



Ministry of Housing,  
Communities &  
Local Government

Our ref: APP/W4705/V/18/3208020

Your ref: -

Chris Darley  
Lichfields  
15 St Paul's Street  
Leeds  
LS1 2JG

5 November 2019

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY CEG LAND PROMOTIONS LTD  
LAND TO THE WEST OF BURLEY-IN-WHARFDALE AT SUN LANE AND ILKLEY ROAD  
APPLICATION REF: 16/07870/MAO**

1. I am directed by the Secretary of State to say that consideration has been given to the report of David Wildsmith BSc (Hons) Msc CEng MICE FCIHT MRTPI, who held a public local inquiry between 14 and 23 May 2019 into your client's application for planning permission for demolition of the existing building, and outline planning permission (all matters reserved other than points of vehicular access into the site) for residential development (Use Class C3); education facility (Use Class D1); public spaces; landscaping; car/cycle parking; access routes within the site; drainage and other associated works, in accordance with application ref: 16/07870/MAO, dated 27 September 2016.
2. On 25 July 2018, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority.

**Inspector's recommendation and summary of the decision**

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

**Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental

Impact Assessment) Regulations 2011 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR8, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal. He addresses the issue of the Habits Regulation Assessment at paragraphs 29-31 of this decision letter

### **Procedural matters**

6. The City of Bradford is in the process of revising their Core Strategy, and consulted on the Core Strategy Partial Review from 30 July 2019 to 24 September 2019. However, due to the early stage of this process, the Secretary of State does not consider that this consultation document raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

### **Policy and statutory considerations**

7. 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.
8. In this case the development plan consists of the Bradford Local Plan Core Strategy (LPCS), adopted July 2017, saved policies of the Bradford Replacement Unitary Development Plan (RUDP), adopted October 2005, and the Burley-in-Wharfedale Neighbourhood Plan (NP), made May 2018. The Secretary of State considers that relevant development plan policies include those set out at IR27-36.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Supplementary Planning Documents (SPDs) set out at IR37. The revised National Planning Policy Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.

### *Emerging plan*

10. The emerging plan comprises the Core Strategy Partial Review, which was consulted on from July to September 2019. There is also a forthcoming site allocations document, which has yet to be published or consulted on. Both documents are currently forecast to reach Publication Draft stage in January 2020, with adoption coming no earlier than 2022. 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. Due to the very early stage of both of these documents, the Secretary of State considers they carry very little weight in the decision-making process.

### **Main issues**

11. The Secretary of State considers the main issues in this application to be those set out at IR493.

## *Green Belt*

12. The Secretary of State notes that this site is currently designated as Green Belt, and that it is common ground between the parties that the proposal would represent inappropriate development in the Green Belt, and that, given the site's current undeveloped state would have an adverse impact on openness (IR501). He notes that RUDP policy GB1 presumes against development in the Green Belt except where very special circumstances can be demonstrated (IR503), and agrees that, despite out of date Green Belt boundaries, this is still in line with the Framework and carries weight. In line with the Framework, the Secretary of State considers this harm carries substantial weight against the proposal. He has gone on to consider other matters, including conflicts with the purpose served by Green Belt, in order to determine whether the very special circumstances exist to clearly outweigh this harm.
13. He has carefully considered the Inspector's assessment of policies in both the Framework (IR497-501) and the development plan (IR 502-506) on the review of Green Belt boundaries. He notes that LPCS policy SC7 sets out that the Council's resolved position that delivering the LPCS' goals for housing and employment growth will require the release of Green Belt land (IR503), and that this will be done through a selective review of boundaries in locations that would not undermine the strategic function of the Green Belt, and would help deliver the core policies and strategic patterns of development set out in LPCS SC4 and SC5 (IR504). The Secretary of State notes that the selective review of Green belt boundaries envisaged in LPCS policy SC7 will be undertaken through the Land Allocations Development Plan Document, which at the time of this decision has yet to be published. However, the Secretary of State has found in paragraphs 17 to 19 of this Decision Letter that development of the site before him, by conflicting with three of the five purposes served by Green Belt, would undermine the strategic function of Green Belt within the Leeds City Region. He therefore concludes, contrary to the Inspector, that the application proposal conflicts with LPCS policy SC7.
14. He notes at IR504 that LPCS SC5 sets out that the Council will allocate sites through a Land Allocations document. While this has not yet been published for consultation (see paragraph 10 of this Decision Letter), the methodology for how this will be done is established through LPCS SC5, which sets out that re-use of previously developed land and buildings will be given first priority, followed by greenfield opportunities within settlements, and then third priority to Green Belt release in built-up areas in sustainable locations. He also notes that supporting text to SC7 states that Green Belt land will be necessary to accommodate around 11,000 of the 42,100 new homes in the LPCS plan period (IR505).
15. For these reasons, the Secretary of State agrees with the Inspector at IR505, that the Council has given full and careful consideration of the options available to them for meeting their housing need, and that brownfield, greenfield and Green Belt land will all be required to achieve the Plan's goals.
16. He has gone on to consider the Inspector's analysis of where this need will be met (IR507-508;IR514) within the District. He notes that Burley-in-Wharfedale is designated as a Local Growth Centre, a third-tier settlement in the hierarchy outlined at LPCS policies HO3 and EC3 (IR507). He notes that these are considered to be the most sustainable local centres, accessible to the higher order settlements via key road and public transport corridors, and consequently they are expected to make significant contribution to meeting housing and employment need in the wider district (IR508). He notes that these policies set out that Burley-in-Wharfedale is expected to accommodate 700 new dwellings, through the

redevelopment of sites within the settlement and a significant contribution from Green Belt changes (IR510). He further notes that the NP contains no restriction on large scale development to address this housing need (IR513).

17. The Secretary of State has gone on to consider the specific impacts of this proposal on the purposes of the Green Belt. While he notes that it is common ground between the applicant and the LPA that this proposal could be accommodated within this part of the Green Belt whilst maintaining the integrity of the wider Green Belt, and the functions of the Green Belt between Burley-in-Wharfedale and Ilkley (IR515), the Secretary of State disagrees with this view. In his opinion, the proposal would conflict with the purposes of the Green Belt as set out in the Framework, by virtue of merging the built edge of Burley-in-Wharfedale with the Manor Park development to the north of the A65.
18. While the Secretary of State agrees with the Inspector at IR539 in respect of landscape and visual matters that the site is well-located to accommodate these effects, he does not agree that the topography of land to the west of the site, along with the proposals for a new buffer to the site's western and south-western boundaries, would create a defensible boundary to the Green Belt. He finds that the proposal would lead to both encroachment into the countryside, and would result in the sprawl of the Burley-in-Wharfedale built up area, both of which would conflict with Green Belt purposes as set out in the Framework.
19. For these reasons, the Secretary of State disagrees with the Inspector (IR515) that the development could be accommodated within this part of the Green Belt whilst maintaining the integrity of the wider Green Belt and the purposes and functions of the Green Belt lying between Burley-in-Wharfedale and Ilkley. He therefore further disagrees with the Inspector at IR515, and concludes that the exceptional circumstances required to release Green Belt land within Bradford district, in Burley-in-Wharfedale, and on this site in particular do not exist, nor do very special circumstances exist, needed to justify this development in the Green Belt.

#### *Delivery of housing*

20. The Secretary of State notes that the policy HO1 in the LPCS sets a target of providing for the development of 42,100 homes across the plan period of 2013-2030, and that policy HO3 in the LPCS allocates 700 of these to Burley-in-Wharfedale (IR30). He notes that the proposal would provide 500 homes, including 30% affordable.
21. He has carefully considered the arguments around the potential for a reduction in housing need, as proposed in the Core Strategy Partial Review document published in July 2019 and considered by the Inspector's analysis of this issue at IR519-524. He agrees with the Inspector (IR520 and IR524) that, as the LPCS was adopted less than five years ago and because of the early stage that the revised LPCS is at (as stated at paragraph 10 of this Decision Letter), the figures in the adopted LPCS are the ones that should be used in determination of this application.
22. The Secretary of State has carefully considered the Inspector's analysis of the local authority's ability to demonstrate a five-year supply of housing land (IR525-529) and agrees that it is likely to be lower than 2 years (IR529). For this reason, he considers that the presumption in favour of sustainable development, as outlined at Paragraph 11 of the Framework, would be engaged in determination of this application.
23. For these reasons, he agrees with the Inspector (IR530) that very substantial weight should be given to the provision of 500 new homes.

*Impact on local character and appearance*

24. The Secretary of State has carefully considered the Inspector's analysis at IR535-547 of the proposal's impact on local character, including on the nearby Nidderdale Area of Outstanding Natural Beauty (AONB), and on several local Landscape Character Types (LCT).
25. He notes that the application was accompanied by a Landscape and Visual Impact Assessment, which the Inspector considered to be "comprehensive" (IR536), and which satisfied the concerns of the relevant internal and external consultees (IR537).
26. The Secretary of State notes at IR538 that, because of the location, scale and massing of the existing vegetation on the site, the proposal would not generally be visible from the surrounding landscape, and that the impact on the Wharfedale Enclosed Pasture LCT and the Wharfedale Floodplain Pasture LCT would be only slightly adverse and moderately adverse respectively at year 1. He also notes that impact on both would reduce in the longer term as the site is built out, due to additional landscape and visual mitigation measures in the proposal.
27. The Nidderdale AONB lies around 230m of the site at the closest point (IR540). The Secretary of State notes that the Inspector's site visits showed (IR541), from a number of local public vantage points, that the site is largely screened by intervening vegetation, and that, where the site would be visible, it would be seen as part of a landscape already characterised by built form and thus would not be out of setting. He also notes that, similar to the impact on the LCTs, this lessens over time as the additional vegetation and landscaping in the proposal is delivered.
28. For these reasons, he agrees with the Inspector that the proposed development would not result in harm to the special qualities of the AONB (IR542) and more broadly would extend the built-up area of Burley-in-Wharfedale but would not dominate the view when seen in context of the existing built form.

*Impact on ecology and the nature conservation*

29. The Secretary of State notes that there are four European protected sites in proximity to the proposal, the South Pennine Moors SAC, the South Pennine Moors Phase 2 SPA, and the North Pennine Moors SPA and SAC (IR553). As the competent authority for this application, the Secretary of State has reviewed the sHRA produced by the applicant, and is satisfied it meets the requirements of Regulation 63 of the 2017 Regulations.
30. The Secretary of State notes that the applicant's ecological work has been reviewed and scrutinised by ecological officers from both the local authority and Natural England (IR550), and that it is an agreed matter between all parties that the proposed enhancements, proposed mitigation measures and the proposed layout of the development would give rise to an overall positive effect on biodiversity (IR552).
31. For these reasons, the Secretary of State agrees with the Inspector at IR557 that the proposal would have no adverse impacts on matters of ecological or nature conservation, would deliver a net benefit for biodiversity, and therefore complies with the relevant parts of LPCS policies EN2 and WD1. He therefore agrees with the Inspector at IR552 that great weight should be attached to the net gain for biodiversity.

