the distance and safety would not be conducive to encouraging this, so more car journeys are likely to be the result.

226. Edenthorpe currently has a clearly defined built edge along Mere Lane which avoids any coalescence with Armthorpe. This proposal would unacceptably harm the character of village life into the future.

Patricia Cooney – local resident²⁵⁶

²⁵¹ Framework paras 91 & 92.

²⁵² Framework para 103.

²⁵³ Inquiry Doc 6.

²⁵⁴ List of sites.

²⁵⁵ Approximately one third of the size of the existing village.

²⁵⁶ Inquiry Doc 7.

227. This is the last field in Edenthorpe and adjacent to already over built communities. It provides the last area for protected birds and animals in the vicinity. The proximity of the motorway network along with the additional traffic from the development would cause further issues relating to air quality. Further there is no capacity in the local schools and doctors to support such a large development. Brown field sites are abundant in Doncaster and housing should be built on these sites not on productive agricultural land. CPA restricts using farmland for residential development, a policy criteria which is being adhered to.

David Nevett – Ward member of Doncaster Borough Council for Edenthorpe and Kirk Sandall²⁵⁷

228. The proposal will never form part of Edenthorpe. The settlement is deemed to fall within the MUA. This is incorrect as residents perceive it as part of a village in its own right. The site is within CPA which offers protection to the countryside. The Councillor agrees with the points made by the CPRE/Parish Council above. The village already has to suffer traffic along the A18 with daily tailbacks spreading out into the wider local road network. Traffic from the proposal will add to this congestion. The main road from the M18 into Doncaster is single carriageway and the proposed roundabout will slow the flow of traffic further. Other sites in the vicinity could equally accommodate the number of houses proposed as should be considered before the appeal site.

229. In respect of accessibility it is reasonable to expect future residents to walk up to 400 metres to services. There are no services within 400 metres. It is likely therefore, that residents will drive to the services in the village merely adding to congestion especially during peak times. The surrounding brideway means, other than the access onto the A630 which is isolated to the village, there is no other vehicular access into Edenthorpe.

230. The appeal proposal would be an imposition on an attractive, popular and well-loved village. It would erode the countryside between Edenthorpe and Armthorpe and create coalescence adding to the creeping urban sprawl on productive farmland. It would swamp the village and alter its character. It would not support the health and well-being of existing residents. It would ruin the green space and intrude into the open views from the children's play space across to the woodland.

Dr M A Griffiths – local resident²⁵⁸

231. This is the wrong development on the wrong site. It is isolated from the community services such as education, medical, retail and infrastructure such as gas, waste and surface-water disposal. Access would need to be via the A630. There is no evidence submitted that the services in the locality could support the future residents of the new development. The proposal involves the connection to a low pressure water supply which will reduce pressure to existing users. The disposal of waste water is to be via an extension of the existing residential network. This is nearing capacity and cannot cope with this

²⁵⁷ Inquiry Doc 8.

²⁵⁸ Inquiry Doc 10.

number of additional houses. For surface water disposal drainage ponds are to be utilised. This is a ridiculous means of disposal. In reality water will track westward and add to flood risk on the Fieldside Estate where the drainage system is inadequate. Residents do not want any additional flooding risk.

232. Due to the site's isolation some form of community focus would be required. The Community Park would include overflow ponds which in wet periods would render the open space useless. Such community isolated developments would lead to anti-social behaviour which would spread to neighbouring areas. Further studies show that developments close to major roads result in poorer health outcomes and reduced longevity.

Andrea Robinson - Ward member of Doncaster Borough Council for Edenthorpe and Kirk Sandall²⁵⁹

233. The appeal proposal will create disconnected, disruptive and dismal urban sprawl. The disconnect arises as there is no direct vehicular access from the village of Edenthorpe and facilities within the community. Future residents will have to drive out of the one access point and round four sides of a square to get back to Edenthorpe or Kirk Sandall and Dunsville. The proposal cannot function well with a singular point of access and egress onto a dual carriageway. This is not an inclusive development with adults and children with impaired mobility being unable to access it by footpaths. The design creates a dependency on the use of the car therefore this will just add significantly to traffic congestion around the village.
234. In addition Long Plantation will lose its character as a place to go to be in tune with nature, as well as the children's play area where the therapeutic effect of being in a natural environment would be diminished. The village has no other comparable area of green space. It is important to be aware of the value of physical fitness and mental health and wellbeing. The footpath, open space and wood are used by local people for dog walking, jogging, fitness fanatics and generally families enjoying the countryside and woodland. The proposal would ruin this access and enjoyment.
235. Whilst appreciating the need for urban extensions to extend onto CPAs there are no exceptional circumstances in the case of this site. The proposal will lead to the coalescence of Edenthorpe and Armthorpe, something the Council is committed to avoiding as set out in the CS.
236. Edenthorpe is a village in its own right with an active community. So although it is deemed to be part of the MUA the village community values and utilises the amenities within it from provisions elsewhere. The Parish Council are currently working on a Neighbourhood Plan and the enthusiasm for the benefits is evidence of the way Edenthorpe functions as a village.
237. Only minimal affordable housing will result from the scheme even though this is what we need.
238. The proposal will disrupt education, traffic and local amenities. The proposed roundabout on West Moor Link will significantly reduce the flow of traffic on the route. Traffic flows at peak times are of particular concern to

²⁵⁹ Inquiry Doc 11.

residents. The developments at Thorne and Dunsville will just add to this. Existing air quality is already of concern resulting from traffic levels along the A18 and Leger Way. This development will just add to it.

239. The proposal will have a significant impact on school places. No funds via S106 are being made available for secondary school places. The local secondary school does not have the capacity to accommodate all the young people in the area and so there will be significant displacement which will be problematic to especially vulnerable families without cars.

240. The proposal would be disruptive to primary education as the proposed primary school will not be full from the children from the proposed development. It is not readily located by foot for children from the surrounding area. Vehicles dropping off and picking up would park in a particularly disruptive location. A new primary school is required in the locality as existing schools are at capacity. However, the location proposed is not appropriate and there are other better sites which should be exploited.

*Frederick Gee – local resident*²⁶⁰

241. Residents in the Parklands area have suffered with issues of flooding for many years (since 1972). Issues of raw sewage in back gardens after heavy rain is particularly prevalent. The existing pipework sizing is inadequate and pressure on the system causes drains to overload. The connection of the proposed 650 houses would place the system under further pressure, particularly if the pump breaks down. There is also concern in relation to surface water run-off from the large areas of proposed hard-surfacing which may place existing soakaways in the village under pressure resulting in flooding.

Written Representations from interested parties²⁶¹

242. Representations were received at the time the planning application was considered by the Council. Further letters and consultation responses were then received in relation to this appeal. The following is a list of the essence of the concerns raised over and above those raised by the representors who addressed the Inquiry and the Council.

- Loss of greenfield site
- Impact on ecology
- Noise pollution
- No need for more houses

Conditions and Obligations

243. In the case that the SofS is minded to allow the appeal an agreed schedule of conditions was submitted by the parties at the Inquiry²⁶². Some amendments were made following discussion at the Inquiry seeking to amalgamate for clarity,

²⁶⁰ Inquiry Doc 12.

²⁶¹ Planning Committee Report dated 18 October 2016.

²⁶² Most of which had been agreed between the parties – Inquiry Doc 32.

precision, elimination of duplication, and taking into account guidance in this regard.

244. Only conditions which are formally required to be discharged prior to works commencing on site have been promoted as pre-commencement conditions. These have been agreed by the appellant company as a party to the agreed schedule of conditions. These are recommended to be imposed as they involve details to be approved for the arrangements of the work on site (Phasing Plan, Construction Management Plan, Construction Environmental Management Plan, Contamination Investigation, Construction Method Statement, Construction Traffic Management Plan), groundworks and infrastructure approval (highway layout and works, archaeology, landscaping, tree protection, drainage, lighting strategy) or matters that affect the layout and position of development (Design Guide, material details, noise assessment). These details are required to be submitted to and approved by the Local Planning Authority prior to commencement of development.
245. Standard conditions are required on the approval of the reserved matters and on the commencement of development. Further conditions are required to ensure that the submission of reserved matters and later details comply with the considerations/parameters taken into account in the approval of the outline permission.
246. To properly inform the design process related to the reserved matters both a Design Guide and a composite Development Framework Plan is required. To secure clear design principles these should be discussed and agreed with the Council. They will ultimately need to be agreed in writing by the Council before the submission of the first reserved matters application and it is up to the Council who else they involve in any conversations in this matter. I see no reason to be more specific as to the involvement of other parties.
247. The permitted scheme would result in the order of 600 new homes being built. The management of the phasing of the construction of these buildings would be of importance to secure the required services for the individual dwellings such as roads, lighting, play provision and landscaping in the right place and at the right time. Appropriate conditions have been imposed to secure agreement on the phasing involved.
248. In the interests of preserving and enhancing the character of the locality details of the facing and roofing materials of the new homes are required to be agreed.
249. Due to the proximity of protected trees adjacent to the site in Long Plantation and some boundary trees close to the A630 details of tree protection during construction is also required.
250. The locality has been identified as having some possible archaeological interest. Therefore, a condition requiring a programme of investigation is justified.
251. The condition relating to the Construction Management Plan is required in order to protect the amenities of nearby residents and general amenity.
252. In the interests of both the amenities of nearby residents as well as maintaining the free flow of traffic and safeguarding highway safety in the

locality, a condition relating to a Construction Traffic Management Plan is required.

253. Taking into account that access has now been agreed to be reserved as a matter for later consideration²⁶³, a condition setting out that details of the general arrangements for access, egress and carriageway re-alignment will be required to be submitted is justified.
254. A condition relating to the submission of a full Travel Plan and its subsequent implementation is necessary to provide sustainable transport objectives giving people a real choice about how they travel. A condition requiring electric vehicle charging provision would also further the cause of sustainable transport options.
255. A condition relating to the provision of a Site Wide Drainage Plan including strategic foul water drainage and Sustainable Urban Drainage Systems is deemed necessary to ensure adequate arrangements are in place, particularly in relation to flooding and in the interests of environmental impact. Some concerns were raised by local residents in relation to the impact of the proposal on on-going problems of flooding on the Fieldside Estate. This should be a matter for consideration.
256. In relation to limitations on external lighting in the public realm, these are necessary to minimise visual impacts on this edge of settlement site as well as the management/protection and long-term well-being of the natural elements of the ecology of the development site for the reasons of amenity and biodiversity.
257. Although evidence is limited regarding whether there is any contamination of this agricultural land, it is reasonable that investigations should be carried out in relation to possible contamination of the land. Further a condition relating to the testing of imported soil to the site is also justified to safeguard the health of future residents as well as the well-being of the wider ecological environment.
258. A requirement for a scheme to implement the recommendations of the submitted noise assessment relating to road traffic noise from the A630 should be imposed to safeguard the long term amenities of future residents.
259. In the interests of landscape character, visual and residential amenity and for the avoidance of doubt a detailed hard and soft landscape scheme dealing with the public realm should be imposed taking into account the Development Framework Plan and the Design Guide. Such details will form part of the reserved matters details to be submitted to the Council for consideration. It will be at this stage that other parties will be involved. There is no need to specify this within the terms of the condition.
260. A condition to secure a scheme of works to deliver highways improvements at nearby junctions is required to ensure the development can be satisfactorily accommodated within the highway network.

²⁶³ Para 3 of this report.

261. It is reasonable to secure the provision of the areas used by vehicles to serve individual dwellings such as roads, footways, access, parking, garaging and turning in the interests of highway safety and management and residential amenity.

*Obligations*²⁶⁴

262. A signed bilateral agreement under section 106 of the Town and Country Planning Act 1990²⁶⁵ has been submitted covering the following matters:

- Affordable housing – CS Policy CS 12 requires 26% affordable housing. Following the assessment of a viability appraisal in relation to the proposed scheme the Council are satisfied that based on the findings of the appraisal the provision of 10% affordable housing is considered fair and reasonable as proportionate in the circumstances of the development.
- Provision of an extended bus service – Existing service 76 is proposed to be improved/extended in order to connect the site with Doncaster Bus Interchange. This would result in a greater number of people using the bus network in an area not currently well serviced by public transport.
- Education commuted sum – this is to be applied towards the provision of additional primary school places within the Hungerhill Secondary pyramid.
- Public Open Space – provision of open space and its transfer to a management company for future management and maintenance.
- Transport improvements - including contributions towards the A630 West Moor Link dualling scheme (WMLD).
- Permissive footpath works contribution & commuted sum - Unilateral Undertaking²⁶⁶.
- The provision of land for a primary school has been promised on the basis that the Council's Education Team identified that the local Edenthorpe Hall Primary School has no spare places and will require expansion or new school provision. As the existing school site is potentially unsuitable for further expansion a potential site has been identified within the Parameters Plan. This would be safeguarded for 10 years or up until the occupation of the final dwelling (whichever is sooner). This in no way commits the Council to granting planning permission for the school or conveys any acceptance of the site as being suitable for a school. The S106 plan indicates a much larger area as a general location for the school than on the Parameters Plan and the agreement also indicates its provision would be subject to any further application for planning permission. The promise is of the delivery of land not of building a new school. It is not clear whether funds would be available, presumably from the Education Authority, if required to build a school. In addition I am aware there may be other options involving the development of Armthorpe. It is reasonable to secure the site for a school to expand the options for the provision of

²⁶⁴ Inquiry Docs 30, 31, 33 & 18.

²⁶⁵ Inquiry Doc 18.

²⁶⁶ Inquiry Doc 33.

future education places beyond those funded through the Education Commuted Sum, but with the uncertainty of actual on-site provision the weight to be given to a new school site as a benefit²⁶⁷ should be reduced. This can best be done via the S106 agreement.

All of the above provisions are considered to be necessary, in order to make the development acceptable taking into account the terms of the CIL Compliance Statement²⁶⁸.

Inspector's Conclusions²⁶⁹

The key provisions of the Development Plan [13-15, 16-45, 158-172, 176-182, 198-201]

263. The appeal proposal is for housing which is intended by the appellant company to form an urban extension to Edenthorpe at the edge of the Doncaster Main Urban Area (MUA). The site lies within the Countryside Protection Area (CPA) as defined on the Proposals Map of the UDP²⁷⁰ and within saved UDP Policy ENV 2²⁷¹. The policy sets out that the CPA will be maintained in the eastern part of the Borough covering all countryside outside the Green Belt²⁷². Supporting text paragraph 5.25²⁷³ identifies that the established CPA boundaries sought a careful balance between the protection of the countryside, the protection of the form and amenities of urban areas and the provision of an adequate supply of land for housing, industry and other development. It should be noted that the extent of the CPA was linked to the delivery of the objectives of the UDP based in the policy and evidential base of a plan adopted about 20 years ago.

264. Further, UDP Policy ENV 2 seeks to apply a Green Belt approach including safeguarding the countryside from encroachment and assisting urban regeneration. The policy is placed in the context of applying equal force to both Green Belt and Countryside outside Green Belt policies²⁷⁴, a policy stance somewhat out of step with current Government guidance.

265. UDP saved Policy ENV 4 identifies development that will be permitted in the CPA and is a restrictive development management policy. The supporting text

²⁶⁷ A new primary school is likely to go beyond mitigating the impact of the proposed development.

²⁶⁸ Inquiry Doc 30.

²⁶⁹ The following conclusions are based on the submitted evidence, that given at the Inquiry, the written representations made and my inspection of the site and its surroundings. The numbers in square brackets [] denote earlier paragraphs in this report from which these conclusions are drawn.

²⁷⁰ CD3.2.

²⁷¹ This is the only Development Plan document that defines the boundary of the 'Countryside'. These boundaries were intended to cover the period to 2011 in accordance with the period to be covered by the UDP.

²⁷² This can be considered to be a blanket, washed over designation without any reference to assessment of quality or value of the countryside landscape.

²⁷³ CD3.1 para 5.25 page 61.

²⁷⁴ CD3.1 para 5.24 page 61

to the policy at paragraph 5.29²⁷⁵ sets out that the policy is based on the guiding principle that development in the countryside should both benefit economic activity and maintain or enhance the environment, and achieve good quality development which respects the character of the countryside. Nonetheless, the identified purposes of development within the policy do not specifically include urban extensions or general housing²⁷⁶.

266. Whilst both UDP Policies ENV 2 and ENV 4 do aim to protect the countryside with some recognition of its intrinsic character and beauty neither reflect the need to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth and meet the needs of present and future generations. The delivery of homes and infrastructure supports sustainable economic development serving to facilitate thriving local places which actively contribute to national growth and well-being.

267. The Doncaster CS was adopted in 2012²⁷⁷ and is clear in placing the economy at the centre of a strategy of achieving local aspirations²⁷⁸ and allowing Doncaster's economy to realise its potential. An increase in the provision of housing throughout the Borough, particularly in areas with access to existing services, recognising the significant role the delivery of housing has in the sustainable economic well-being of the Borough, is one of the specific CS objectives supporting the overall vision²⁷⁹.

268. CS Policy CS2 seeks to distribute growth and regeneration where it would do most good in terms of supporting prosperous and sustainable communities by improving the economic performance of towns, promoting regeneration and tackling deprivation²⁸⁰. One of the main thrusts of the policy is that the MUA will be the main focus for growth and regeneration, with the quality and range of housing, employment and services improved for the benefit of the Borough as a whole. Edenthorpe is specifically identified within the scope of the policy as being part of the MUA and a location where there is an opportunity for major urban development, although settlement coalescence with Armthorpe is identified as a potential issue²⁸¹.

269. CS Policy CS3 identifies that the countryside to the east of the Borough (which includes the appeal site) will continue to be protected through a Countryside Protection Policy Area (CPPA). This policy seeks to develop the general protectionist stance of UDP Policies ENV 2 and ENV 4 for the countryside of Doncaster whilst recognising the importance of urban extensions to the growth and regeneration strategy. The Key Diagram to the CS²⁸² washes over the appeal site as part of the CPPA and the CS definition of

²⁷⁵ CD3.1 para 5.29 page 63.

²⁷⁶ UDP Policy ENV 4b) does mention infilling development within settlements washed over by the CPA subject to limitations but Edenthorpe lies within the MUA and is not a washed over settlement.

²⁷⁷ Spans period 2011-2028.

²⁷⁸ CD3.4 para 2.2 page 14.

²⁷⁹ CD3.4 para 2.3 page 15.

²⁸⁰ CD3.4 para 3.12.

²⁸¹ CD3.4 Para 3.18.

²⁸² CD3.4 page 20.

the CPPA distinguishes it as an updating and replacement to the CPA²⁸³. It would be wrong to assume that the ELP CPPA boundaries will, for the most part, be the same as the boundaries of the UDP CPA²⁸⁴.

270. However, CS Policy CS3 does identify through Part B)²⁸⁵ that new urban extensions through development allocations will be considered within the CPPA as well as minor amendments to settlement boundaries where existing boundaries are indefensible. With the withdrawal of the S&PDPD (the original vehicle intended to consider development allocations) the ELP is now purposed to define new detailed boundaries for the CPPA, including development allocations. The Council is clearly committed to the timely production of the ELP but the lack of advancement in the preparation of the ELP affords it little weight. Therefore, currently there are no identified development allocations in the context of CS Policy CS3 Part B) 1. Reading this part of the policy in its purest form the appeal proposal is not a new urban extension development allocation and so Part B) 1 of the CS3 is not applicable.

271. Whilst the identification of the CPPA within the CS is somewhat indicative and with finer policy definition yet to come, a general reliance on the out-dated CPA boundaries enshrined within UDP Policy ENV 4 would be a backward step which could undermine the forward looking vision of economic success. The lack of designation of development allocations is not a circumstance anticipated by the CS and could be a significant limiting factor in achieving the timely success of the vision over the plan period of the CS. Nonetheless, even in the circumstances of the identified policy uncertainty, aspects of CS Policy CS3 would still bite in this case.

272. CS Policy CS3 Part C) identifies that outside development allocations which, at face value in the circumstances of the generality of the identification of the CPPA²⁸⁶, all of the CPPA currently lies outside development allocations²⁸⁷. Proposals will only be supported subject to certain criteria being met one of which is where they would protect and enhance the countryside²⁸⁸, including the retention and improvement of key Green Wedges where areas of countryside fulfil a variety of key functions. The Council consider that the appeal site lies within an area defined as an indicative Green Wedge in the CS. Map 9 of the CS²⁸⁹ identifies such indicative Green Wedges including one between Armthorpe and Edenthorpe. Paragraph 6.27 of the CS sets out that it is envisaged that this wedge would be included in future detailed identification. Nonetheless it is intended that Green Wedges would overlay CPPA and areas identified for development. Thus the identification of an area as being within a Green Wedge would not in itself exempt it from development²⁹⁰. It was via a

²⁸³ CD3.4 page 115.

²⁸⁴ Such an assumptive point has not been appropriately evidenced – Edwards’ proof para 3.6 - and the boundaries of the CPPA have yet to be defined in detail through the ELP and then examined en route to adoption, taking into account development allocations, any ad hoc planning permissions already granted and where existing boundaries are indefensible.

²⁸⁵ CD3.4 page 33 Policy CS3 Part B) 1 & 2.

²⁸⁶ As defined on the CS Key Diagram.

²⁸⁷ There being none.