*Impact on heritage assets*

32. The Secretary of State agrees with the Inspector at IR558 that the main considerations regarding heritage assets are the impact of the development on the Black Bull Farmhouse and associated outbuilding, both of which are Grade II-listed and lie just outside the site, and on the Burley-in-Wharfedale conservation area (CA). He has also considered the impact of the proposal on the Roman Temporary Camp (RTC) (IR565) that was discovered during survey work, and agrees with the applicant and Historic England that this should be treated as being of equivalent significance to a scheduled monument, and therefore subject to policies for designated assets.
33. The Secretary of State has carefully considered the Inspector's analysis of the impact of the proposal on the Burley-in-Wharfedale CA at IR560-561. He notes that the site is physically and functionally separate from the CA, and that views of the site from the CA would be restricted by topography, existing modern development, and existing vegetation. For these reasons, he agrees with the Inspector that there would be no detrimental impact on the character or appearance of the conservation area.
34. The Secretary of State has carefully considered the Inspector's analysis of the impact of the proposal on the Grade II-listed buildings at IR562-563. He notes that they have a defined and enclosed nature, and agrees there would be no harm to their special character or immediate setting (IR562). He notes that there would be some harm to the wider rural setting of these buildings, albeit lessened by the proposed buffer zone, and agrees that overall this level of harm to the significance of the buildings would be less than substantial (IR563).
35. He has gone on to consider the Inspector's analysis at IR564 on whether, in accordance with paragraph 196 of the Framework, the public benefits of the development would outweigh this harm. He agrees with the Inspector that, as the proposed development is laid out in such a way as to minimise harm, and as provision of market and affordable housing attracts very substantial weight (IR530-531), the public benefits of the proposal would outweigh the less than substantial harm to the buildings' setting.
36. The Secretary of State has carefully considered the Inspector's analysis of the proposal's impact on the RTC (IR566), which as stated in paragraph 32 of this Decision Letter is to be treated as having equivalent significance to a scheduled monument. He agrees with the Inspector that the harm from construction of the school, housing and access roads, and the subsequent reduction of its rural setting, would be less than substantial.
37. He has gone on to consider the benefits the proposal offers to the RTC (IR567-568;572), and notes that planning conditions ensure it would be further revealed, incorporated into the development in an appropriate fashion, utilised in an educational fashion, and conserved in the long-term. For these reasons, the Secretary of State agrees with the Inspector that there are significant heritage benefits to the proposal that would outweigh the harm to the RTC's setting.
38. For the reasons given above, the Secretary of State agrees with the Inspector that, although the proposal has limited impacts on both designated and non-designated heritage assets, in the balance it offers significant public benefits that would outweigh the associated harm, complying with LPCS policy H3 covering heritage (IR575) and attracting very significant weight in favour of the proposal.

### *The effect of the proposal on local facilities such as education and health care*

39. The Secretary of State has carefully considered the Inspector's analysis of the effect of the proposal on local facilities such as education and health care (IR589-601). He notes both primary schools are over-subscribed (IR592), that no evidence was submitted to suggest that either of the two existing schools in the village had either plans or capacity to expand, and that existing capacity is geographically unbalanced, with both primary schools on the eastern side of the settlement (IR591). He agrees with the Inspector (IR592-593) that, as Burley-in-Wharfedale is designated a Local Growth Centre in the LPCS and will need to accommodate growth, there will be a rise in educational demand. He notes that no other site has been identified that could accommodate a school (IR593). For these reasons, the Secretary of State agrees with the Inspector that the provision of a new school, and the improvements this would offer to the local provision of primary education, carries significant weight in favour of the proposal.
40. The Secretary of State notes that existing doctors and dentists within the area have spare capacity (IR598). For this reason, he agrees with the Inspector at IR600 that the proposal would not have a materially adverse impact on the provision of these services.
41. For these reasons, the Secretary of State agrees with the Inspector at IR601 that, concerning these issues, the proposal accords with the relevant policies in the LPCS and the NP.

### *Other issues*

42. The Secretary of State has carefully considered the Inspector's analysis of the potential flood risk of the proposal (IR576-588), and for the reasons given there, agrees that the proposal would not give rise to any material problems in flood risk and drainage terms.
43. The Secretary of State has also carefully considered the Inspector's analysis of the impact on traffic, transport, parking and safety at IR602-622. For the reasons given there, he agrees with the Inspector that there is no conflict with the relevant development plan policies, and that there would be no severe cumulative impacts on the local road network.

### **Planning conditions**

44. The Secretary of State has given consideration to the Inspector's analysis at IR647-648, the recommended conditions set out at the end 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. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing planning permission.

### **Planning obligations**

45. Having had regard to the Inspector's analysis at IR642-646, the planning obligation dated 23 May 2019, 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 IR646 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for refusing planning permission.

## **Planning balance and overall conclusion**

46. For the reasons given above, the Secretary of State considers that the application is not in accordance with both RUDP Policy GB1 and LPCS policy SC7, by virtue of being inappropriate development, and by conflicting with the purposes served by Green Belt. He finds that the proposal is in accordance with LPCS policies HO3 and EC3 of the development plan. Overall, the Secretary of State considers that the application 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.
47. As the local authority is unable to demonstrate a five-year supply of housing land, 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.
48. The proposal is inappropriate development in the Green Belt, and this harm carries substantial weight against the proposal. In addition, the Secretary of State has found that the proposal conflicts with three of the five purposes of Green Belt as set out in the framework, and this additional harm also attracts substantial weight against the proposal.
49. The proposal would help to deliver the goals of a recently adopted plan, which attracts very significant weight. It would deliver a substantial number of new market and affordable homes in an authority that has a historic under-delivery of housing, which attracts very substantial weight. It would provide a site for a new primary school, which attracts significant weight. There would be net benefits for biodiversity, which attracts significant weight, and heritage, which attracts very significant weight,
50. The Secretary of State has carefully weighed the various benefits and harms he has identified above. The Secretary of State considers that the above benefits do not outweigh the harm to the Green Belt by reason of inappropriateness and the further harm arising from conflict with three of the five purposes of the Green Belt. He has concluded that the very special circumstances needed to justify this development do not exist.
51. As the Secretary of State has concluded that the application of protective policies in relation to the Green Belt in the Framework provide a clear reason for refusing the development proposed, the first limb of the presumption in favour of sustainable development has not been met, and therefore there is no need to consider the application of paragraph 11(d)(ii) of the Framework.
52. The Secretary of State has gone on to consider whether there are any material considerations that indicate a decision should be taken other than in accordance with the development plan. He concludes that there are no such considerations, and that planning permission should be refused.

## **Formal decision**

53. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby refuses planning permission for the demolition of the existing building, and outline planning permission (all matters reserved other than points



of vehicular access into the site) for residential development (Use Class C3); education facility (Use Class D1); public spaces; landscaping; car/cycle parking; access routes within the site; drainage and other associated works.

### **Right to challenge the decision**

54. 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.
55. 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.
56. A copy of this letter has been sent to The City of Bradford Metropolitan District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Andrew Lynch*

Andrew Lynch  
Authorised by the Secretary of State to sign in that behalf

## SCHEDULE OF REPRESENTATIONS

### General representations

<b>Party</b>	<b>Date</b>
Richard Askham	22 October 2019
Richard Askham	22 October 2019
Richard Askham	13 September 2019
Richard Askham	2 August 2019
Philip Davies MP	18 July 2019
Philip Davies MP	1 July 2019
Naomi Burns	25 June 2019
Richard Askham	24 June 2019
Philip Davies MP	12 June 2019
Sonia Johar	29 May 2019
Philippa Duggan-Carter	25 May 2019
Richard Askham	24 May 2019
Peter Bryson	21 May 2019
Philip Davies MP	14 May 2019
Philip Davies MP	13 May 2019

### Representations received in response to notification of the delay in issuing the decision

<b>Party</b>	<b>Date</b>
Karl Lavery	17 October 2019
Christopher Darley, Lichfields	17 October 2019



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

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**  
an Inspector appointed by the Secretary of State

**Date: 18 July 2019**

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**  
**APPLICATION BY**  
**CEG LAND PROMOTIONS LTD**

Inquiry Opened on 14 May 2019

Land to the west of Burley-in-Wharfedale at Sun Lane and Ilkley Road

File Ref: APP/W4705/V/18/3208020



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**File Ref: APP/W4705/V/18/3208020**

**Land at Sun Lane and Ilkley Road, Burley-in-Wharfedale**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 25 July 2018.
- The application is made by CEG Land Promotions Ltd to the City of Bradford Metropolitan District Council.
- The application Ref 16/07870/MAO is dated 27 September 2016.
- The development proposed is demolition of the existing building, and outline planning permission (all matters reserved other than points of vehicular access into the site) for residential development (Use Class C3); education facility (Use Class D1); public spaces; landscaping; car/cycle parking; access routes within the site; drainage and other associated works.
- The reason given for making the direction was in consideration of the Secretary of State's policy on calling in planning applications.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application: (i) policies in the National Planning Policy Framework on protecting Green Belt; (ii) policies in the National Planning Policy Framework on delivering a wide choice of high quality homes; (iii) the extent to which the proposed development is consistent with the development plan for the area; and (iv) any other matters the Inspector considers relevant.
- The inquiry sat for 6 days on 14 to 17, 21 & 23 May 2019.

**Summary of Recommendation: The application be approved, and planning permission granted, subject to conditions.**

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**Procedural Matters**

1. The inquiry considered an application made by CEG Land Promotions Ltd ("the applicant") for outline planning permission, with only the means of access into the site to be determined at this stage, on land to the west of Burley-in-Wharfedale, at Sun Lane and Ilkley Road. As detailed in the banner heading above, the proposal was for a residential development; an education facility; public spaces; landscaping; car/cycle parking; access routes within the site; drainage and other associated works. A detailed Design and Access Statement<sup>1</sup> ("DAS") submitted with the application, indicates that up to 500 dwellings are proposed.
2. The application was submitted to the City of Bradford Metropolitan District Council ("the Council") and was considered at its Regulatory and Appeals Committee on 11 January 2018, with a recommendation from Council Officers that planning permission should be granted, subject to a number of conditions. Further details of the planning process are contained in the Planning Statement of Common Ground<sup>2</sup> ("SoCG"), which explains that at this meeting the Committee resolved to defer the application, pending the result of the referendum on the Burley-in-Wharfedale Neighbourhood Plan ("NP"), and to allow a more defined strategy to be prepared to show how a school could be delivered on the site.
3. Following the referendum on the NP, which took place on 3 May 2018 and resulted in a majority in support of the plan, and the submission by the applicant of further information on the mechanism for facilitating delivery of the proposed school, the proposal was again presented to the Council's Regulatory and Appeals Committee,

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<sup>1</sup> See Core Document ("CD") 1.14

<sup>2</sup> CD5.1

at its meeting of 14 May 2018. At this stage the Committee resolved to grant planning permission for the proposed development, subject to the completion of a planning obligation, and referral of the application to the Secretary of State for Housing, Communities and Local Government ("SoS"). The application was subsequently referred to the SoS on 23 May 2018.

4. By a letter and direction dated 25 July 2018 the SoS indicated that he had decided to call-in this application for his own determination. The direction indicated that the matters about which the SoS particularly wished to be informed are:
- a) policies in the National Planning Policy Framework<sup>3</sup> ("the Framework" or "NPPF") on protecting Green Belt; and;
  - b) policies in the Framework on delivering a wide choice of high quality homes; and
  - c) the extent to which the proposed development is consistent with the development plan for the area; and
  - d) any other matters the Inspector considers relevant. Having considered the representations made by interested persons, I identified these as:
    - The effect of the proposed development on the character and appearance of the surrounding area, with particular reference to landscape and visual amenity; heritage matters (including impact on the Roman Temporary Camp); ecology; and design and layout (these latter points are reserved matters, but illustrative information has been submitted);
    - The effect the proposed development would have in traffic and transport terms, and its effect on the safety and convenience of users of the existing nearby highway network;
    - Whether there would be any drainage or flood risk problems associated with developing this site;
    - The impact that the proposed development would have on facilities within the existing village, such as health care, education, drainage and sewerage provision;
    - Whether the submitted planning obligation would satisfactorily address the impact of the proposed development;
    - Whether the proposal would represent sustainable development;
    - Other concerns expressed by interested persons, such as:
      - The proposed development would be too large for Burley-in-Wharfedale to accommodate;
      - There are plenty of brownfield sites in Bradford which should be developed in preference to this site;
      - The housing demand figures the Council is working to are not correct;
      - The proposed development would be premature, as the Council has not yet completed its Green Belt review;
      - There is a lack of employment locally, meaning that the proposed development would result in people having to commute out of Burley;
      - There is a lack of parking at the railway station, and the proposed development would exacerbate parking problems in the village.