²⁸⁸ CS Policy CS2 Part D) 4 similarly reflects such a policy criteria.

²⁸⁹ Inquiry Plan A.

²⁹⁰ CD3.4 para 6.28.

new Proposals Map that the identification of the location of key Green Wedges would have been set out along with a green infrastructure strategy or similar. This was likely to have been part of the S&PDPD. The Council does intend to carry forward the concept and identification of Green Wedges through the ELP.

273. CS Policy CS17²⁹¹ currently offers, amongst other things, protection and enhancement to Doncaster's green infrastructure network including key Green Wedges. At this stage in the plan-making process key Green Wedges have not been definitively set out. The Doncaster Council Development Guidance and Requirements Supplementary Planning Document (SPD)²⁹² does include at Figure 1 a location of a Green Wedge between Armthorpe and Edenthorpe to provide a clear physical separation. However, the role/function of the Green Wedge does not preclude development but sets out that new development in this location would need to provide an extensive strategic buffer comprising high quality landscaping and open space to protect the amenity of the landscape and prevent coalescence²⁹³. Such a buffer would not necessarily have to include screening. The distinct identity and physical setting of existing settlements should be maintained²⁹⁴.
274. The Development Plan only offers an indicative reflection of Green Wedge locations across the Borough²⁹⁵ and Policy CS17 provides a policy wording for protection once the key Green Wedges have been identified. Much as the CPPA was intended for likely definition within the S&PDPD so events have overtaken the identification of key Green Wedges leaving uncertainty in policy application.
275. However, it is noted that the Council agreed with the appellant company in the SofCG that the terms of CS Policy CS17 were not offended by the proposal²⁹⁶. That said the matter of whether the appeal proposal would result in the coalescence, either physically or visually, of Edenthorpe with neighbouring Armthorpe is certainly an issue which will be returned to later in this report.
276. Identified conflict with CS policy of countryside protection and enhancement would normally bear down on the negative side of any balance in this instance, even in the circumstances of only an indicative rendering of the general extent of the CPPA referenced in policy.
277. Even so, in attributing weight to the identified conflict I am conscious of the common ground between the parties that the Council will be unable to achieve identified growth, whether in line with the CS or that anticipated within the ELP without allowing development on land previously designated as CPA²⁹⁷. At the

²⁹¹ CD3.4 page 33.

²⁹² CD3.35 para 5.3 – this document does not form part of the Development Plan.

²⁹³ CD3.35 SPD Table 2 page 80.

²⁹⁴ In line with CS Policies CS2, CS3 and CS17—supporting text to Table 2 SPD CD3.35 page 80.

²⁹⁵ Doncaster Local Development Framework - Green Wedges Study (2013) CD3.34 has been taken into account.

²⁹⁶ SofCG para 4.7.

²⁹⁷ Mr Edwards in cross-examination and within CD3.4 para 3.39. The boundaries of the CPA were set some 20 years ago. CS Policy CS3 does allow for such a circumstance.

present time the development allocations referred to within CS Policy CS3 Part B) do not exist. In response and in acknowledgement of this fact, as well as to meet the requirements of CS Policy CS2, the Council has been proactive in granting planning permissions²⁹⁸ within the washed over CPPA²⁹⁹, albeit on an ad hoc basis. Further, the CS does indicate support for the growth of Edenthorpe³⁰⁰ which may involve development in the countryside, a principle accepted by the Council³⁰¹. The Council and the appellant company have agreed that CS Policy CS2 would not be offended by the appeal proposal³⁰². This would seem at face value to indicate agreement that it would represent in principle, development in the main focus for growth and regeneration (the MUA) taking into account the acknowledgement of the need to extend beyond the existing MUA boundaries to achieve the strategy.

278. These practical compromising responses to the transitional position in which the Council finds itself between the UDP and ELP, does reduce the weight to be attributed to any conflict in this regard with Development Plan policy. Such conflict is highly likely to be comparable across any sites within the CPA, and is a blanket designation with no obvious differentiation in policy being made between the quality or value of designated land.

279. Notwithstanding all of the above commentary and in the context of evolving policy, without doubt the Development Plan presently places the appeal development site within the CPA and by definition within the 'Countryside'. This at first reading sets up a conflict with the Development Plan. However, as already explored the relevant UDP policies ENV 2 and ENV 4 are out of step with the direction of travel of local and national policy particularly in relation to reference to the CPA, which as an historic designation is out of date³⁰³. The Council has to some extent relied upon these saved UDP policies as the policy development of the second generation CPA, the CPPA, has not evolved. As a result these policies, of considerable importance in the determination of this appeal, are considered out-of-date and therefore, the tilted balance of paragraph 11 of the Framework, the presumption in favour of sustainable development, applies. The qualification of the presumption is that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, taken as a whole. It is necessary then to consider whether the impacts arising from granting planning permission are adverse and

²⁹⁸ Land west of Hatfield Lane and Land east of Hatfield Lane, Armthorpe. Both of these are promoted allocations in the Armthorpe Neighbourhood Plan although this document has yet to progress through referendum to full adoption (Examiner's letter received CD3.32 – Submission Version of ANP Inquiry Doc 5).

²⁹⁹ Also within the CPA.

³⁰⁰ CD3.4 Page 24 CS Policy CS2 Table 1 + MUA definition.

³⁰¹ The Council is not running an argument of the proposal being premature to the adoption of the ELP and this is a noted position.

³⁰² SofCG para 4.7.

³⁰³ It is also noted that the Council's own HELAA dated December 2016 has identified the appeal site in Table 7.3³⁰³ as being suitable for development but with Local Policy Constraints. Such constraints means sites currently designated as CPA in the UDP. This is a further recognition of the acceptability of development with the CPA.

whether they would significantly and demonstrably outweigh the benefits of that permission.

Impacts

- *Landscape/Green Wedge* [11-12, 33-45, 46-51, 176-182, 202-208]

280. The appeal site is located beyond the established built up edge of Edenthorpe. It is a flat open agricultural field with little vegetation which blends into the intervening, predominantly Council owned, as yet undeveloped, land to the west. Long Plantation serves as a visually prominent and substantial defining edge curving around the appeal site creating a sizeable physical barrier confining contextual views of the appeal site to the north and east, to that of the site itself, its woodland backdrop, the adjoining agricultural land, recreation ground and sports pitch with the sprawl of Edenthorpe and Doncaster beyond. In visual terms the dense belt of trees of Long Plantation creates a firm delineation between the appeal site and the wider open countryside beyond.

281. To the south is the linear containment of the A630 which sits up on an embankment. With limited significant vegetation on either side of the road views across the appeal site are easily discernible both from moving vehicles as well as from pedestrians using the footpath on the south side of the A630. Travelling east the countryside context of the appeal site does not become readily apparent until one reaches the Hatfield Lane roundabout due in good part to the screening effect of Long Plantation and the more distant backdrop/skyline feature of the concentration of large distribution/warehousing units serving national retailers located convenient to the M18 on the West Moor Park Industrial Area. Whilst the appeal site, as an unremarkable and generally featureless agricultural field, contributes to the setting of the urban edge (MUA) of Edenthorpe it has a restricted visual envelope with views of the site being limited to localised close range views more greatly influenced by urban features such as power lines, A630, its incumbent traffic, Distribution Park and the visually dominant urban edges of Edenthorpe itself as well as Armthorpe, cumulatively amounting to urban distractions in the landscape context of the appeal site. The distant hum of heavy traffic on the M18 and the more immediate and audible traffic noise along with frequent traffic movements from the A630 also diminishes any sense of landscape tranquillity. In essence there is nothing particularly distinctive about the appeal site or its immediate landscape context that makes it out of the ordinary, and with no sense of scenic quality. It has a stronger and more immediate visual, spatial relationship with the nearby suburban sprawl of Edenthorpe than the open countryside to the north and east.

282. To the south are the open fields of similar character to the appeal site between the road (A630) and the current built up edge of Armthorpe. However, the Armthorpe Neighbourhood Plan (ANP) includes housing allocations which covers much of this land³⁰⁴. The two housing sites east and west of Hatfield Lane have already been granted planning permission and

³⁰⁴ The ANP has yet to be adopted (Submission version Inquiry Doc 5) and does not include any of the land the subject of this appeal.

whilst in outline include masterplan proposals for open space and areas of strategic planting particularly in the vicinity of the A630³⁰⁵.

283. The A630 provides a clear, strong and visually prominent boundary between Armthorpe and Edenthorpe emphasised by the movement of traffic in a slightly elevated position above the essentially flat edge of settlement landscape. This section of the A630 is intended for dualling. This would further strengthen this sense of separation with any increase in the road width and accompanying landscaping³⁰⁶.

284. The Doncaster Metropolitan Borough Council Landscape Character and Capacity Study (June 2010) (LCCS)³⁰⁷ identifies the land centred on the A630 between Armthorpe to the south and Edenthorpe to the north, including the appeal site and the two committed housing developments mentioned above, as a landscape character unit. Its character sensitivity is assessed to be Medium and due to the proximity of the urban area and the road which makes for accessibility for receptors (people), the visual sensitivity is also assessed as Medium. It is no surprise that the overall landscape sensitivity of the area is therefore assessed as Medium.

285. It is clear that local residents do value the site in the context of an immediately accessible, well used circular walking route and the woodland experience of Long Plantation, and its contribution to the open setting of the MUA. However, the popularity of the site and its environs is not sufficient to afford it value in the sense of Framework paragraph 170³⁰⁸. Nonetheless as the LCCS sets out that landscape value is heavily influenced by the surrounding land uses³⁰⁹ and results in a Medium landscape value. The LCCS acknowledges that were the site to be developed and certain mitigation elements implemented such as restricting development encroachment into Long Plantation, creating a woodland block suitable for informal recreation along A630 as well as a green corridor/landscape buffer along the road to prevent convergence of settlements, the landscape capacity of the site to accept housing development would be Medium³¹⁰. So essentially the appeal site is of Medium suitability in landscape terms.

286. The appeal site in physical terms is set apart from the edge of the MUA by intervening open flat agricultural land. Nonetheless, the appeal site is seen in the context of the built up development of Edenthorpe and to a lesser degree that of Armthorpe. I heard from the Council that the adjoining land within Council ownership was being promoted for development in the future and I am aware that the Armthorpe allocations spread out up towards the Hatfield Road roundabout. I am also aware that the HELAA has identified the appeal site in Table 7.3³¹¹ as being suitable for development but with Local Policy Constraints ie currently designated as CPA in the UDP but physically attached to settlements.

³⁰⁵ Rech Appendix D Figure 25.

³⁰⁶ The road design and landscaping is not yet resolved.

³⁰⁷ CD7.3.

³⁰⁸ It is an agreed position between the parties that this is not a valued landscape.

³⁰⁹ CD7.3 para 15.5.

³¹⁰ CD7.3 Page 62 paras 15.6 & 15.7.

³¹¹ CD 3.11 page 83.

287. Taking into account the strong natural barrier presented by Long Plantation, the physical linkage through from the proposed housing through to Edenthorpe via the community park and its juxtaposition with the Armthorpe allocations, the proposal would not present a fragmented, unrelated development, unconnected with nearby urban development. It strikes me as a rounding off of land more akin to the urban context than to the wider countryside setting beyond.
288. The extent of the open green space, community park, play areas and sports pitches proposed³¹² along with those of the neighbouring permitted allocations north of Armthorpe would create the mitigation outlined in the LCCS were development to be allowed. The green space including landscaping and tree belt either side of the A630 would create a buffer between Armthorpe and Edenthorpe.
289. At present the sense of separation between the two built up areas, one part of the Doncaster suburban sprawl, and the other a more distinct village, relies on distance with sparse landscape features resulting in the edges of the existing settlements standing out as hard urban edges and there being a high degree of inter-visibility between them. The Parameters Plan shows areas of planned green space incorporating existing trees and hedging, whilst introducing structural planting in the form of further woodland, hedgerows and tree cover along the whole of the southern section of the appeal site and wrapping round to the east and north to create a buffer between any built development and Long Plantation. This area of managed open space would be mirrored by the planned, landscaped open space associated with the Armthorpe developments to the south of the A630³¹³. The proposed intervening landscaping/planting on both sides of the A630 would reduce the inter-visibility between the two settlements. The hard urban edges of built development would be softened and, even with the proposed development, along with that of the Armthorpe allocations, a strong sense of spatial separation would be maintained between Armthorpe and Edenthorpe. The distinction between the two settlements would be preserved without any heightened impression of coalescence.
290. The identification of Green Wedges on the edge of built-up areas reflects a need for development to be sensitive to the openness of the gap between settlements and the wider countryside as well as the amenity of the landscape. As already identified Green Wedges are presently subject to uncertainty in policy application and definition, but Green Wedge does not preclude development. Where development overlays Green Wedges extensive, continuous buffers of high quality landscaping to preserve openness of the countryside and the physical identity of settlements should be provided.
291. Notwithstanding the agreement of the Council and the appellant company that CS Policy CS17, which deals with key Green Wedges, is not compromised

³¹² In excess of 40% of the appeal site is proposed to be green infrastructure, much concentrated along the road frontage and off towards Mere Lane including the existing footpath and proposed cycleway. This could all be secured through the imposition of a condition relating to reserved matters springing generally from the Parameters Plan.

³¹³ See Rech Appendix A Figure 25.

by the proposed development³¹⁴, I have considered the appeal proposal in the context of the aims of the designation of Green Wedges to prevent the complete merging of settlements and enhance the amenity and visual appearance of settlement edges, as well as improving access to the countryside³¹⁵.

292. The matter of coalescence has been dealt with above³¹⁶. The appeal proposal would offer the implementation and delivery of green infrastructure including open space, trees, biodiversity and proposed footpath/cycleway³¹⁷. It also offers opportunities for both informal and formal recreation space over and above the current footpath link from Edenthorpe through to Long Plantation. This would all serve to enhance the amenity of the MUA edge improving access to the countryside and creating recreational spaces/routes/facilities which would enhance the well-being and enjoyment of the future residents of the new homes as well as existing residents of Edenthorpe.
293. The proposed open space would serve as an extensive strategic buffer in its own right as well as in combination with that of the allocations in Armthorpe. It would create an open corridor of high quality landscaping along either side of the A630 opening out at the Hatfield Road roundabout into the wider open countryside to the east. To the north the linkage through from the Armthorpe allocations up through the Long Plantation and its proposed associated planted buffer within the appeal scheme to the countryside beyond, would also serve to maintain the distinct identity and physical setting of the existing settlements and the amenity of the landscape³¹⁸.
294. I have noted that the Armthorpe Neighbourhood Plan examiner identified that any related Green Wedge to the south of the appeal site (part of Armthorpe allocation sites) should be deleted from the NP on the basis that there was a significant Green Wedge to the north (includes the appeal site). Firstly, as I have made clear within the Development Plan the location and extent of Green Wedges have not been finalised. That said the appeal proposal would in isolation, and more so in combination with the Armthorpe open space, function as a type of green infrastructure corridor with a focus on landscape and amenity³¹⁹. As I have set out above the proposed landscaped open space would serve the purposes of Green Wedge even with built development becoming part of it. I have been able to come to this view in the knowledge of the type and extent of the proposed development as set out on, amongst other things, the submitted Parameters Plan evidence which would not necessarily have informed the comments of the NP examiner.
295. In conclusion, in respect of impacts there will be a change to the existing landscape of the appeal site and its wider context. However, change does not necessarily translate into harm. For all the reasons set out above the appeal proposal would not harm the landscape character and, in respect of

³¹⁴ SofCG Para 4.7.

³¹⁵ CD3.4 CS para 6.28.

³¹⁶ Para 289 of this Report.

³¹⁷ CD3.35 SPD Para 5.4.

³¹⁸ CD3.35 SPD Table 2 page 80.

³¹⁹ CD3.4 CS para 6.28.

introducing high quality landscape, could enhance the transition between the MUA edge and the wider countryside. Further the landscaped/open space element of the proposal would also serve as a green infrastructure corridor maintaining separation between settlements but creating green linkages through to the open landscape. In this way the terms and general thrust of CS Policies CS17 would not be compromised.

- *Biodiversity* [227]

296. The integrity of Long Plantation as a local wildlife site and as an area of dense woodland covered by a TPO has been respected by the proposal. The trees lie outside the development site. Built development is proposed to be off-set at a distance from the woodland to safeguard the well-being of the trees. Additional appropriate tree planting is also proposed around the perimeter of the development site where it adjoins Long Plantation in conjunction with a swathe of green space to enhance the woodland.

- *Highways*³²⁰ [212-213, 224, 228, 233, 238]

297. It is common ground between the Council and the appellant company as set out in the Highways Statement of Common Ground that the main access to the appeal site could be accommodated from the A630³²¹, subject to a number of other junction improvements in the highway network. The exact location and details have been reserved for future consideration but it is accepted that there would be no prejudice or harm to the implementation of the West Moor Link Dualling Scheme (WMLD). Any access to the appeal site can be facilitated within land on adopted highway and on land within the appeal site to accommodate both the pre and post WMLD vehicular access arrangements.

298. Edenthorpe Parish Council did raise concerns relating to the desirability of a single point of access to the site in the context of the A630 being changed from a motorway link road to a radial artery within the residential development. Evidence to expand on this point is limited but taking into account that the A630 links through from other residential development, including the future Armthorpe allocations³²², and does not solely serve the M18 and, that initial designs have been undertaken of roundabout junctions serving the appeal site onto the A630 which have been assessed by the Council as being suitable, I do not see such a concern as determinative particularly as the actual details of access could be the subject of a condition.

299. The HSofCG also sets out³²³ that the impact of the appeal proposal on the local highway network and on highway safety, subject to the proposed proffered mitigation³²⁴ being undertaken would not be severe³²⁵. Taking into account the terms of the Transport Assessment³²⁶ and being mindful of the

³²⁰ Inquiry Doc 25 – Highway Statement of Common Ground (HSofCG).

³²¹ Highways England, South Yorkshire Passenger Transport Executive & Council's Highways and Transportation Team were consulted and raised no object in respect of highway impacts.

³²² Although these will not directly access onto A630.

³²³ Inquiry Doc 25 para 23.

³²⁴ See paras 10-23 of HSofCG Inquiry Doc 25,

³²⁵ Framework para 109.

³²⁶ CD1.13 & CD1.14.

agreement between the Council and the appellant company following advice from transport related consultees I cannot identify any harmful impacts of the proposal in this regard.

- *Air quality* [225, 227, 238]

300. Third parties have raised concerns in relation to the impact the appeal proposal may have on air quality in the locality particularly taking into account the proximity of the M18 to the appeal site. However, other than understandable concerns no substantive evidence to support the point was submitted in this regard. The submitted updated Air Quality Assessment³²⁷, which includes cumulative traffic flows associated with other schemes in the area concludes that the overall effect of the proposed development on local air quality would not be significant and air quality impacts associated with the proposed development should not represent a constraint, having regard to local and national policy. The Council's Pollution Control Officer accepted the conclusion of the assessment³²⁸ and I see no reason to differ in this expert assessment.

- *Best and Most Versatile Agricultural Land (BMVAL)* [52-55, 188]

301. Framework paragraph 170 b) sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the BMVAL. BMVAL is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification³²⁹.

302. It is common ground that 12% of the appeal site is classified grade 3a, with the remainder being grade 3b (88%)³³⁰. Only a small area of the appeal site is BMVAL³³¹ (3.7 hectares) and within the Parameters Plan the land forms part of the community park to the south of the existing Mere Lane Children's recreation area. To farm/crop this limited area separately from the rest of the land does not make economic or agricultural sense. The rest of the site is grade 3b with a sandy soil from which, without irrigation, average yields are low³³². Proximity to the urban fringe and footpath has caused some issues for the owner/farmer such as crop trampling or contamination by dogs, restricting the type of crop which can be grown³³³. In any event the crop chosen lends itself to the lower quality grade 3b land than the small area of higher grade land as the cropping area is considered as a whole.

303. The Council has already indicated that, in meeting their housing need, it is likely that greenfield sites, including agricultural land³³⁴, will have to be developed. The Council's HELAA does not reference agricultural land quality in the site appraisals. However, BMVAL features in a number of the sites where new housing development may come forward³³⁵.

³²⁷ CD1.34.

³²⁸ SofCG paras 5.17-5.19.

³²⁹ Framework Glossary.

³³⁰ SofCG para 5.4.

³³¹ Palmer Proof Appendix 1 Map 2.

³³² Palmer proof para 7.1.

³³³ Palmer proof Appendix 5.

³³⁴ Some of which may be BMVL.

³³⁵ Palmer proof para 6.7.

304. Whilst it was accepted by the appellant company that were permission not to be given for the appeal proposal it was likely that farming would continue on the land and the problems of small scale cropping and public access would persist, the loss of the BMVAL would have little or no impact on the business operation of the larger farm of which it forms part in terms of agricultural yield or profitability³³⁶.

305. So in common sense terms were the BMVAL to be excluded from the appeal site it would leave an isolated pocket of agricultural land of little economic value to the farming business due to the economy of scale and the constraints to use it arising from its location on the urban fringe. The loss of the BMVAL would, at worst, be modest, and I do not see this small area of land being of any greater economic and other value than the adjoining grade 3b agricultural land which forms the vast extent of the appeal site. Therefore, the development of the grade 3a agricultural land in real terms would not adversely impact on the economic and other benefits of BMVAL and the primary purpose of food production. Therefore, the aims of CS Policy CS18, which is generally akin to those of the Framework, would not be undermined.