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<sup>3</sup> CD6.1

5. I held a Pre-Inquiry Meeting ("PIM") at City Hall, Bradford on 5 February 2019 to discuss the arrangements for the inquiry<sup>4</sup>. At the PIM the Council confirmed that it was fully supportive of the proposal, and would be appearing at the inquiry in support of the applicant. Although there is strong local opposition to this proposed development, only one person attending the PIM indicated that they intended to appear at the Inquiry opposing the application proposal<sup>5</sup>. However, in the run-up to the inquiry a number of objectors formed the Burley Objectors Group<sup>6</sup> ("the Objectors Group") and indicated that they wished to appear at the inquiry. Moreover, following pressure from local residents the Council arranged for the inquiry to be held at a local venue – Queens Hall in Burley – rather than at City Hall, Bradford, as had been agreed at the PIM.
6. The proposed development meets the applicable thresholds of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, as amended (in force at the time of the application), and the applicant has submitted an Environmental Statement<sup>7</sup> ("ES") which has assessed the likely effects of the proposed development on a wide range of environmental receptors. The applicant also submitted a subsequent Supplementary ES, with appendices<sup>8</sup>.
7. A shadow Habitats Regulations Assessment ("sHRA") of the proposed development was also produced, to assess any potential impacts of the proposal upon protected European sites within the locality, specifically the South Pennine Moors Phase 2 Special Protection Area ("SPA"), the South Pennine Moors Special Area of Conservation ("SAC"), and the North Pennine Moors SPA and SAC. This sHRA was agreed with Natural England ("NE") and formally adopted by the Council in May 2018 as constituting its own Habitats Regulations Assessment ("HRA") in its role as "competent authority" under the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations" or "the 2017 Regulations"). Following the call-in of this application by the SoS, the sHRA has been updated<sup>9</sup> to address the consequences of recent Court of Justice of the European Union ("CJEU") caselaw and internal guidance from NE<sup>10</sup>.
8. The ES and Supplementary ES, along with the sHRA and other relevant documentation submitted with the planning application, clarification information, consultee responses and representations made by other interested persons constitutes the "environmental information", which I have taken into account in coming to my recommendation.
9. At the inquiry the applicant submitted an agreement<sup>11</sup> made under Section 106 ("S106") of the Town and Country Planning Act 1990, as amended. A summary of this S106 agreement can be found at Doc 47, and I discuss it in more detail later in this Report.

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<sup>4</sup> See notes of the PIM, at CD3.7

<sup>5</sup> Councillor Jackie Whiteley, Councillor for the Wharfedale Ward and also a Member of Burley Parish Council

<sup>6</sup> But did not seek Rule 6(6) status

<sup>7</sup> CD1.11 to CD1.13

<sup>8</sup> CD1.21 to CD1.23

<sup>9</sup> CD13.16

<sup>10</sup> Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations" (June 2018) (CD 6.10)

<sup>11</sup> Document ("Doc") 48



10. On 4 February 2019, before the PIM, I visited the locality of the application site and the surrounding area on an unaccompanied basis. I also visited the application site and various locations within Burley on the morning of 22 May 2019, in the company of representatives of the applicant, the Council and the Objectors Group. In addition, I undertook further unaccompanied visits on 21, 22 and 23 May 2019, to see a number of road junctions referred to in evidence, as well as to view the site from more distant viewpoints and to see a number of potential housing sites proposed through the Council's Strategic Housing Land Availability Assessments<sup>12</sup> ("SHLAA").

### **The Application Site and Surroundings**

11. A full description of the application site ("the site") and the surrounding area is given in the Planning Statement<sup>13</sup>, the DAS and the Planning SoCG. In summary, the application site extends to an area of about 25.64 hectares ("ha") and is located to the immediate west of the built-up area of Burley-in-Wharfedale and is currently designated as Green Belt. It mainly comprises grazing land, and contains a number of trees of varying quality and hedgerows along field boundaries. Two small watercourses run through the site and a small barn is located along the northern part of the site to the west of Black Bull Farm.
12. The A65 borders the site to the north, with the River Wharfe lying some little distance further north. Black Bull Farm, containing Grade II listed buildings is also located on the northern boundary, adjacent to the A65, but sits outside the site. To the south, the site is bordered by Sun Lane, itself adjacent to Sun Lane Local Nature Reserve ("LNR"), a former landfill site, now forming a wildlife habitat area and recreational space. This LNR was designated as such by NE in 2011. The Wharfedale railway line runs to the south of the LNR. Open countryside is situated to the west of the site, mainly lying at a different level from the application site.
13. The eastern boundary of the site is formed by the existing built-up area of Burley-in-Wharfedale with a number of existing pedestrian routes leading from the site to the main centre of the settlement. A bridleway is located to the south of the site, along Sun Lane, whilst further public rights of way ("PRoWs") exist to the north, west and east of the site, although no PRoWs currently cross the site. The site contains the archaeological remains of a Roman Temporary Camp, which has been identified as a result of site investigation works.
14. The Nidderdale Area of Outstanding Natural Beauty ("AONB") is located nearby, across the River Wharfe to the north of the site, whilst the South Pennine Moors (designated as a SAC, SPA and Site of Special Scientific Interest ("SSSI"), as noted earlier) is located some 1.5 kilometres ("km") to the south.
15. The village contains a good range of local facilities, which includes 2 primary schools, a doctors' surgery, a library, a post office facility, a dentist, a pharmacist, a Co-op convenience store, 2 community halls, 3 places of worship, several public houses, as well as a range of other shops, services and recreational facilities.
16. The 2 schools are Burley Oaks Primary School, a 2-form of entry ("FE") school located on Langford Lane, and Burley & Woodhead Church of England Primary

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<sup>12</sup> CD10.10 & CD10.11

<sup>13</sup> CD1.13

School, which comprises a 1FE school located on Sandholme Drive. In terms of secondary school provision, all of Burley-in-Wharfedale is presently located within the Priority 1 catchment area of Ilkley Grammar School ("IGS"), which is located around 6km to the west. Bus services are provided to transport children residing within Burley-in-Wharfedale to and from the school.

17. The Planning SoCG states that Burley-in-Wharfedale is very well served by a range of means of transport. It has a railway station on the Wharfedale Line which provides direct and regular services to Bradford and Leeds (which operate every half hour during the day and until late evening, with additional services at peak periods), and Ilkley (4 trains an hour), as well as stations in between. The village also benefits from being served by a good range of bus services, including Service X84 which provides regular day-time services to Leeds, Otley and Ilkley.

### **Planning Policy and Guidance**

18. Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act") requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. One such material consideration is the Framework, which can override development plan policy if it is not consistent with the Framework's provisions. I therefore summarise the national planning policy context first, before turning to look at relevant development plan policies.

#### *The Framework and other National Guidance*

19. The latest version of the Framework was issued in February 2019. Like earlier versions it emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development, through 3 over-arching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area.
20. To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the Framework. Paragraph 11 of the Framework explains that for decision-taking this means, firstly, approving development proposals that accord with an up-to-date development plan without delay. If there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, then planning permission should be granted unless 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 any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. Of particular relevance in this case are those parts of the Framework which deal with Green Belt and housing provision. Section 13 of the Framework is entitled "Protecting the Green Belt", with paragraph 136 making it clear that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Paragraph 143 reaffirms that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved, except in very special circumstances.

22. Paragraph 144 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
23. With regard to housing, paragraph 59 of the Framework confirms that it is the Government’s objective to significantly boost the supply of homes. In considering ways to boost supply, paragraph 72 advises that the supply of large numbers of new homes can often be best achieved through planning for larger-scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well-located and designed, and supported by the necessary infrastructure and facilities.
24. Paragraph 73 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than 5 years old. Other relevant paragraphs in the Framework are referenced, as appropriate, later in this Report.
25. The Planning Practice Guidance (“PPG”), initially published in 2014, is also a material consideration in the determination of this application.

### The Development Plan

26. As confirmed in paragraph 5.2 of the Planning SoCG, the statutory development plan for the area consists of the “saved” policies of the Bradford Replacement Unitary Development Plan<sup>14</sup> (“RUDP”), adopted in October 2005; the Bradford Local Plan Core Strategy 2013-2030<sup>15</sup> (“LPCS”), adopted in July 2017; and the Burley-in-Wharfedale NP<sup>16</sup>, made following a local referendum held in May 2018.
27. The RUDP. A list of saved policies from the RUDP agreed to be relevant to the consideration of this application is set out in Appendix 1 of the Planning SoCG. Amongst other things the RUDP sought to define the extent and detailed boundaries of Green Belt across the District. The accompanying Proposals Map confirms that the application site, like all of the land around Burley-in-Wharfedale, is in Green Belt. That said, the Green Belt boundaries established by the RUDP reflect the timescales and the housing requirement of that plan period, and not the Council’s more recently adopted LPCS. Of particular relevance is saved Policy GB1 “New Building in the Green Belt”, which presumes against new development in the Green Belt except where very special circumstances can be demonstrated.
28. The adopted LPCS. As with the RUDP, a list of relevant LPCS policies can be found in Appendix 1 of the Planning SoCG. Policy SC4 identifies Burley-in-Wharfedale as a Local Growth Centre in the District’s settlement hierarchy, with paragraph 3.59 explaining that “Local Growth Centres” were added as a new tier between the “Principal Towns” and the much smaller “Local Service Centres”. This was done so as to reflect the land supply constraints in the upper tier settlements.

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<sup>14</sup> CD7.3

<sup>15</sup> CD7.1

<sup>16</sup> CD7.4

29. Policy SC4 describes Local Growth Centres as being *"the most sustainable local centres and accessible to higher order settlements such as Bradford, Keighley and Ilkley. All are located along key road and public transport corridors and should therefore make a significant contribution to meeting the District's needs for housing, employment and provide for supporting community facilities."*
30. Policy HO1 sets out the overall housing requirement for the District of at least 42,100 new homes, between April 2013 and April 2030, whilst Policy HO3 deals with the distribution of this housing in accordance with the vision and spatial principles set out in the LPCS. It sets out the various apportionments for the different settlements, with a total of 4,900 new dwellings being allocated to the Local Growth Centres. Burley-in-Wharfedale is required to accommodate 700 new dwellings over this plan period.
31. This is confirmed in Policy WD1, which sets out the spatial vision for Wharfedale and explains that the LPCS strategy seeks to provide 2,500 dwellings and at least 5ha of new employment land in this area in the period up to 2030. Amongst other things the policy states that *"Burley-in-Wharfedale will see the creation of 700 new homes through redevelopment of sites within the settlement and with a significant contribution from green belt changes, together with associated community facilities"*.
32. Policy SC7 deals with the Green Belt. It states that *"exceptional circumstances require Green Belt releases in order to deliver in full the longer-term housing and jobs growth in the District, as set out in Policy HO3 and Policy EC3. These changes will be delivered by a selective review of Green Belt boundaries in locations that would not undermine the strategic function of Green Belt within the Leeds City Region and that would accord with the Core policies and the strategic patterns of development set out in Policies SC5 and SC4"*. It goes on to say that the decisions on allocations on Green Belt land will be assessed against the purposes of including land in Green Belt as set out in national guidance, and that the selective review will be undertaken through the Land Allocations Development Plan Document ("DPD"), in consultation with local communities and stakeholders.
33. The Council's position is explained further in the supporting text to Policy SC7. Paragraph 3.102 indicates that having reviewed the evidence and all reasonable alternatives, the Council considers that in order to meet its development needs for housing in full, and in order to support long-term economic success of the District, exceptional circumstances exist which justify and require a change to the Green Belt. Based on the land supply in the SHLAA, and given supply constraints in non-Green Belt land, changes to the Green Belt to accommodate around 11,000 dwellings would be necessary in order to meet the Housing Requirement under Policy HO1. This is stated to be supported by evidence in the Growth Study<sup>17</sup> that land is available in the Green Belt in sustainable locations, which would not prejudice the strategic function of the Green Belt.
34. The Burley-in-Wharfedale NP. The NP was made following a referendum in May 2018, when it received 82% support from those who voted. A list of NP policies relevant to the consideration of this application is contained at Appendix 1 of the Planning SoCG. Whilst the NP does not allocate sites for housing, Objective 2 is

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<sup>17</sup> CD10.1 & CD10.2

*"to meet housing needs"*, with paragraph 3.11 acknowledging that the LPCS identifies a housing growth target of 700 new homes within Burley by 2030.