- *Accessibility* [56-67, 183-187, 229]

306. Framework paragraph 103 identifies that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.

307. Accessibility of facilities and services is fundamental to the proper functioning of a neighbourhood. The Council is of the view that the appeal site does not form a suitable location for development due to poor accessibility for pedestrians³³⁷. Edenthorpe benefits from a number of local services and shops, including a Tesco supermarket, some of which are located in the vicinity of Thorne Road. There is no question that Edenthorpe is not in itself a sustainable location where residents can access essential day to day services on foot.

308. The dispute lies firstly in the actual distances from the appeal site to these facilities, and secondly in the walking times; the Council and the appellant company having used different guidance documents to assess the acceptability of those walking distances.

309. In respect of the measured distances specifically, the differences between the Council and the appellant company are as follows³³⁸:

- Local services Eden Stores – 68 metres
- Local services Tesco – 94 metres

³³⁶ Palmer proof para 7.3.

³³⁷ The route and distances could be well achieved in good time on a bike. The proposed upgrading of the footpath which crosses the site to Mere Lane including lighting would include a cycleway.

³³⁸ Goodall Rebuttal para 2.4.

- Doctors Surgery 40 metres
310. Common sense dictates that such comparatively minimal distances which might mean a pedestrian would need to walk for a further minute would not deter someone from walking out to get shopping or visit the Doctors. In practical terms it is the walking times, the nature of the walk and their purpose on that occasion, which are more likely to influence whether someone decides to stride out or to jump into their car.
311. In calculating walk time both parties use different guidelines, the Council using the Institute for Highways and Transportation (IHT) Guidelines for Providing Journeys on Foot published in 2000³³⁹, whilst the appellant company uses the South Yorkshire Residential Design Guide, a supplementary planning document (SYRDG)³⁴⁰ adopted by the Council in 2011 with other neighbouring authorities applying it as best practice³⁴¹. This is the most recent of the two guideline documents and the adopted guidance for the Council. Paragraph N1.2 sets out walk times as broad accessibility targets for the layout of residential areas. As a general rule of thumb a 5 minute walk equates to a distance of 400 metres. At my site visit I walked along the footpath crossing the appeal site and then onto Mere Lane and out onto Cedric Road reaching Thorne Road and its services within 15 minutes. The Doctor's surgery in Church Balk would be just over the 15 minutes. It was a pleasant walk through established residential streets which once onto Cedric Road was on level, well paved and surfaced pavements. I found nothing about that part of the route which I consider to be unpleasant and it was a direct walk along Cedric Road to Thorne Road where the location of shops and services was not difficult to navigate. I then walked on to Tesco which did add a further 5 minutes³⁴² but I could have saved time by walking along Eden Grove Road which would have taken in the services offered at the Thorne Road frontage. I walked back along Mere Lane which during the day was a pleasant walk, and less than 15 minutes walking time, but I can appreciate at night it would not be so inviting and its unsurfaced nature could deter some users.
312. The first section of the walk along the existing public footpath link which crosses the appeal site on a comparatively level surface, at present would be difficult to traverse with a buggy or in inclement weather. However, the proposed scheme includes the widening, resurfacing, upgrading with lighting and the creation of a cycle way. It would be an integral part of the community park and is likely to be well used by existing and future residents alike even into the evening due to its illumination, proximity to proposed organised sports facilities, any future school and the A630. This would be the main walking route between the proposed development and the existing built-up area of Edenthorpe.
313. There are nursery, primary and secondary schools in the locality of Edenthorpe. In general they would be within 20 minutes or just over walking time. For those cycling, most likely to be secondary school pupils, the cycle time would be under 10 minutes. In accordance with SYRDG guidelines the

³³⁹ CD6.5 + Appendix to SofCG.

³⁴⁰ CD6.7.

³⁴¹ CD6.7 page 2 para 1.3.

³⁴² Tesco is just outside the SYRDG distance by around 2 minutes.

school walk times broadly accord with accessibility targets taking into account the nature of the walk. I am also conscious that at some point there may be a primary school within the proposed development and/or a school as part of the Armthorpe allocations which would be a reasonable walking time, walking along Mere Road and under the underpass.

314. I am conscious that the walking times I have considered would be lengthened for those who find walking more of a physical challenge. However, the level and upgraded route as described above along with the nature of the routes within Edenthorpe itself would facilitate greater access for those pedestrians to the community park as well as to the facilities of Edenthorpe beyond.
315. In respect of access to bus stops, the existing stops on Thorne Road would be in the order of a 15+ minutes walk based on SYRDG walk time. These stops provide access to a number of local bus services. However, the appeal proposal includes the extension of the 76/76A service which would divert into the proposed development to offer future residents access to a bus service with a direct connection to Doncaster town centre (20 minute journey time), and the railway station within less than 5 minutes walk of their homes. It would also allow for an improvement to bus services in the immediate vicinity and existing Edenthorpe residents may choose to cross the community park to access the bus service which also would serve the Wheatley Park Industrial Estate. First South Yorkshire transport group would be responsible for running the extension to the route. It would deliver a 15 minute bus service at peak time dropping to a 20 minute service off peak 7 days per week up until 23.00 each day. The bus company consider the route would be self-sustaining within 5 years³⁴³. In the intervening 5 year period the route would be funded by the appellant company via the terms of the bilateral S106 agreement³⁴⁴.
316. The appellant company have offered a Unilateral Undertaking (UU) under S106 of the Town and Country Planning Act 1990 to secure a permissive footpath which would cross the Council owned land to the north and link directly into Mere Lane and then onwards to Thorne Road. This would create a desirable and shorter pedestrian/cycleway linking the northern part of the proposed development with Edenthorpe. However, whilst the Council was initially alive to the proposal and appeared willing to accommodate the footpath at the Inquiry it became apparent that that support as landowner (via the Council's Assets Team) was no longer offered. Nonetheless, the appellant company has, through the UU, promised an obligation to provide the footpath as part of the development and also were the land to be later development by the Council. Such a proposal would definitely improve access for future residents to Edenthorpe and its services, but in the face of the Council's changed position in accommodating the new footpath link I have not factored it into my assessment of the general accessibility of the development site.
317. Therefore, in these circumstances the appeal proposal would present a sense of permeability providing ease of pedestrian movement with acceptable access to local facilities and public transport services taking into account the

³⁴³ Wooliscroft proof Appendix 23.

³⁴⁴ Inquiry Doc 18.

guidance within the Council's own SPD. In this way the development would meet the sustainable transport objectives of the Framework and the terms of CS Policies CS1 and CS14 would not be compromised.

Other matters [134-135, 189-196]

318. There is dispute between the parties as to whether the Council can demonstrate a 5YHLS or not. Future jobs growth (uplift) and the application of different economic activity and employment rates goes to the heart of the dispute along with some differences regarding supply. The Council's evidence in respect of the pressing need to improve the skills pool and employability through training and learning initiatives was persuasive, particularly as they illustrated a significant drop in the number of public sector jobs which will prove a challenge to address. However, an overall strategy of economic growth bringing skills into the Borough either through in-migration or through commuting will almost certainly be part of the strategic response.
319. Since the Inquiry closed the Revised Framework has been issued and the Council has adjusted its position through a re-calculation using the new standard method. The appellant company's position is that its approach as set out at paragraphs 70-126 of this report presents a justified alternative approach³⁴⁵. However, paragraph 60 of the Framework is clear that exceptional circumstances are required to justify a departure from the standard method set out in the national planning guidance (NPPG). I am not clear what the extent of the exceptional circumstances being claimed for the consideration of the alternative approach are in this instance.
320. This leaves the consideration of this appeal in respect of considering the delivery of a sufficient supply of homes in a quandary. The adoption of the standard method by the Council in response to the Revised Framework has left any meaningful comparison of the two approaches promoted by the main parties, like comparing apples and pears.
321. Through this section 78 appeal, in the circumstances of this case, I would not wish to bind the Council to a determination of its position on housing land supply, whether positive or negative, in this period of flux and change. This is particularly so as the Council is currently producing the ELP which would provide an appropriate vehicle for the examination of a co-ordinated and evidenced approach in the context of the Revised Framework and the NPPG.
322. That said, in any case whether the Council can demonstrate a 5YHLS is of no consequence in this case in respect of triggering the tilted balance of Paragraph 11 of the Framework as the relevant out of date policies of the UDP have already instigated this and the paragraph 11 balance is engaged.
323. In respect of the weight to be given to the provision of the proposed 600 dwellings I advocate a pragmatic approach taking the lead from the Framework which is clear that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed³⁴⁶. Further

³⁴⁵ Framework Glossary – Local Housing Need.

³⁴⁶ Framework para 59.

the number of homes needed is expressed as a minimum and so additional homes supported by appropriate infrastructure in sustainable locations which do not compromise Government planning policy set out in the Framework and are in accordance with the Development Plan as a whole should not be resisted³⁴⁷.

324. I am also mindful that the Council is in the position of identifying a need for new housing to support growth and regeneration within the CS but this has not translated into actual site allocations due to the change in direction of production of the policy vehicle to take on this function (ELP). The Council also readily admit that to achieve their strategy there is a need to extend beyond the existing MUA boundaries. Therefore, the Council are dealing with housing development sites on an ad hoc basis – case by case. Consequently, in these specific circumstances that is the approach this assessment of the appeal proposal has taken.

Planning Balance

325. As already indicated above the tilted balance of paragraph 11 of the Framework has been engaged due to UDP saved Policies ENV 2 and ENV 4 being out of date. It is now necessary to consider what needs to go into the various sides of the balance.

326. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the Development Plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework which is of course a material consideration to which substantial weight should be attached.

327. It has already been established that the appeal site lies outside of the MUA, the main focus of growth and regeneration in the CS³⁴⁸, although it does immediately adjoin its edge. The site is washed over by the CPA³⁴⁹ but no evaluation has been made of the quality or value of sites in the landscape in its designation. Further the CPA was linked to the delivery of historic objectives in the UDP of some 20 years ago. The updating and translation of the CPA into the CPPA has yet to happen being reserved to the formulation of the ELP.

328. Nonetheless, whilst UDP Policies ENV 2 and ENV 4 have been identified as being out of date all of the above factors reduce the weight to be given to them but does not neutralise them. The harm to the Development Plan by reason of an 'at face value' breach of UDP policy does go into the negative side of the balance, but in the circumstances of this case can only be ascribed limited weight.

329. Having considered other material considerations including policy impacts no other adverse impacts have been identified³⁵⁰.

³⁴⁷ Framework para 60.

³⁴⁸ CS Policy CS2.

³⁴⁹ UDP Policy ENV 2.

³⁵⁰ It is clear from paragraph 11 of the Framework that it is the adverse impacts of any development which needs to be weighed against the benefits

330. Therefore, it is necessary to consider the benefits. The appeal site would make use of undistinguished land which immediately adjoins the MUA, in a location accessible to services and facilities of an already established settlement. The upgrading of the existing public footpath, encouragement of cycling, implementation of the Travel Plan, along with the provision of the extended bus route would provide options for other modes of transport other than the car. The development would benefit from the WMDS, for which there is already some commitment, safeguarding highway safety with resultant future traffic flows being appropriately dealt with.
331. The proposal would represent good quality development presenting an opportunity to enhance the ecology and biodiversity of the adjacent Long Plantation, as well as establishing a community park whilst respecting the character of the wider countryside. At present the appeal site offers only limited recreational value, access being restricted to the public footpath crossing the site from Mere Lane. The Park would include public access open space, equipped children's play space, formalised sports pitch, circular foot/cycle way around the site's perimeter. It would be part of the mitigation for the proposed development but would also enhance the landscape environment, whilst maintaining the identity of Edenthorpe. This proposed open space would also be likely used by existing residents of Edenthorpe for recreation purposes enhancing the well-being and enjoyment of life in general.
332. The proposal would contribute to the provision of housing in the Borough, in an area with access to existing services, recognising the significant role the delivery of housing has in the sustainable economic well-being of the Borough, which is one of the specific CS objectives supporting the overall vision as well as in boosting the supply of homes.
333. Based on all the evidence the appeal site is an appropriate site for housing and the illustrative material is convincing that some 600 homes could be acceptably accommodated subject to the mitigation promised and the details required in the planning conditions³⁵¹.
334. Taking into account the limited weight of the specific Development Plan offence, the presumption in favour of sustainable development prevails as the identified harm does not significantly and demonstrably outweigh the benefits of the scheme. Sustainable development is about change for the better. This scheme has been assessed as being sustainable.
335. Even if I had found that the Council had a 5YHLS whether marginal or robust the weight of the benefits of the proposed scheme, taking into account the lack of offence to the Development Plan as a whole, would still have prevailed.

³⁵¹ The offer of the land for the new school was not added into the balance, the benefit being difficult to ascribe weight to and in any case there is no need as the balance has already tipped into a positive position in favour of development without such addition.

Recommendation

336. Consequently it is recommended that planning permission be granted subject to the conditions set out in Annex A below.

Frances Mahoney

Inspector

Annex A – Schedule of recommended conditions

- 1) The development to which this permission relates must be begun not later than whichever is the later of the following dates: -
 - i) The expiration of three years from the date of this permission or
 - ii) The expiration of two years from the final approval of the reserved matters for the first phase (as agreed in Condition 3 (Phasing Plan)).
- 2) Approval of the details of the appearance, landscaping, layout, access and scale for each phase (hereinafter referred to as reserved matters) shall be obtained in writing from the Local Planning Authority before the commencement of any works within a phase to be agreed. Development shall thereafter be implemented in accordance with the approved plans.
- 3) The development and all reserved matters applications shall broadly accord with the following parameters:
 - i) The Parameters Plan (Ref:5428-L-02-Rev P)
 - ii) The point of vehicular access as shown on the Parameters Plan (Ref:5428-L-02-Rev P)
 - iii) A minimum of 12.5ha of public open space including formal and informal play areas
 - iv) A footpath within the site connecting the south western corner of the housing area to Mere Lane
 - v) Key surface drainage infrastructure
 - vi) A temporary construction corridor through the open space to facilitate access for vehicles during the construction process
 - vii) Key areas of the public realm to be the subject of a lighting design strategy taking into account the terms of condition 11.

The above parameters shall be illustrated in a composite Development Framework Plan to be submitted to and approved in writing by the Local Planning Authority prior to the submission of the first Reserved Matters application. The Framework shall include the extent of the phases of development, including the timescales for submission of details, commencement and implementation across the development (the Phasing Plan). The development and all reserved matters shall thereafter broadly accord with the approved Development Framework Plan and the Phasing Plan shall be adhered to during the overall construction period.

- 4) Application for approval of the reserved matters for the first phase of development (as identified in the Phasing Plan approved under Condition 3) must be made not later than the expiration of three years beginning with the date of this permission.
- 5) Prior to the submission of the first Reserved Matters a Design Guide shall be submitted to and approved in writing by the Local Planning Authority. The Design Guide will be applied to all subsequent Reserved Matters submissions for

development. The Guide shall follow the principles established in the Design and Access Statement, dated July 2017 Update and the Development Framework Plan required by Condition 3. The Design Guide shall refer to and reflect the Council's current design guidance and cover the following key detailed design matters:

- a) Movement hierarchy and street types- the network of streets, footpaths and car free routes and how these integrate into existing networks, using street sections and plans to illustrate the hierarchy, including details of the verged and tree lined avenue to be created within the public highway along the principal routes and the footpath connecting the housing to Mere Lane within the site;
 - b) Urban design principles - how the development will create a permeable and secure network of blocks and plots with well-defined, active and enclosed streets and spaces;
 - c) Legibility strategy - how the scheme will be easy to navigate using gateways, views, nodes and landmarks for orientation;
 - d) Residential character areas - the different areas of housing within the site and details of the key characteristics of each zone in terms of layout, scale, siting, appearance, and landscape;
 - e) Architectural appearance, building details and materials- informed by a local character appraisal;
 - f) Open space character areas - the function, appearance and design principles for each key area of open space;
 - g) Vehicle and cycle parking - including details of allocated and visitor parking strategies in line with the Council's parking standards;
 - h) Hard and soft landscape - including street surfacing, junction treatments, street furniture, signage, management and maintenance, + boundary treatments - details of front, side, rear and plot division boundaries for each street type / character area;
 - i) Building for Life Statement - how BFL principles are to be met by the development (applicable to residential areas);
 - j) The layout of the proposed development shall be based on the findings and recommendations of a tree survey in accordance with British Standards Institute 5837 (2012): Trees in relation to design, demolition and construction - Recommendations. The siting and design of the development platform, all proposed buildings, access roads, private drives and parking spaces shall be informed by the tree survey and shall give full regard to the root protection area and future growth of trees taking into account the aspect and topography of the site. The required tree survey shall be submitted to the local planning authority as part of the Design Guide illustrating the design response to the outcome of the survey. The position and proximity of the protected trees within Long Plantation shall be taken into account, accommodated and safeguarded.
- 6) Prior to the commencement of development in each phase (as set out in the Phasing Plan), details of the proposed external materials for the buildings in that phase shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.

- 7) Prior to the commencement of development in each phase (as set out in the Phasing Plan) a scheme for the protection of all retained trees in that phase that complies with section 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the Local Planning Authority. Tree protection shall be implemented on site in accordance with the approved details (including a timetable for implementation) and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment, machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.
- 8) No development shall take place in each phase until a detailed hard and soft landscape scheme to cover the public realm consistent with the Development Framework Plan (condition 3) and the Design Guide (condition 5) including a timetable for implementation and details of future maintenance for that phase has been submitted to and approved in writing by the Local Planning Authority. Hard landscaping details should include; street surfacing materials and materials for drives, footpaths and patios to individual paths. The scheme shall include a soft landscape plan; a schedule providing details of the species, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock – Specification for Trees and Shrubs Part One and planting distances of trees and shrubs; a specification of planting and staking/guying; a timescale of implementation; and details of aftercare for a minimum of 5 years following practical completion of the landscape works. Thereafter the landscape scheme shall be implemented in full accordance with the approved details/timetable and the Local Planning Authority notified in writing within 7 working days to approve practical completion. Any soft landscaping which fails to achieve independence in the landscape or that is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.
- 9) Prior to the submission of any reserved matters application, an archaeological evaluation of the application area will be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this field evaluation stage, a mitigation strategy, including a timetable for implementation, for any further archaeological works and/or preservation in situ shall be submitted to and approved in writing by the local planning authority and then implemented.
- 10) Prior to submission of the first reserved matters application for the development of the site, a site wide drainage plan shall be submitted to and approved in writing by the Local Planning Authority. The drainage plan shall include details of the proposed sequence of development across the entire site,

the extent of the development phases /plots, including reference to the type and extent of development envisaged and include timing information (by reference to any date, the commencement or completion of development of any phase or provision of any element or to any other applicable trigger point) for: -

- a) Strategic foul water drainage features including the points of connection to public sewer, sewerage, pumping stations and any other necessary infrastructure. A pumped discharge of foul water into the public sewer shall not exceed 10 (ten) litres per second in total for the whole development;
- b) Surface water drainage features including SUDS, sewerage and outfalls plus any other necessary infrastructure identified as part of a surface /storm water management plan. Any off-site implications for surface water run-off should be considered. The details shall include:
 - i. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, the points and rates of discharge and the measures taken to prevent pollution of the receiving groundwater and /or surface waters;
 - ii. a timetable for its implementation; and
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime .

The discharge of surface or foul water for each phase shall not commence until the approved scheme for that phase has been implemented in accordance with the approved details. The whole scheme shall be maintained in working order in accordance with the approved management and maintenance plan.

- 11) On the submission of reserved matters for each phase, a lighting design strategy for the public realm within that phase specifically relating to bats shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- likely presence and location of bats based on survey baseline data in relation to the proposed development;
- mitigation measures along with technical specifications to reduce /eliminate the impacts of lighting spill on bats.

The development for that phase shall be carried out in accordance with the approved strategy.

- 12) Prior to the commencement of construction on a phase a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP for each phase shall include:

- + A risk assessment of the potentially damaging construction activities in relation to wildlife and habitats;

- + A method statement for the protection of reptiles and other terrestrial fauna that may be encountered on site;
- + Measures to protect the adjacent Local Wildlife Site, Long Plantation;
- + The use of protective fencing, exclusion barriers and wildlife safety measures;
- + An assessment of the risks posed to groundwater quality during the construction phase, including foundation works;
- + The implementation of mitigation measures designed to protect groundwater;
- + Details of the size and design of any site compounds, including how any potentially polluting materials will be stored to minimise the risk of pollution;
- + Pollution incident management plan.

The development on that phase shall thereafter be constructed in accordance with the approved CEMP.

13) No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved in writing by the Local Planning Authority.