35. Paragraph 4.25 makes reference to LPCS Policies SC4 and WD1 and notes that Burley-in-Wharfedale is identified in the LPCS as a Local Growth Centre, and will be expected to make a significant contribution towards meeting the District's needs for housing and employment, and providing for community facilities. It further notes that a "significant contribution" to the required housing provision will come from changes to the Green Belt.
36. Objective 8 of the NP is *"to support education, health and community facilities"*, with paragraph 3.27 stating *"the NP will seek to protect and support the provision of new facilities to ensure that the need for essential infrastructure is met."*

#### Supplementary Planning Guidance/Documents

37. The Planning SoCG also notes that there are a number of Supplementary Planning Documents ("SPDs") which are not part of the development plan, but comprise material considerations in the determination of this application (insofar as they accord with current Government policy and guidance). These are the Landscape Character SPD (2008)<sup>18</sup>; the Planning for Crime Prevention SPD (2007)<sup>19</sup>; the Planning Obligations SPD (2007)<sup>20</sup>; the Sustainable Design Guide (2006)<sup>21</sup>; and the Burley-in-Wharfedale Village Design Statement. This last document was produced in the late 1990s and was adopted as Supplementary Planning Guidance in 2003. The Council and the applicant agree that whilst it provides some context to guide new development, it can only be given limited weight in view of its age and inconsistency with up-to-date guidance and policy.

#### Emerging Development Plan Policy

38. The Council is in the process of preparing a Land Allocations DPD that will sit alongside the adopted LPCS, with Issues and Options having been published for consultation in May 2016<sup>22</sup>. In addition, at a meeting of the Council's Executive Board in July 2018 an updated Local Development Scheme ("LDS"), covering the period 2018-2021, was considered and agreed. This commits the Council to a partial review of its LPCS and to align further preparation of its Land Allocations DPD with this review. The updated LDS indicates both documents reaching Publication Draft stage in January 2020, with adoption by December 2021.

### **The Application Proposal**

39. As set out in the Planning SoCG, the application seeks outline planning permission for the development of the site for residential purposes and associated community uses, with all details reserved for future determination other than points of access into the site. That said, the planning application was accompanied by an Indicative Masterplan<sup>23</sup>, and a Parameters Plan<sup>24</sup> which provide further detail as to

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<sup>18</sup> CD9.1

<sup>19</sup> CD9.2

<sup>20</sup> CD9.3

<sup>21</sup> CD9.4

<sup>22</sup> See CD8.1 & CD8.4

<sup>23</sup> Doc 15

<sup>24</sup> CD1.5

how the development would be laid out on the site. This Parameters Plan is intended to be secured by condition, if planning permission is granted.

40. The application was also accompanied by a Heritage Design Brief<sup>25</sup>, which provides more specific detailed design principles and parameters relating to the part of the site which contains the former Roman Temporary Camp. It is proposed that compliance with the Heritage Design Brief would also be secured by condition, if planning permission is granted.
41. The Planning SoCG indicates that the proposed development is capable of accommodating or facilitating the following:
- 500 new homes of a mix of size and types;
  - Direct vehicular accesses from both the A65 and Ilkley Road, also allowing for bus routes to be redirected through the site;
  - Separate pedestrian and cycle access points into and from the site, providing access to the remainder of Burley-in-Wharfedale, as well as linking up with existing paths and cycleways surrounding the site;
  - The delivery of a new primary school;
  - Extensive areas of open space and recreational facilities, including a village green, pocket parks and play areas, linear parks along the water courses and footpaths and bridleways linking up with existing routes;
  - An area of allotments;
  - A biodiversity area adjoining Sun Lane LNR; and
  - The incorporation of a previously undiscovered Roman Temporary Camp, which will be revealed as a consequence of the development.

### **Agreed Facts**

42. As already noted, there is a significant amount of common ground between the Council and the applicant with regards to this proposal, with the following SoCG having been agreed: a Planning SoCG; a Planning SoCG Errata Sheet<sup>26</sup>; a Planning SoCG Update<sup>27</sup>; a Highways SoCG<sup>28</sup>; a Highways SoCG Addendum<sup>29</sup>; and a HRA SoCG<sup>30</sup>. NE is also a party to this last SoCG.

### **Cases of the Parties**

43. Because the Council is fully supportive of the applicant and this proposed development, and as the applicant's case addresses in detail the objections raised by interested persons, I consider it appropriate and sensible to summarise the objectors' cases first, before setting out the cases of the applicant and the Council.

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<sup>25</sup> CD1.15, with an updated version to reflect the latest Parameters Plan and the potential for a 2FE education facility, at Appendix SUP3 in the Supplementary ES (CD1.22)

<sup>26</sup> CD5.2

<sup>27</sup> CD5.3

<sup>28</sup> CD5.4

<sup>29</sup> CD5.5

<sup>30</sup> CD5.6

## The Cases for Interested Persons Opposing the Proposals

*Cllr Barker*<sup>31</sup>

44. Cllr Barker is a Bradford City Councillor who represents the Wharfedale Ward. He presented an "Ecology Report" to the inquiry, which is summarised below.
45. The applicant's Phase 1 Habitat survey, which was undertaken in January 2014, acknowledges that it was sub-optimal in terms of surveying botanical interest and that there was a general lack of significant habitats on the site. Despite this, it claims that "*it was still possible to make a robust assessment*" of the site. This is a highly questionable statement.
46. The applicant's consultants maintain that by destroying the site's biodiversity they will create more biodiversity once the development is completed, but for different birds and animals, which are known to frequent human-occupied locations. But the village is composed of such locations already, and removing this historic location would be a serious detriment to the environment around the village and would create a devastating loss in the natural biodiversity of Wharfedale.
47. The consultant's report refers to the presence of the South Pennine Moors SAC, SPA and SSSI within 1.5km of the site as being significant. It then goes on to say that as most of the remaining sites are designated under local criteria, are of lower quality, and are located at least 700m away, significant impacts are unlikely, and these sites are therefore not considered further. However, all natural sites where wildlife live, breed and thrive should be considered as relevant. By arbitrarily dismissing these local sites from consideration, housing developers are adding to the endangerment of wildlife.
48. Due to the proximity of the SPA, and the open moorland/farmland habitat in the wider area, it is possible that the site will play host to assemblages of wintering birds. Further survey work will therefore be necessary in order to fully assess the site's use by wintering bird species, but this work has not been undertaken.
49. There are plenty of alternative sites where housing could be built, with over 100 brownfield sites within the Bradford Metropolitan District boundary. There are no imperative reasons of overriding public interest for this development to proceed. In fact just the opposite, with 20% of the village's residents having appended their names to a petition opposing this proposal.
50. The consultant's SPA Vantage Points Bird Survey of 2016 recorded 2 South Pennine Moors (Phase 2) SPA listed bird species: Curlew and Lapwing. Lapwing was confirmed as breeding on the site and Curlew was thought to be breeding on the site. No birds were observed flying between the SPA and the application site. The report, therefore, finds that no interaction by birds occurred between the 2 locations and concludes that the site is not functional-land for the SPA.
51. However, Lapwing are not really a component of the moorland breeding bird assemblage but prefer to nest on bare ground. So, they only really nest within a SPA when the habitat has been damaged by burning, peat erosion or overgrazing. They are more likely to be found in the moorland fringe farmland, like the application site. The records of West Yorkshire Joint Services ("WYJS") identify

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<sup>31</sup> Doc 12

that hundreds of Lapwing were recorded on the site on each occasion the site has been checked, between 1977 and 2013, both breeding and with chicks.

52. Common-sense would consider it illogical and inconceivable that there is not and never has been any interaction between the application site and the SPA over this period of 42 years. Lapwing are Red Listed, as being of high concern, under the Birds of Conservation Concern 2009, and are also listed as Species of Principal Importance under Section 41 of the Natural Environment and Rural Communities Act, 2006. They are also listed in the UK Biodiversity Action Plan, the West Yorkshire Priority Species List and the Bradford Biodiversity Action Plan. That being the case, this application should be refused.
53. Curlew are known to be nesting on the disused railway line, which is adjacent to the application site and is an important breeding ground. In the sHRA the consultants argue that as Curlews are breeding on the application site *"these birds, therefore, could not be individuals that were associated with the "breeding bird assemblage" designated feature of the SPA. As such, the data demonstrates that the site is not land which is functionally-linked to the SPA for this species"*.
54. However, these observations took place during the breeding season, when birds are known to stay close to their breeding ground, but there are no observations throughout the remainder of the year. The consultants have therefore failed to prove there is not a link between the SPA and the application site.
55. The records of WYJS identify that hundreds of Curlew were recorded as being present on the site on each occasion the site has been checked - in the Autumn of 2008 and again in the winter of 2008, and also between April and July 2013. Curlew appear on the same lists as Lapwing, as detailed above. This being the case, this application should be refused.
56. The consultant's 2011 and 2016 reports ignored the Nidderdale AONB, on the opposite side of the River Wharfe, where the North Pennines SPA (designated for Golden Plover) is also located. Functional linkage between that SPA and the application site is relevant, but there appears to be no notes or observations made for birds visiting the application site from the AONB. It would seem only common-sense that the application site is a source of food for both the SPA and the AONB.
57. Golden Plover is a key species to survey, as it qualifies for SPA designation in its own right as an Annex 1 species, under article 4.1 of the Birds Directive. Although they nest on blanket bog, they do most of their feeding on nearby farmland which is, thereby, functionally-linked to the SPA. The records of WYJS identify that the moorlands support nationally important numbers of Golden Plover and Curlew.
58. The consultants did not follow the standard methodology for upland breeding bird surveys in their 2016 and 2018 studies. Although they conclude that the site cannot be considered as "functional-land" with regard to the SPA, it is clear that many of the surveys are incomplete and deficient in the standard expected. Movement between either of the SPAs or the AONB and the application site has not been disproved by the consultants. An element of doubt therefore exists, and in such circumstances it is only reasonable to give weight to the argument that the status quo should be maintained.
59. The application site is located within 2.5km of the South Pennine Moors SPA and Policy SC8 of the LPCS states that development will not be permitted in these



zones where it would be likely to lead, directly or indirectly, to an adverse effect (either alone or in combination with other plans or projects) which cannot be effectively mitigated, upon the integrity of the SPA. It is therefore necessary to consider what impact this development would have, if it is allowed to proceed.

60. Developments within a SPA are easy to assess, but it is harder to assess developments that affect functionally-linked land. Some breeding birds in the SPA are dependent upon sites outside the SPA, and damaging such sites could result in a reduction of birds using the SPA, adversely impacting on site integrity. Another indirect impact could be an increase in dog walkers resulting from building houses too close to the SPA.
61. Turning to bats, Government guidance makes it clear that they are a material consideration in the planning processes. The Council's and the applicant's surveys all state that protected bats have been observed on this site. The applicant's surveys clearly document that there are bat roosts on this site, some of which are in trees, whilst WYJS records identify that hundreds of bats have been seen on the site in previous surveys. The Bat survey conducted by the consultants does not appear to be particularly thorough. Bats are known to be using the site, but by being vague on this point the consultants are circumventing the issue.
62. The consultant's sHRA states that the LPCS was ultimately found sound and adopted in July 2017. The word "ultimately" identifies that the LPCS was quite vigorously opposed. It only succeeded in being passed due to the greater number of Councillors in the governing party. The applicant's assessment is a collection of "ifs", "buts" and "maybes". In seeking to build the development, money is being offered as a means of compensation for the loss of this natural space for wildlife, the majority of which would go to the Council who approved the LPCS.
63. The consultant's 2018 report makes no reference to the fact that plans have been submitted for a "Wharfedale Greenway", between Addingham and Pool. Burley Parish Council ("PC") has already spent £53,000 in planning and purchasing land, and a bid for £1.9 million has been accepted by the Rural Development Programme to finance this Greenway. The first part will be between Burley-in-Wharfedale and Otley, and then Burley to Ilkley.
64. In conclusion, the application site is surrounded by several "special designated areas", as noted above, but from the applicant's reports it appears that the site is a "black hole" in the middle of "special designated areas", where protected species are known to live, breed and thrive. Yet we are led to believe that few, or none, of the birds visit the SPA or visit the adjoining AONB. This site cannot exist in isolation from these surrounding special designated sites. It forms an integral part of a complex and little-understood wildlife community.
65. At the heart of this application is a desire to make a lot of money. Why else would anyone wish to build on the Green Belt, rather than on the more socially acceptable and plentiful, but less rewarding, brownfield sites, which can easily accommodate 500 houses and be in close proximity of Bradford City Centre, where the houses are actually needed.
66. The application site is a major habitat for wildlife around this village, and destroying this would lead to a serious impact on the local environment, not only for the wildlife itself, but also for the people of the village. For all the above reasons this application should be refused.

*Cllr Whiteley*<sup>32</sup>

67. Cllr Whiteley is a Bradford City Councillor who has represented the Wharfedale Ward, which includes Burley-in-Wharfedale, since 2012. She is also a member of Burley-in-Wharfedale PC.
68. This development is unsustainable. It would have an adverse effect on the lives of people already living in the village and of those who may move to the village in the future. People complain about waiting times at the doctors' surgery, the poor train service to Leeds which is overcrowded at peak times in both directions, and the lack of parking at the railway station and in the village generally. People are also concerned about school places, particularly at secondary level, and the Council's policy about home to school transport. These issues predate the Sun Lane application, but this application has intensified concern.
69. The submitted photographs show that the car park at the railway station is full all day except at weekends and holidays. The small section of road immediately outside the station is also full all day. School buses pick up and drop off nearby, adding to the congestion and fears for children's safety. Photographs of Southfield Road, a nearby residential street, show that parking for the station takes place here as well. Residents complain that visitors or deliveries cannot access their homes, and that they have visibility issues getting out of their drives.
70. The photographs also show that at Rosebank and Prospect Road, commuter parking competes with school parking, with cars parking both sides of the road in places, causing obstruction to other vehicles and to the local bus service. Following a meeting with Network Rail in 2016 it was concluded that there was no land available on which to provide more station parking in Burley. The Council has just conducted a parking review of Ilkley and is introducing residents-only parking to areas where commuters park for the Wharfedale railway. This may result in displacement onto the A65, and people may seek to park instead in Burley.
71. There are 2 car parks in the centre of Burley, at the Red Lion and at the Queens Hall. The photographs of the village centre show parking chaos, as people seeking to park for the centre's services and amenities compete with residents who live in the centre. People who live at Sun Lane at the edge of the village may walk their dogs there, but they would inevitably drive to access the station and the village amenities. It is fantasy to claim otherwise, and any bus diversion into the proposed housing area would not stop that.
72. Ward Councillors have sought to make parking safer and some parking has been retained near the station, but most residents consider this to be inadequate. Unloading is a problem for businesses, but customers need to be able to access them so that they remain viable. People who do not live near the station want to park so that they can travel to work without using the congested A65.
73. Much has been made of the primary school provision, but future residents of the proposed large family houses would have children from nursery age through to secondary school age. The Council is required to provide school places for children already in the system. IGS is undergoing expansion but cannot expand again. The geography of the Wharfe Valley precludes building on many sites

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<sup>32</sup> Docs 13 & OD/JW/1

because of the flood plain. The only site earmarked for a school is on Council owned land at Ben Rhydding, but the Council is in negotiation with Network Rail about building a car park on this site, to mitigate commuter parking to Leeds.

74. Most children in Burley attend IGS, but not all pupils get funding for school transport despite Ilkley being over 3 miles away. This is because the Council's policy states that children must attend the nearest school to where they live. Parts of Burley are fractionally closer to Prince Henry's School in Otley or to Guiseley School - both within Leeds District - and so they receive no help.
75. In planning terms, the bigger picture is being ignored. The Council intends to build 2,500 houses between Addingham and Menston, with some planning applications already approved. IGS has a finite capacity, and as more houses are built it will have to reconsider its admissions policy. Eventually some children in Burley-in-Wharfedale will lose out. Children on the proposed Sun Lane development who would live nearer to Ilkley would take precedence over children in other parts of the village. This is another example of why this application is unsustainable and detrimental to people in the village. Ms Knowler for the applicant agreed that school places can be provided anywhere in the District, so if the nearest school with places was in Bradford or Keighley, both 10 miles away, that would still be considered acceptable by the Council.
76. The Community Infrastructure Levy ("CIL") contributions which would provide Burley PC with about £1 million of funding would not solve the infrastructure needs of this village, mainly because there is no land to improve parking at the station. The Council has no policy to spend its share in this village or to pool monies from other developments to address the need for a new secondary school.
77. Finally, there needs to be very special circumstances for building on the Green Belt, but the harm to the lives of people who already live here and will live here in the future should also be considered.

*Cllr Smith*<sup>33</sup>

78. Cllr Smith is a Bradford City Councillor who lives in and represents the Wharfedale Ward. Over the years he has seen both Burley and Menston expand some 4-fold. As a long-serving Councillor he rejects any notion of impropriety or skulduggery from either the developer or the Council.
79. This proposed development would have an absolutely huge and detrimental impact upon Burley and the whole of the Wharfe Valley. The whole process is tilted in favour of the developers, in terms of skills and resources, with logic and common-sense having little part to play.
80. The mitigation and minimising of the enormous strain that would undoubtedly be put on the infrastructure of road and rail, as well as the local facilities of schools, parks and social meeting places is left largely to chance and future solutions – with the need for new money which has yet to be identified. Much was made of bus re-routing, but travel to Bradford or Leeds takes around one hour and is not likely to be much used. Proposals for train upgrading have already hit the buffers as platforms are not long enough and Leeds station is said to be at full capacity.

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<sup>33</sup> Doc 14

81. Neither the applicant nor the Council have demonstrated sufficient extenuating circumstances for development of the Green Belt and the closing-up of Burley with Ilkley. There is a partial review of the LPCS currently underway, which will cover such criteria as the lengthening of the Plan period to 2035, strategic housing requirements around affordable housing, brownfield usage and the reassessment of special circumstances for using the Green Belt. However, its findings and recommendations have yet to be published or determined.
82. Development should first occur on brownfield land and on existing sites with planning permissions already granted, all of which would result in shorter travel to work distances and better opportunities for truly affordable housing.
83. The proposals for education are not sound. Indeed, the likelihood of destabilising both existing primary schools in Burley is most probable, thereby making all 3 primary schools individually unsustainable. The vagaries of the forecasts are well demonstrated by the fact that this coming year admissions for Reception at Burley Oak are 7 below the 60 places available and across the Wharfe Valley admissions are short of some 35 pupils.
84. Much has been made of IGS's tight capacity, with the applicant's expert witness trying to give comfort by reminding the Inquiry that the Council has a statutory duty to provide school places - but then having to concede that this could be solved by the offer of places at schools across the Bradford District. With the current mishmash of responsibility involving the Council, the Regional School's Commissioner, Free Schools, Academies and the Department for Education no-one can be sure where or how places will be provided.
85. If the Inspector was to recommend approval of the application, he should consider the issue of Lifetime Homes, thereby ensuring homes are fit for purpose for a greater length of time for the occupants whose needs and infirmity become greater. In addition, affordable housing should define parameters that will give preference to those with legitimate connections to Burley, then Menston and then Ilkley, in that order. A commuted sum would be preferable, at least in part, to facilitate the provision of truly affordable homes at other locations in the District.
86. Whilst 25% of any CIL money would go to Burley PC, it would be quite insufficient to address the many infrastructure problems which would arise from this development. The bulk of the CIL money would go to the Council and would not be ring-fenced for issues arising from this development - or even for Wharfedale Ward. The money would almost certainly be spent on other areas of Bradford.
87. For all the above reasons, and the reasons put forward by other objectors, this application should be recommended for refusal.

*Mr Orton – on behalf of Burley PC*

88. Mr Orton is a former Parish Clerk, recently retired. He presented objections to the application proposal to the inquiry – although the PC's official position, as recorded in its consultation responses<sup>34</sup>, is actually one of no objection.
89. The PC accepts that Burley should make a contribution towards meeting the District's needs for housing and employment, as it is located along a key road and

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<sup>34</sup> CD2.7 to CD2.9

public transport corridor. Indeed, the PC's position is that proposals for housing development on sites within the Burley settlement boundary will be supported, when they would not result in the loss of an open space identified as being important to the community<sup>35</sup>. The PC is not opposed to more new homes in the village, and indeed has fully supported the planning application for several new housing developments such as Greenholme Mills (149 homes). But the proposal for 500 homes at Sun Lane poses some significant challenges.

90. The PC maintains that Burley-in-Wharfedale has been misclassified as a Local Growth Centre. There is little existing employment in the village and no new employment or external economic activity is being planned for this area. Given recent residential developments, the number of homes the village is capable of supporting without significant improvements in infrastructure is at its upper limit.
91. In July 2018 the Council's Executive Board committed to a partial review of the LPCS and to align further preparation of its Land Allocations DPD with this review. The suggested timetable is for Publication Draft in January 2020 with adoption by December 2021. The Council has not yet revised the housing allocation numbers following the recent guidance on projected population growth, but this proposed development should be considered in the context of the updated housing need figures, rather than the currently adopted LPCS.
92. Leeds City Council has revised its housing targets, lowering its projections of new homes needed in the city over the next decade by 30%. If a similar 30% reduction was applied to Burley, this would reduce the proposed housing growth for the village down from 700 to 490, of which 218 have already been built.
93. The proposal does not meet the requirements of the Framework in promoting both housing and economic growth. It fails to specify housing densities when the following specific variables are taken into consideration: land for a school, land to preserve the Roman Fort, land for the Wharfedale Greenway link to Ilkley, allocation of land for A65 improvements, and an exclusion area around the sewer.
94. The NP supports development proposals outside the settlement boundary where feasible and appropriate. But the PC considers that this particular development would be inappropriate in the Green Belt and that detrimental impact (transport in particular) would be caused, such that very special circumstances do not exist. No comparative review of sites within the Green Belt exists - a review of each site in isolation is not sufficient in this instance.
95. This development is not in the best interests of the village and fails to address those elements of concern raised at the NP consultation, specifically that development should be distributed across the village and not in an isolated self-contained village on the outskirts of Burley. Refusal to develop within this Green Belt land has been upheld on several occasions in the past by the Council, most recently in 2015 when a planning application for a proposed paintball facility was refused for a site in Catton Wood<sup>36</sup>.
96. Until the responsible authority demonstrates it has the funding and commitment to purchase the land and build a school, the site cannot be classed as having

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<sup>35</sup> Policy BW4 of CD7.4

<sup>36</sup> See Appendix B in Doc BPC/1

“exceptional circumstances”. There is no exceptional demand for additional primary school places, and as the existing primary schools have land available for expansion this should be investigated first, before building on the Green Belt. Public consultations for the NP demonstrated that public opinion seems satisfied with the current provision for primary schools.