- a) The Phase 1 desktop study, site walkover and initial assessment must be submitted to the Local Planning Authority for approval in writing. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
- b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved in writing by the Local Planning Authority prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the Local Planning Authority for approval in writing.
- c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved in writing by the Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

- d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written prior notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease and the Local Planning Authority notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the Local Planning Authority for approval in writing. The associated works shall not re-commence until the reports have been so approved by the Local Planning Authority.
- e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved in writing by the Local Planning Authority.
- 14) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the Local Planning Authority prior to any soil and soil forming material being brought on to site.
- 15) No development shall take place in each phase until a scheme including an acoustic fence, if deemed necessary, to protect residents in the proposed dwellings in that phase from road traffic noise along the A630 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in line with the recommendations of the noise assessment, reference 14/0085/R01, submitted with the application. All works which form part of the approved scheme shall be completed before occupation of any of the dwellings within that phase, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.
- 16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) The hours of construction operation including any piling activity;
 - ii) Contact details for a nominated person responsible for dealing with any complaints about construction activity;
 - iii) The location of site compounds;
 - iv) The parking of vehicles of site operatives and visitors;
 - v) Loading and unloading of plant and materials;
 - vi) Storage of plant and materials used in constructing the development;
 - vii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) Measures to control noise and the emission of dust and dirt during construction, including wheel washing facilities;
 - ix) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - x) Management and timing of deliveries.
- 17) No phase of development shall commence until a Construction Traffic Management Plan (CTMP) for that phase of development has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction phase. The CTMP shall contain information relating to (but not limited to):
- + Volumes and types of construction vehicles;
 - + Identification of delivery routes;
 - + Identification of agreed access point;
 - + Contractors method for controlling construction traffic and adherence to routes;
 - + Size, route and numbers of abnormal loads;
 - + Swept path analysis (as required);
 - + Construction Period;
 - + Temporary signage;
 - + Measures to control mud and dust being transferred to the public Highway; and
 - + Timing of deliveries.
- 18) Notwithstanding the submitted plans, prior to the commencement of development, drawings illustrating the general arrangements for access and egress and carriageway re-alignment shall be submitted to the Local Planning Authority for approval in writing, and shall include as appropriate:
- 1. A design for a roundabout related to the current arrangements of the A630, suitable to accommodate the whole development hereby permitted and/or,
 - 2. A design for a roundabout suitable to accommodate the whole development hereby permitted on the basis that the A630 is dualled as part of the West Moor Link Dualling scheme.

Such details shall be accompanied by a scheme setting out the timing/timetable and delivery of the proposals and the transition between them, as is necessary to ensure their implementation, removal and replacement or amendment as the case may be, to accommodate the development safely and in accordance with the current or future arrangements for the A630.

No development shall take place until written approval to such details and such delivery scheme has been given by the Local Planning Authority. The development shall be carried out in full accordance with the approved drawings and scheme of delivery.

19) No development shall commence until a scheme of works (including timing relative to dwelling occupation) in accordance with the Highways Statement of Common Ground dated December 2017 prepared by Croft Transport Solutions has been submitted to and approved in writing by the Local Planning Authority to deliver the highways improvement works at the following junctions in general accordance with the associated plans, adjusted where necessary to take into account any works that have already been undertaken. The scheme of works shall then be implemented in accordance with the approved plans and to the approved timings. The junctions and associated plans are as follows:

- *Junction 1 - A630/Hatfield Lane - Plan 22A.*
- *Junction 2 - A630/West Moor Lane/Yorkshire Way - Plan 24.*
- *Junction 4 - Mill Street/Church Street/Nutwell Lane - Plan 28.*
- *Junction 5 - A18 Leger Way/Armthorpe Road - Plan 29.*
- *Junction 6 - A18 Thorne Road/A18 Leger Way/Leger Retail Centre - Plan 25.*
- *Junction 7 - A18 Thorne Road/A630 Wheatley Hall Road/Ogden Road - Plan 20A.*
- *Junction 8 - A630/A18 Thorne Road/Sainsbury's Access - Plan 16A.*

20) Prior to the occupation of the first house in each phase as set out in the Phasing Plan, that part of the site within the phase to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

21) Prior to the occupation of the first dwelling hereby permitted a Travel Plan along with a scheme for its implementation both in the short and long term, as well as the means for monitoring shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be based on the submitted Framework Travel Plan and shall include a timetable for implementation and provision for monitoring and review. All measures contained within the approved Travel Plan shall be implemented in each relevant phase in accordance with the timetable and scheme of monitoring and review.

22) Prior to the commencement of work on a particular identified phase of development (condition 3), details of electric vehicle charging provision, along with a timetable for installation, for the dwellings in that phase shall be submitted

to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Each dwelling in any particular phase shall not be occupied until the approved connection for that dwelling has been installed and is operational. The approved infrastructure shall thereafter be retained.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

John Hunter Of Counsel	Instructed by Karen Winnard Head of Litigation & Regulatory Services
He called	
David Edwards	Principal Planner – Local Plans Team
Tim Goodall	Senior Planning Officer – Development Management
Andy Brown	Senior Strategy and Performance Manager
Cristina Howick	Partner of Peter Brett Associates LLP

FOR EDENTHORPE PARISH COUNCIL – RULE 6 PARTY:

Andrew Wood	CPRE Planning Officer (Mr Wood also appeared as an expert witness)
He called	
Paul Bissett	Chairman of the Edenthorpe Parish Council

FOR THE APPELLANT:

Richard Sagar	Partner Walker Morris LLP Solicitors
He called	
Phil Rech BA, B Phil LD CMLII	Director FPCR Environment and Design Limited
Brett Coles BA (Hons) DipLA DipTP MRTPI MLA	Director FPCR Environment and Design Limited (Appeared as a substitute for Mr Rech in January 2018)
Mike Palmer MSc PhD MISoilSci	Director Land Research Associates Limited
Phil Wooliscroft MSc	Director Croft Transport Solutions
Fiona Braithwaite MA (Hons)	Senior Housing Consultant - Lichfields
Michael Hepburn BA	Senior Director Lichfields

(Hons) MTP MRTPI

INTERESTED PERSONS:

Paul Bissett	Local Resident
Dr M Griffiths	Local Resident
Patrica Cooney	Local Resident
Fredrick Gee	Local Resident
Cllr David Nevett	Member for Edenthorpe and Kirk Sandall
Cllr Andrea Robinson	Member for Edenthorpe and Kirk Sandall

INQUIRY DOCUMENTS PRESENTED AT THE INQUIRY

Document Number	Document Title
1	Inquiry Note – Access as a Reserved Matter and Submission of Alternative Plans
2	Opening Remarks on behalf of the Local Planning Authority
3	Opening Statement to the Public Inquiry Edenthorpe Parish Council
4	Appellant’s Opening Submissions
5	Armthorpe Neighbourhood Development Plan – Submission Version 30 August 2017
6	Statement of Paul Bissett
7	Statement of Patricia Cooney
8	Statement of Cllr David Nevett
9	R(oao Skipton Properties Limited) and Craven District Council – [2017] EWHC 534 (Admin) case no CO/5521/2016
10	Statement of Dr M Griffiths
11	Statement of Cllr Andrea Robinson
12	Statement of Frederick Gee
13	Doncaster Borough Council and Secretary of State for Communities and Local Government and Faith Homes Limited CO/3836/2017 - Acknowledgement of Service, Second Defendant’s Summary Grounds
14	Agricultural Land Classification Note – September 2017
15	Doncaster Borough Council and Secretary of State for Communities and Local Government and Faith Homes Limited CO/3836/2017 Acknowledgement of Service, Second Defendant’s Summary Grounds of Resistance
16	Edenthorpe – We remember when it was “Our Little Garden of Eden”
17	The History of Edenthorpe – A Pictorial History by Peter J Ramsden
18	Certified copy of S106 agreement
19	Draft Unilateral Undertaking
20	Update note on landscape & urban design matters + details of Brett Coles
21	Update note – agricultural land Palmer
22	Update Howick Evidence - Doncaster job change

23	Hepburn Evidence Update
24	Note of David Edwards and Tim Goodall in response to additional submissions of appellant
25	Highways Statement of Common Ground Hallam Land Management and Doncaster Metropolitan Borough Council – December 2017
26	Weight to be given to various appeal decisions
27	Rule 6 response to the Statement of Common Ground Highways
28	Planning for the right homes in the right places: consultation proposals
29	The Queen on the application of Wynn-Williams v Secretary of State for Communities and Local Government [2014] EWHC 3374 (Admin) CO/781/2014
29A	Ekosgen Sheffield City Region Integrated Infrastructure Plan
30	Planning obligations – CIL Compliance Statement
31	Summary of S106 Agreement
32	Draft conditions
33	Original Unilateral Undertaking dated 12 January 2018
34	Council's Closing Submissions
35	Edenthorpe Parish Council's Closing Submissions
36	Appellant company's Closing Submission
37	Submissions on the effect of the Revised National Planning Policy Framework – Edenthorpe Parish Council dated 9 August 2018
38	Submissions on the effect of the Revised National Planning Policy Framework – Council dated 9 August 2018
39	Submissions on the effect of the Revised National Planning Policy Framework – Appellant Company dated 10 August 2018
40	Appellant Company response to Council's submissions dated 9 August 2018
41	Council's response to appellant company submissions dated 10 August 2018
42	Appellant Company's final comments

Inquiry Plans

A	Green Wedge Plan – extract from Core Strategy
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Appeal Decision

Site visit made on 10 January 2019

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 30 January 2019

Appeal Ref: APP/F4410/W/18/3213957

Cherry Tree Farm, Stone Hill, Hatfield Woodhouse, Doncaster DN7 6NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Marsh against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 18/00794/OUT, dated 26 March 2018, was refused by notice dated 12 September 2018.
 - The development proposed is to create a dwelling from an existing barn on the main road.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with all matters reserved for future consideration.
3. There is a discrepancy in size and shape between the extent of the red line on the location plan and the site plan submitted with the application. The site plan is a larger scale and contains more detail including identifying the intended access point. I have taken this to be the accurate delineation of the appeal site and determined this appeal accordingly.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the area, with particular regard to development in the countryside; and
 - b) protected species.

Reasons

Character and Appearance

5. The appeal site comprises a small parcel of land containing a barn located roughly centrally in the plot and part of a second, larger outbuilding located along the northern boundary. The site is accessed from the A614 Stonehill and is part of a thinly spread cluster of residential, commercial and farm buildings.

The area is a kilometre or so from the centre of the nearest village of Hatfield Woodhouse and is located in the open countryside.