97. During the planning application process the size of the proposed site has steadily grown. The gradual expansion of the site curtilage indicates an element of opportunistic development and there is a significant concern that once started, the development will expand way beyond current projections.
98. Public authorities should have regard to economic, social and environmental well-being, but there are no economic benefits specific to this site. To expand the settlement without providing any inward structure to increase employment would only serve to expand the dormitory nature of the village and increase the carbon footprint of individuals travelling to work.
99. There is a declining need to provide housing in order to accommodate employment levels in Bradford, and any housing required to support employment is more likely to be taken up by those working in Leeds. Consequently, additional development planned for Burley as a Bradford Local Growth Centre will impact Leeds City Council more than Bradford Council, and the transport links along the A65 and A660 will be impacted since the commute into Leeds will put further pressure on the air quality along its main routes.
100. Moreover, the delay in expanding Leeds City station will only add to the pressure on vehicle traffic. Rush hour trains from the Wharfe Valley into Bradford are generally only a third full whereas those into Leeds are full from around 0730. This suggests that homes in the Wharfe Valley are largely used by commuters into Leeds rather than Bradford, so doing little for the desperately needed economic regeneration of inner Bradford.
101. Whilst the PC wants to plan for more new homes and jobs, it also wants to protect open spaces and preserve the natural and built heritage of the area. The vision for Burley is for the village to continue to feel focused around a village centre and avoid sprawl along the main commuter routes to Menston, Otley or Ilkley. This means that new housing should be well integrated into the village, avoiding a single large development that is perceived as a separate place. This will ensure that residents in the new homes feel integrated with the existing community.
102. The PC fully understands that the village will grow, but this must be proportionate to its infrastructure, with associated commitments to improve transport infrastructure. This single development of 500 homes would account for 20% of the 2,500 homes proposed by Bradford in Wharfedale, yet there has been no cumulative assessment of highway congestion/safety/air quality along the main routes into Leeds and Bradford. Such an assessment needs to be conducted.
103. As in many commuter communities, station car parking at Burley is an ongoing challenge. The car park is frequently full by 0730 each weekday, resulting in car parking on the narrow roads close by. Given the distance between the proposed development and the railway station, a significant number of occupiers of the new properties are likely to drive to the station. The applicant has offered a financial contribution to local bus services (used by 2% of commuters). Of greater benefit would be improvements to station parking (used by 17% of commuters).

104. Analysis of alternative sites indicates that a site offering 500 new homes is not required to deliver the Council target of least 700 new homes in Burley-in-Wharfedale. The development of some 218 new homes in the village has already been approved, and without the application proposal Burley would expect to increase its housing numbers to around 263 in the period up to 2030.
105. The revenue raised from this proposal would be used across the Bradford District, and in so doing would ignore the requirement for substantial infrastructure investment needed to support homes in this location. The application proposal would provide little or no infrastructure development within the village.
106. The PC has been in partnership since 2013 with Pool, Menston and Otley PCs, together with Bradford and Leeds District Councils, to develop a Wharfedale Greenway from Pool to Burley, with plans to eventually extend to Ilkley and Addingham. The proposed development ignores the ongoing effort to bring this major green infrastructure investment to fruition. Land should be made available in order to facilitate access between Burley and Ilkley.
107. The area of the Roman Temporary Camp has not been treated with any sympathy - development with associated underground sewerage pipes and services cannot benefit an insufficiently documented archaeological site. Initial trenching at a similar site at Kintore in Aberdeenshire<sup>37</sup> found little evidence for camp purposes, but on more detailed excavation rubbish pits, hearths and kilns were discovered allowing valuable insights into human activity under Roman occupation. Development on this site would be a loss of knowledge and education.
108. Car parking is a major issue in the village, and the PC is developing a long-term strategy for wider public consultation. Parking within the boundary of the proposed development is needed to ease congestion along the western end of Ilkley Road/West Terrace where the existing car park is at capacity.
109. No consideration has been given to the possible improvement and realignment of the A65, following the proposals of the then Department of Transport in 1991. The anticipated volume of traffic from proposed development in Addingham, Ilkley, Burley, Menston and generally along the A65 corridor requires that this opportunity to improve this section of road is not lost.
110. Finally, there is a shortage of public open space to the west of the village. The proposed public open space contained within the planning application is insufficient to meet the needs of a community the size of Burley, and reflects another example of the lack of green infrastructure.

*Mr McQuillan – for the Burley Objectors Group*<sup>38</sup>

111. Mr McQuillan is a resident of Burley-in-Wharfedale, having lived there for some 18 years. He holds a Diploma in Town Planning and has worked as a town planner in the past, but is now retired. He addressed the inquiry on matters relating to the Green Belt and very special circumstances, landscape character, and the AONB.
112. There is a growing lack of public confidence at a local level about the way the Council interprets Green Belt policy in Wharfedale. Between Burley and Ilkley,

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<sup>37</sup> See Doc BOG/SRC/1

<sup>38</sup> Docs BOG/JM/1, 1S & 2

where the applicant's proposal lies, there are instances of the Council promoting growth along the valley, or showing a pro-development approach on planning applications. When challenged by an established national property developer it seems that rather than face further challenges, it decides to support a scheme of this scale in such a landscape-sensitive area.

113. There would be an erosion of this green corridor through this proposal. It is not possible to build 2,500 dwellings without having traffic issues. Most of the 700 new houses at Burley will be in the Green Belt. Those who live in Wharfedale want a bigger separation between settlements – not just the “single field” separation between Burley and Menston.
114. The Council has given insufficient weight to landscape character and the significance of the AONB in Wharfedale when dealing with planning policy and/or planning applications. Wharfedale is the only part of Bradford District that has an AONB, but the Council seems to give little weight to this area of national importance because it lies outside the District. There is no artificial wall when viewing and appreciating landscape quality. It seems to the Council that one greenfield is like any other greenfield when future allocations are made – but the Council has a duty to preserve and enhance the character of the AONB.
115. In view of the current partial review of the LPCS the Council will need to review its housing need – such that it is premature to argue that 700 dwellings are needed in Burley. The adopted LPCS is not currently sound because of the requirement to re-visit the overall housing target of 42,100 dwellings in the Plan period. The Council has been slow to progress this partial review - a feature that is too often apparent with its plan-making. There also needs to be a selective Green Belt review, but it feels as though the review is happening as part of this inquiry.
116. Little weight can be given to the applicant's proposals in terms of a school and affordable housing. This is a bolted-on scheme that is not sustainable. It would further urban sprawl and worsen air quality as cars would be the dominant mode of travel. The applicant is offering the Council a site for a new school, but there is no guarantee that this will be needed or delivered as the 2 existing primary schools could extend within their own sites. Wharfedale has the highest house prices in the District and in Yorkshire. Any offer of affordable housing may prove not affordable to those who might need such dwellings. The Council acknowledges that the real need is in Bradford.
117. Big housebuilders, who are likely to develop housing of this scale, will make sure that their profit margin is guaranteed. That is likely to result in renegotiating any S106 agreement and any planning conditions, with cost implications. Therefore, there are no “very special circumstances” that would clearly outweigh the harm done to the Green Belt. In terms of managed phasing, such a substantial size of land in the Green Belt should not be considered for early release, if approved.

*Mr Lavery – for the Burley Objectors Group*<sup>39</sup>

118. Mr Lavery is a resident of Burley. He addressed the inquiry mainly on matters relating to public transport, highways and related infrastructure.

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<sup>39</sup> Docs BOG/KL/1, 1S & 2, and Doc 28



119. This proposed development would cause very significant harm in highways and transport terms, and any benefits from the development would be negligible at best. Mr Wilkins, for the applicant, has looked at this development more or less in isolation. He has not taken full account of committed developments, and has largely ignored the other 3,800 homes to be built in the local area by Bradford and Leeds Councils. All of these proposed developments would have to share the same, very limited and overstretched highway and public transport system.
120. The applicant also tries to make the case that the A65 is an Urban Road and that local speed limits are 30 mph, with a view to undermining and avoiding the planning restrictions that go with developing next to and creating access roads onto a busy road like the A65. The Department for Transport ("DfT") defines Urban Roads as those within a settlement of 10,000 people or more, but Burley's population is just about 7,500. Therefore, the A65 passing next to the village is a Rural "A" road. It was formerly a trunk road, and although it is now de-trunked and has become the responsibility of the local highway authority, this has not changed its function. It is still a strategically important primary route. Rural "A" roads constitute 9% of the country's road network, yet handle 29% of the traffic.
121. In the past the then Department of Transport had plans to extend the dual-carriageway to Ben Rhydding. However, money was short and the scheme was shelved. The need for it was compelling then, and now is overwhelming, but the Council has not even had the foresight to ring-fence the land that would be necessary for this to take place. If this development were to go ahead, it would no longer be possible to undertake this much needed road upgrading.
122. This large development would significantly impede the land's ability to soak away rainwater and water run-off from the nearby moor. The development would have a significant weight, and this would compress the clay and restrict the amount of water it could hold, and its permeability, increasing the risk of flooding in the area. This land is already regularly subject to groundwater flooding and in turn will lead to more frequent and more serious flooding and consequent closure of the A65 main road. This conclusion is supported by the Government's own Agricultural Land Classification ("ALC") Study<sup>40</sup>, which clearly and repeatedly refers to the poor drainage, poor soil and poor workability of much of the land on this site.
123. The applicant's consultants undertook a traffic survey from which they estimated the likely impact of the development on traffic volumes. However, Burley residents commissioned their own week-long traffic count on Coutances Way<sup>41</sup>, in October 2016. This showed that the morning peak hour flow was 1,662 vehicles, with 1,787 vehicles in the evening peak hour. At that time the A65 was carrying about 22,000 vehicles in a working day, of which heavy goods vehicles ("HGV"s) were about 7% of the total. Although set 5 years apart, the residents' flows are very similar to the applicant's – even though the residents' flows are "actual", whereas the applicants were "projected". This strongly indicates that the assumptions used by the applicant are very optimistic.
124. For the proposed development itself, the applicant is predicting that the site would generate 319 vehicle movements in the morning peak hour and 308 in the evening peak hour. A study undertaken by residents of traffic generated by the

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<sup>40</sup> See pages 7 to 9 of Appendix 5 in Doc BOG/KL/2

<sup>41</sup> See Appendix 6 in Doc BOG/KL/2

Wellfield Lane development of 40 homes of assorted styles and sizes, built some 19 years ago and situated adjacent to the application site, counted 310 vehicle movements during the main 13-hour period of the day. Making a reasonable assumption that the other 11 hours would generate a total of just 40 vehicle movements, this would result in a total of 350 movements for a 24-hour period.

125. These findings are very much in line with the Council's own Traffic Study of October 2010<sup>42</sup>, which concluded that each new home in the Wharfe Valley would generate 8.5 vehicle movements per day. On this basis the 2,500 new homes that Bradford has arbitrarily imposed upon the valley between Menston and Addingham will generate an additional 21,250 vehicle movements per day. As the only main road is the already over-stretched A65, this total amount of development would double the traffic on the A65.
126. The applicant and the Council acknowledge that road traffic problems are very significant, but contend that there is little they can do about it. Although the applicant has put forward some proposals to mitigate the impact of the development on highways, its main answer is to propose walking and public transport solutions. However, many of these suggested solutions would be neither viable nor deliverable. The applicant's views as to what bus services the residents can use are misleading, and its traffic forecasts are wildly incorrect, as are its claims of walking distances to the village amenities and railway station.
127. The applicant's Framework Travel Plan<sup>43</sup> ("FTP") states that the main facilities of the village are 900 metres ("m") from the site, but the Co-op store and the doctors' surgery are 1,500m from the site. Whilst this may be a walking distance for some, it would be less so for the elderly, the less able, and parents with toddlers and pushing prams – especially in wet weather or carrying shopping. This probably explains why the village already has significant parking problem, particularly in the vicinity of the Co-op and doctors' surgery.
128. The FTP also contradicts West Yorkshire's Local Transport Plan<sup>44</sup>, and the consequential Bradford's Local Implementation Plan<sup>45</sup> is even more restrictive and clearly states there will be no material investment in the Wharfe Valley, let alone in the village. Yet both the applicant and the Council propose a significant increase in the use of the railway as the transport solution - but their claims ignore the existing strain on the trains, which are already over capacity, and their proposals cannot be delivered. The rail services cannot even meet the current needs properly, let alone cater for an increased future demand.
129. Moreover, whilst the FTP states that people will walk up to 800m to the railway station, the centre of the proposed development would be some 1,500m to 1,600m from the station by the most likely walking routes. The FTP also states that residents from the proposed development would be able to catch the 962 bus to the top of Prospect Road, leaving them only a 40m walk to the railway station. But as the first bus gets there at 1000 hours, and the last bus is at 1700 hours, the service would not cater for those people who do a full working day in Leeds or Bradford. In any case, it is only a small hopper bus with very limited capacity.

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<sup>42</sup> See Appendix 4 in Doc BOG/KL/2

<sup>43</sup> Appendix E2 in CD1.12

<sup>44</sup> Appendix 7 in Doc BOG/KL/2

<sup>45</sup> Appendix 8 in Doc BOG/KL/2

130. The applicant would “seek” to divert all bus routes through the development, but there would not be a through road through the development, and the X84 between Leeds and Ilkley/Skipton is a limited-stop express service, which would not make such a diversion. In any case, it is a large double-decker bus which would struggle to negotiate crowded and twisting estate roads and would present a danger to pedestrians. The X52 to Harrogate is also a limited-stop service and a large bus, and does not run in the evening or at weekends. Nor would its scheduled timings be convenient for those who work in Ilkley or Harrogate.
131. Furthermore, if buses were to stop outside the development, on their way to the railway station, Leeds, Otley or Harrogate, it would represent a significant accident risk. Passengers would have to cross the very busy A65 at hazardous points, between a blind crest on the tree shrouded bends, the 2 proposed busy new junctions for the proposed development, and the main roundabout.
132. In summary, the proposed development would not satisfy policies TR1 or TR3 of the adopted LPCS. Nor would it meet the criteria set out in paragraph 108 of the Framework, as it would not ensure that appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development and its location. Safe and suitable access to the site would not be achieved for all users; and development of this site would severely harm the local Green Belt and would critically overload an already very stretched highways and public transport network, with no means of mitigating it in any reasonable manner.
133. Having regard to all the above points, “very special circumstances” for releasing this land from the Green Belt have not been demonstrated. The development would cause severe, irreparable harm to the local highways, community and environment and thus should not be approved.
- Mr Hoare – for the Burley Objectors Group*<sup>46</sup>
134. Mr Hoare is a resident of Burley who has lived in the village for 40 years, and has attended local primary and secondary schools. He addressed the inquiry on the effects of the proposed development on education provision in Burley, and Wharfedale in general.
135. Residents of Burley are very lucky to have access to quality education at both primary and secondary level. This is a key factor for families wanting to move to an area - Rightmove has a School checker which shows local schools and Ofsted results as part of their on-line search engines. The building of 500 additional homes in Burley would add considerable strain to the existing over-capacity school resources and would seriously impact an already struggling system. Because of this, there should be an absolute commitment and clarity from the applicant and the Council to ensure the existing education provision is either maintained, or improved, in relation to the proposed development at Sun Lane.
136. School resourcing and places are under pressure in Burley and Ilkley. Currently, at primary level, Burley and Woodhead school has a capacity of 210 and a head count of 216, whilst Burley Oaks school has a capacity of 420 and a head count of 428. At secondary level, IGS has a capacity of 1,960 and a head count of 1,688, whilst St Mary’s at Menston has a capacity of 1,096 and a head count of 1,196.

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<sup>46</sup> Docs BOG/SH/1 & 2, and Doc 41

137. The applicant was originally intending to deliver a new primary school on-site as part of the development proposal, which would not only accommodate children in the proposed development, but would also assist in alleviating any existing or future capacity issues. However, determination of the application was deferred at the meeting of the Council's Regulatory and Appeals Committee in January 2018, to allow for some further information to be provided on the mechanisms for the delivery of a primary school on site.
138. There is now a change in approach by the applicant, from "delivering" a primary school, to "safeguarding an area of land within the site" for the provision of an up to 2FE primary school, and to offer this land to the Council, if requested, in order to deliver the school. This area of land would be reserved for a minimum period of 10 years and would be transferred to the Council at the appropriate time for £1. There is also an intention to establish a Primary School Delivery Partnership ("PSDP") whose terms of reference and remit would be to seek to deliver the new school in the most appropriate way and at the most appropriate time.
139. The impact of the proposed development on secondary education, predominately at IGS, is harder to assess, given its wider catchment area which includes Burley, Ilkley and Addingham. However, there is clear evidence to suggest that additional expansion would be required above and beyond the recent new build on site at IGS, which cannot increase its current Published Admission Number of 300 without further development.
140. Section 8 of the original Exhibition for this proposed development stated that *"Discussions with Bradford Council have confirmed that the level of planned housing in Wharfedale is not sufficient to sustain a further secondary school. It is therefore the Council's preference for financial contributions to be made to deliver on or off-site expansion of existing provision"*.
141. It went on to say that *"The Council has indicated that they would require a contribution of around £1.2 million which in this case would be directed towards the expansion of IGS to allow it to accommodate additional pupils. Such a contribution would allow the delivery of new classrooms, amenity areas and wider facilities to allow it to take on additional pupils, or contribute towards a longer-term investment in future expansion of the school"*.
142. The applicant's Statement of Case<sup>47</sup> explains that money to fund the construction of a primary school and to make increased provision for secondary education would come through CIL contributions. However, it remains to be seen if this CIL finance could adequately cover the urgent requirement for education provision in relation to this development, and also cover other necessary CIL requirements.
143. In summary, an additional 500 houses at Sun Lane could have a catastrophic impact on both primary and secondary education in the local area. If these new houses were to come before both additional primary provision in the form of a new school and secondary education in terms of the expansion of IGS, it would have a potential adverse impact on existing residents. From a primary school perspective, it is questionable how the 2 existing over-capacity schools would cope until the new school is built. There would be an adverse impact for existing pupil's educational standards if the only option is to continue to grow class sizes.

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<sup>47</sup> CD4.2

144. From a secondary school perspective, it is highly likely that some residents living at the south-eastern side of Burley in the likes of Holme Grove and Endor Crescent could be “trumped” by the geographical location of the proposed Sun Lane development. This is because the IGS Admissions Policy makes it clear that *“When demand exceeds places in any one of the above criteria, the distance between home and school, measured by straight-line from the main entrance of the home to the main entrance to the school building, will be used to decide who is to be given a place; those living nearest being given the available places”*.
145. Based on the way in which the proposed delivery of education provision has altered and has been somewhat watered down since the application was first submitted, the very special circumstances that are being portrayed in the applicant’s case are limited in weight and do not clearly outweigh the harm by definition to the Green Belt. The application should therefore fail.

*Mr Turner – for the Burley Objectors Group*<sup>48</sup>

146. Mr Turner is a resident of Burley who has lived in the village for 19 years. He addressed the inquiry on the subject of flooding and flood risk.
147. The Council is the relevant Lead Local Flood Authority (“LLFA”) in this case and therefore has responsibility for avoiding unacceptable risks as a result of surface water and fluvial flooding, by reducing development on sites which would have an adverse effect. Burley-in-Wharfedale residents and a neighbouring local council, have expressed serious concerns about the Council’s role as LLFA in this case.
148. The Council published its Preliminary Flood Risk Assessment (“PFRA”) in 2011. PFRAs are reviewed on a 6-year cycle and the Environment Agency (“EA”) declared an intention to incorporate surface water flood risks into the reviews in 2017. This factor was previously not taken into account. In 2017, most LLFAs had published their combined risk assessment, using algorithms to combine the available data-sets, with this information being used to identify at-risk areas.
149. The Council has not produced such a combined risk assessment. This is especially pertinent to the proposed Sun Lane development as the site is in a valley, which means that surface water flows down the slope from the moor, towards and through the site. For the 2017 reviews, the Department for Environment, Food and Rural Affairs (“DEFRA”) tightened the required risk criteria. The Council has not provided the more detailed and exhaustive analysis which DEFRA now requires. The only high-risk area it has identified is Bradford City Centre itself.
150. The Council indicates that there have been no reports for flooding since 2011, with no Section 19 investigations having been undertaken since 2011. The Burley-in-Wharfedale community is interested to know how the applicant’s analysis or combined flood risks has been examined and approved. The community is also interested to know what (if any) qualifications are held by the Council personnel who have responsibility for approving the Flood Risk Assessment (“FRA”) provided by the applicant. There is also a concern regarding potential costs and availability of mortgages and insurance on properties on the proposed site.

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<sup>48</sup> Docs BOG/CT/1 & 1S

151. Although a 2014 letter<sup>49</sup> on behalf of the applicant states that the masterplan "*proposes development outside of flood risk areas*", the EA's flood risk map indicates that this is arguably a flood risk area. A further extract from this letter mentions a site area of 23ha, whereas the application site is actually 25.64ha.
152. Sirius Geotechnical performed site surveys on behalf of the applicant, but it appears that the triangle of land at the north-western part of the site, which appears to be at greatest risk of flooding, was not covered by those surveys. The fact that the Council's Planning Officers failed to identify this key omission, raises concerns over the Council's competency as LLFA. This risk of flooding is prior to development, which may result in an increase in surface water run-off. In addition, the Sirius Geotechnical reports acknowledge and show the flooding area on the central area of the site, but on the Council's SHLAA maps from 2011 to date, this flooding zone is missing. This appears to be a discrepancy.
153. With regard to on-site ground gas monitoring, Sirius Geotechnical used boreholes adjacent to the Sun Lane LNR, at depths of between 4m and 6m above the outflow of waste water from that site. The land height at these boreholes, is 146m above sea-level, whilst the outflow from the LNR is at 136.59m above sea level. Since no water was present in these boreholes, there can be no certainty that leachate/contaminants would not be present on the site identified as a potential location for the school. The triangular part of the site in the north-western corner was not monitored by boreholes and has apparently not been surveyed. The historical data provided for this site, dates back to November 1987, and is therefore out-dated in context of this development.
154. There appears to have been no discussion between the Council and Leeds City Council relating to the potential effect of increased water run-off rates into the River Wharfe. Otley has particular concerns, since the town has experienced severe flooding in recent years.
155. Yorkshire Water's letter to the Council, dated 21 October 2016<sup>50</sup>, describes the following limit for waste run-off from the proposed development site: "*If sewage pumping is required from any part of the site, the peak pumped foul water discharge must not exceed 5 (five) litres per second*". The Burley community needs to be assured that containment plans will properly mitigate against increased run-off from the proposed development.
156. During heavy rainfall, there are occasions when Burley-in-Wharfedale is essentially cut off by road from the towns of Ilkley and Otley. The A65 road has been known to flood at Manor Bends, which is very close to the application site, and there is a concern that increased run-off from the proposed development may contribute further to the flooding of the A65 at this location.
157. Models and projections show an increase in the regularity and severity of flooding over the coming decades, and the Chief Executive of the EA has stated that "*Climate change is likely to mean more frequent and intense flooding. Floods destroy – lives, livelihoods, and property*". This potential increased flood risk will affect not just this proposed development, but populations and settlements downstream.