6. The barn is constructed from a mix of red brick and corrugated metal walls with red clay pantiles and a corrugated roofing material. There are three wooden doors into the building on the northern elevation providing access to separate areas of the building. There is a metal up-and-over garage door at the western end which has been hinged to open conventionally. The eastern end of the building, which fronts the highway, is partly red brick and partly corrugated metal and has a single window overlooking the street. The building is in a poor state of repair with missing roof tiles and a rubble floor.
7. Notwithstanding the description of the scheme in the application form, from the evidence before me it is apparent that the proposal is for the demolition of the existing barn and the construction of a dwelling. Although the proposal is in outline the site plan indicates that an existing access to the plot would be used and that part of the outbuilding on the northern edge of the site would be retained as a workshop for the new dwelling.
8. The building is clearly agricultural in character and while it is in a state of disrepair it is not an intrusive structure. Any replacement dwelling would likely be considerably larger and would introduce a much greater built form into the open countryside together with domestic paraphernalia such as garden furniture or drying laundry. A dwelling in such a location would have a detrimental impact on the character and appearance of the area by encroachment into the countryside. While there are dwellings either side of the barn, it is not in a settlement and would not satisfy the criteria for infill development.
9. Therefore, the proposal would not accord with Policies CS2 and CS3 of the Doncaster Council Core Strategy 2012 (the Core Strategy) and Saved Policies ENV2 and ENV4 of the Doncaster Unitary Development Plan 1998, which seek to ensure that developments protect and enhance the countryside and safeguard it from encroachment and also seek to limit development to infilling within settlements, the re-use of buildings or replacement of existing dwellings.

Protected Species

10. The interior structure of the barn comprises spaces separated by timber walls and exposed roof beams supporting the pan tiles. At the time of my site visit only one space was clearly visible, but a second space was partially open as the internal timber wall was complete only to the inner level of the eaves. Numerous gaps in the tiles and spaces between tiles and timber could provide access to small birds and mammals. There was evidence on the rubble floor of stray feathers though it was not possible to determine whether these would have been from roosting birds. The furthest reaches of the barn were not visible to the naked eye.
11. I take a precautionary approach to the potential impact of the scheme on protected species. There is clear evidence of some animal use of the barns and the Council has raised the possibility of protected species on the site. The dilapidated state of the barn certainly provides roosting potential for bats or birds, or spaces for small ground mammals. In the absence of any survey or investigation identifying the likely potential for protected species and mitigation

measures, the proposed development could potentially destroy an important wildlife refuge or habitat.

12. Therefore, the proposal would not accord with Policy CS16 of the Core Strategy and the advice in paragraph 175 of the National Planning Policy Framework, which seek to protect and enhance the natural environment and avoid any negative impact on wildlife.

Other Matters

13. The proposed dwelling is described as being for use and occupation by the existing owners of the adjacent farm as they step back from running the business. While the personal circumstances of the appellant and members of his family are material considerations they attracted limited weight and would not overcome the conclusions on the main issues.
14. While not a reason for refusal, the Council does deal in evidence with the lack of facilities in the area and the need to travel to access services. The site is connected by footpath to the nearest villages but these are some distance away and the facilities in the nearest village at Hatfield Woodhouse are relatively limited. The greater access to services in Hatfield would necessitate crossing the busy A18. The distances involved and the relative volumes of traffic would make either journey unattractive for pedestrians and cyclists, especially in inclement weather, leading to a greater likelihood of journeys by private vehicles. While there appear to be bus services the evidence before me is that these are infrequent. The advice in the Framework seeks to lower the reliance on private vehicle journeys and would therefore conflict with the proposed development.
15. The appellant has referred to an approved development¹ in Hatfield for 211 dwellings and that scheme's impact on the countryside. However, Hatfield is a village with significant services and the scheme provides affordable housing and open space. The distance from the appeal site, the location within a settlement and the additional material factors mean that the schemes are not comparable and I therefore attach little weight to this argument.

Conclusion

16. For the reasons given and taking account of all other material considerations, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR

¹ 16/00998/OUTM

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Appeal Decision

Site visit made on 8 January 2019

by Kate Mansell BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2019

Appeal Ref: APP/F4410/W/18/3214965

66 Crookes Broom Lane, Hatfield, Doncaster, DN7 6LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Bibby against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 18/02123/FUL, dated 23 August 2018, was refused by notice dated 18 October 2018.
 - The development proposed is the erection of a dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the development would provide acceptable living conditions for future occupiers with regard to the provision of sufficient garden space, and the effect of the development on the living conditions of neighbouring occupiers having regard to light and outlook; and
 - The effect of the proposal on highway safety as a result of the proposed parking arrangement.

Reasons

Character and appearance

3. Crookes Broom Lane forms part of a post-War housing estate with a mix of house types and styles. The building line is generally consistent and dwellings are laid out with good size gardens to the front and rear. Milcroft Crescent, onto which the appeal proposal would face, is a street of consistently spaced two-storey dwellings, set back from the road behind a front garden with generous gaps between them.
4. The appeal site would originally have been part of the rear garden of 66 Crookes Broom Lane, a two storey semi on the corner with Milcroft Crescent. On my site visit I saw that a large two storey rear and side extension¹ was

¹ Council ref: 18/01231/FUL

being constructed at No 66. I also saw that a fence had been erected, subdividing the garden of No 66 from the appeal site. The appeal proposal would introduce a detached dormer bungalow within this plot. It would have one bedroom with an attached dressing room. A previous application for a dwelling on this site was also refused by the Council².

5. Comparable with other corner properties within the vicinity of the appeal site, prior to the erection of the fence noted above, No 66 would have had a long rear garden. This would provide separation to the dwellings to the rear on the adjacent street. On my site visit I noted similar relationships on corner properties, not least on the opposite corner, between 62 Crookes Brook Lane and No 2 Milcroft Crescent. In my view, this contributes to the character of the estate. As a result of sub-dividing the garden of No 66 to create the appeal plot, the generous spacing between the rear elevation of No 66 and the flank elevation of 1 Milcroft Crescent would be lost. I therefore find the erosion of this gap between dwellings to be contrary to the established layout and character of the area.
6. The appeal proposal would also sit tightly within the site, being between approximately 1m from each side boundary and approximately 1m at the closest point to the rear boundary. In contrast, the prevailing character of houses surrounding the site are dwellings that are spaciouly set out, particularly those on Milcroft Crescent with a typically wide gap between the flank elevation and side boundary and long rear gardens. The proposal would also sit forward of the very uniform building line on Milcroft Crescent, which would increase its prominence. In this context, I consider that the dwelling would appear crammed onto this constrained site and fail to assimilate sufficiently with the surroundings.
7. The proposal would therefore result in harm to the character and appearance of the area contrary to Policies CS1 and CS14 of the Doncaster Council Core Strategy (CS) 2011-2018 and saved Policy PH11 of the Doncaster Unitary Development Plan (1998) (UDP). These policies require development to be of a high quality contributing to local distinctiveness, that also protects and enhances the built environment and the character of the surrounding area.

Living Conditions

8. The Council's Development Guidance and Requirements Supplementary Planning Document (Development Guidance SPD) establishes amenity space standards for two and three bedroomed properties, being 50m² and 60m² respectively. I note the Council's statement also refers to the failure of the proposal to provide 60m² of un-shaded private amenity space. However, the appeal proposal would be a one bedroom bungalow and provision for this size is not specifically highlighted within the SPD.
9. Nevertheless, the Development Guidance SPD recognises that gardens provide many health, social and physical benefits as well as providing space for drying clothes for example. The site block plan indicates that the entire area around the proposed dwelling would be hard surfaced. Furthermore, the building would sit in very close proximity to the rear and side boundaries and this area around the house would partly be north facing and shaded. The area to the front of the

² Council ref: 18/00874/FUL

house would not be private, screened from the street by a low wall. Consequently, even if the internal accommodation layout were satisfactory, the proposal would provide extremely limited opportunities for future residents to sit out within a private area or hang washing for example. Even as a relatively small bungalow, I consider that it would be inadequate. The proposed development would therefore fail to provide sufficient garden space.

10. Given the commencement of the two-storey side and rear extension to No 66, the Council's officer report states that the distance between the rear elevation of that extension and the proposed dwelling would be 3m, significantly below the guidance stipulating that new properties should be sited 11m apart. I appreciate that the proposal would be a dormer bungalow, but the plan titled 'floor plans and perspective illustrates the proportion of the proposal that would be visible above the fence line from the rear of No 66, which is not insignificant. I note the appellant's statement that they followed advice with regard to the design of the dwelling. Nonetheless, at such close proximity and given the orientation of the proposed dwelling, broadly to the east of No 66, the proposal would result in loss of light and outlook to this neighbouring occupier. I am not, however, convinced that it would be harmful to the living conditions of the occupiers of No 68 Crookes Broom Lane. Whilst the proposal would be 4.4 metres from their nearest rear elevation, it would be at an oblique angle and not directly to the rear.
11. Nevertheless, for the reasons above, I conclude that the proposed development would not provide acceptable living conditions for future occupiers of the proposal and it would also be harmful to the living conditions of the neighbouring occupiers at No 66. It would therefore conflict with Policies CS1 and CS14 of the Doncaster Council CS and saved Policy PH11 of the Doncaster UDP. These policies seek to protect local living conditions by ensuring no unacceptable negative effects upon the amenity of neighbouring occupiers. It would further conflict with the National Planning Policy Framework (the Framework) which requires a high standard of amenity for all existing and future users of development.

Highway safety

12. To the front of the proposed dwelling, two spaces would be provided for car parking accessed from Milcroft Crescent. The Council considers that these spaces are not workable according to adopted standards, being positioned tightly to the front entrance of the dwelling and close to each other with little room to open car doors.
13. I note that the Development Guidance SPD sets out a parking standard only for 2+ bed dwellings, the minimum being 1.5 spaces for a 2 bed unit. The proposal would be a 1 bedroom dwelling and I consider that there would be space that would be sufficiently functional to park at least one vehicle on the driveway. This would be a greater provision than the recently extended house at No 66 Crookes Broom Lane, which will have 4 bedrooms upon completion of the extension and no off-street car parking.
14. At the time of my site visit, I also noted that Milcroft Crescent was quiet in relation to traffic movements. I saw that many houses on Milcroft Crescent within the immediate vicinity of the appeal site had the opportunity for off-street parking. Spaces were readily available on-street, albeit I recognise that I visited during the day when parking pressure might be less. Nevertheless, for

these reasons, I am minded to concur with the appellant that there would be room for occasional parking on the street if this was necessary, not least for visitors.

15. Given that the Council also acknowledge that one additional dwelling would not significantly increase traffic levels in the area, on the basis of the information before me, I am not convinced that the access and parking area would function so unsatisfactorily to the extent that it would fail to protect highway safety. I therefore find that the proposal would accord with Policy CS14 of the Doncaster Council CS and saved Policy PH11 of the Doncaster UDP. These policies promote development that works functionally to make a positive contribution to the quality and safety of the highway and would not result in unsatisfactory access arrangements.

Conclusion

16. The appeal site lies within an established residential area where the principle of the development is acceptable. Additionally, the Government seeks to boost significantly the supply of housing. However, having considered all matters, whilst I regard the parking and access to be sufficient, I consider that the harm the proposal would cause to the character and appearance of the area and the living conditions of the occupiers of No 66, as set out above, outweighs the benefits of providing one new dwelling.
17. For these reasons, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR

By virtue of paragraph(s) 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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