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<sup>49</sup> See Doc BOG/CT/1

<sup>50</sup> See CD2.9

158. Taking the above into account and having regard to the tests of inappropriate development in the Green Belt, the effects of the development in relation to flood risk represents an area of other harm to which substantial weight should be given. The application should therefore fail.

*Mr Poulter – for the Burley Objectors Group*<sup>51</sup>

159. Mr Poulter is a resident of Burley, and has lived in the village for 5 years. He addressed the inquiry mainly on matters relating to public management and community governance.

160. The Council and the applicant have failed to demonstrate the need for 700 new homes in Burley-in-Wharfedale. They have identified the majority of Burley residents as being commuters to the employment centre of Leeds and, to a lesser extent, Bradford and Harrogate. But they have failed to adequately assess the current and predicted market for homes within the A660 and A65 corridors, in conjunction with the huge housing developments taking place along this route in the neighbouring Leeds City Council area. This adjoining authority has approved development amounting to in excess of 2,680 homes along these 2 main commuter access corridors to Leeds.

161. The Council and the applicant have also failed to follow the Council's own directives and research that shows the overwhelming need for housing within the Bradford Metropolitan District area is within the Bradford City Centre, the M606 corridor, the Canal Road corridor, and the area around Keighley. They purport to show a need for swiftly-delivered housing, but have signally avoided the opportunities available at the abundant brownfield sites across the District.

162. The Council has made many references to the need to develop brownfield sites and bring underused or abandoned land in or near the City and principal town centres back into use, to relieve the pressures on demand for homes. But a detailed examination of the Council's brownfield register reveals an abundance of sites complete with planning permission across the District that developers have no interest in progressing. There are also many sites where planning permissions have lapsed because of a lack of interest from potential developers, as such sites lack the huge commercial potential that new homes in Wharfedale would offer<sup>52</sup>.

163. Burley was initially categorised as a "Local Growth Centre", with a housing allocation target over the Plan period to 2030 of 500 new homes, although the methodology behind this decision has always been a mystery, despite repeated calls from various bodies, including the PC, for an explanation<sup>53</sup>. Upon the transposing of the original HRA recommendations into LPCS Policy SC8, the protection of the 2.5km area outside the SPA, and the Green Belt protection regulations on the areas surrounding Burley-in-Wharfedale and Menston, meant the classification was changed to that of "Local Service Centre", and the housing target was reduced to 200 new homes.

164. At the same time, a brownfield area of semi-derelict mills to the north of the village, in partial use for a range of small businesses, was allocated full planning

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<sup>51</sup> Docs BOG/BP/1, 1S & 2, and Doc 29

<sup>52</sup> See Doc BOG/BP/1 and Appendix 1 in Doc BOG/BP/2

<sup>53</sup> See Appendix 13 in Doc BOG/BP/2

permission for conversion into 66 apartments, with 23 new homes, a restaurant, café, spa and gym complex<sup>54</sup>. This would have replaced the existing 22 jobs with approximately 50+ new ones, and would also go a long way to satisfying the allocation of 200 homes in the plan.

165. However, the applicant put in for a Judicial Review of this decision<sup>55</sup>, effectively slowing down the delivery of the new units, whilst lodging a succession of complaints with the Inspector reviewing the legality of the new LPCS, about the nature and scope of the Council's Policy SC8. Over the course of 2015 and 2016 the applicant effectively rewrote this entire policy to remove the level of protection from the parcel of land they held the option upon (the current application site). The delaying of the development at Greenholme Mills occurred on 3 separate occasions, resulting in the Council considering it 3 times, and approving it 3 times.
166. Once the protection of Policy SC8 had been removed from the South Pennine Moors SPA curtilage, the Council decided to reclassify the villages of Burley and Menston as "Local Growth Centres", upgrading their housing allocations for new homes from 200 to 700 and from 400 to 600 respectively in May 2016.
167. In this regard it is instructive to compare Burley with Baildon. Both were originally categorised as Local Service Centres and Baildon remains as such, even though it is some 3 times as large as Burley and is graced with many more facilities. The mechanisms by which Burley-in-Wharfedale was reassessed as a Local Growth Centre were, and remain, obscure. Details supplied to the LPCS Inspector suggested that Burley & Menston possessed far more by way of health care providers, namely dentists, surgeries and chemists, than was the truth. In addition, details of connectivity via public transport were exaggerated, and this exaggeration was accepted by the Inspector.
168. Eventually, in October 2016, having had this affair brought to his attention, the SoS issued a "holding direction" to prevent the Council progressing the LPCS. In March 2017, following detailed study of the proposed new LPCS, the SoS released the Council from the holding direction, but made it very clear that *"In removing the holding direction the SoS is not accepting that the exceptional circumstances exist to justify the amendment of any specific Green Belt boundaries"*.
169. The Council and the applicant have both made reference to the Sty Lane decision letter<sup>56</sup> from the SoS to support aspects of their case, but ignore the fact that 2 years after detailed permission was received, that development has not started.
170. In summary, the applicant's sustained and overwhelming pressure on the Council has resulted in the removal of the strong protection of land on the periphery of the South Pennine SPA (the application site); the change of status of the village in the settlement hierarchy from a Local Service Centre to a Local Growth Centre; the dramatic increase in housing numbers expected of the village to accommodate the applicant's site's potential; the creation of a belief that there existed "exceptional circumstances" to justify building on the Green Belt; the removal of the suggestion that Burley-in-Wharfedale was in any way an "Historic Town" or in danger of

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<sup>54</sup> See Appendix 15 in Doc BOG/BP/2

<sup>55</sup> See Appendix 15 in Doc BOG/BP/2

<sup>56</sup> Appendix 24 in Doc BOG/BP/2 and CD11.4



merging into one of its neighbours; and the delay to any other competitor from affecting, by other contributions, the total number of units required.

171. I do not believe that any of the changes that have been pushed through on the range of LPCS policies are in the spirit of the Council's original concept of the long-term vision for Burley-in-Wharfedale and the surrounding Green Belt and all its outstanding natural beauty.
172. Insufficient assessment has been given to the impact of the development on the Green Belt. The new build would appear and function as a pocket of development on an area where little development exists, and would bring the edge of the settlement of Burley-in-Wharfedale to within 1.5km of the Ilkley suburb of Ben Rhydding. In the absence of "very special circumstances" being demonstrated, this inappropriate development in the Green Belt cannot be justified, and should be refused planning permission on the basis of being contrary to RUDP Policy GB1 and paragraph 43 of the Framework.
173. Not only would this proposed development impact on the openness of the Green Belt in general, but it would have a detrimental impact on the approach to the site when viewed from the direction of the Nidderdale AONB. For all the above reasons this application should not be approved.

*Mr Felstead – for the Burley Objectors Group*<sup>57</sup>

174. Mr Felstead is a resident of Burley, having lived there for 15 years. He addressed the inquiry primarily on matters relating to the LPCS and paragraph 11 of the Framework, dealing with Plan making.
175. In Mr Felstead's main statement and appendices<sup>58</sup>, he examines historic forecasts of future population growth across the District, and relates this to employment and job creation statistics. Although he acknowledges that the LPCS has been ratified by the Council and approved by the Inspector who examined it, and is not subject to change once approved, he nevertheless argues that the LPCS is not perfect and that the data sets and assumptions on which it is based need to be examined in the context of paragraphs 8, 11a and 11b of the Framework, and LPCS Policy EC1.
176. In summary he maintains that both the LPCS housing numbers and the plans to build on Green Belt land are seriously flawed, and that both employment and population projections used by the Council are incorrect and are not supported by the available data. He questions whether or not the Council has correctly identified its objectively assessed housing need. This should meet household and population projections, taking account of migration and demographic change; meet the need for all types of housing including affordable; and cater for housing demand and the scale of housing supply necessary to meet that demand.
177. Secondly, he questions whether the Council's housing number projections are realistic; and thirdly, he questions whether or not the release of Green Belt land is necessary in Burley-in-Wharfedale, or indeed elsewhere in the District. The LPCS supports the need for homes within the District based on specific criteria, amongst which are job creation and population growth.

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<sup>57</sup> Docs BOG/RF/1, 1S & 2, and Docs 3, 33, 49 & 50

<sup>58</sup> See Docs BOG/RF/1 & 2

178. However, the population growth forecast is in decline across the District and the Council have overlooked this when calculating housing numbers. Unlike adjacent authorities, who have been significantly reducing housing numbers and forecasts, the Council has continued with its blinkered approach, ignoring "the bigger local picture". This suggests a lack of rigour in aligning statistical evidence with its housing strategy. It also fails to meet the Framework's criteria to be sufficiently flexible to adapt to rapid change. This process is supposed to be objectively assessed, according to the Framework, but nowhere within the LPCS is there an objective assessment that reflects the data.
179. With regards to employment, there does not appear to be any information or evidence to support the creation of employment opportunities across the Bradford District at the scale the Council is proposing. Indeed, the contrary appears to be true. Again, the Council has this information to hand, with figures clearly proving that few jobs have been, or are being, created. There is absolutely no evidence that supports the Council's assertion that the District will create 1,600 jobs per annum during the plan period.
180. Finally, it is necessary to identify the need for different types of housing. In this regard the average salary in the Bradford District has been consistently lower than the national and Yorkshire average, such that the type of jobs in the District, and associated salaries, also raise the question of affordability.
181. In addition, it is quite clear that there have also been some significant changes to the data since the LPCS was adopted. The evidence to support forecasted housing growth and a need to release Green Belt land at Sun Lane, or elsewhere within the District (population, employment, job creation, earnings) simply do not stand up to examination. Consequently, the LPCS is badly in need of review and this should not be pre-empted by allowing the applicant's planning application to succeed. At the very least, on the basis of the points set out above, development of the Sun Lane site should be deferred.
182. Mr Felstead also summarised the overall case put forward by the various members of the Objectors Group. After hearing the evidence provided by both main parties it accepts the position about the soundness and relevance of the LPCS, but maintains that there are clearly functional issues that need to be addressed, evidenced by the fact that the Council is conducting a partial review of the LPCS. The fact that this partial review is making slow progress damages public confidence in the planning system. Notwithstanding the arguments which have been advanced by both main parties, the Objectors Group considers that it is premature to decide this application as there could be changes to the housing supply figures for the Bradford District as part of the LPCS partial review.
183. The little evidence available suggests a very high likelihood of housing numbers being revised downwards, which would no longer justify removing this land from the Green Belt. Leeds City Council has already been through this exercise and has reduced housing requirements by 30% even though Leeds has a more buoyant and robust economy. This development would have a significant impact on Burley and on the Green Belt, and this is why the Objectors Group has suggested that a decision should be deferred until the outcome of the LPCS Partial Review is known.
184. The applicant, understandably, has put great emphasis on the current identified need for 700 homes in Burley. However, Mr Joy for the Council made the point that, on its own, a lack of a housing supply is not a "very special circumstance",

and is unlikely to outweigh the harm to the Green Belt that this development may cause. Mr Poulter presented evidence that shows that there are many opportunities to build houses on brownfield sites in the District, which would go some considerable way towards meeting housing supply requirements without encroaching onto valuable Green Belt land.

185. The evidence provided by the Objectors Group has demonstrated there is falling employment in the Bradford District and a lack of job opportunities in this part of Wharfedale. The hundreds of people attracted to live in the Sun Lane development would not be working locally. They would exacerbate Burley's "dormitory village" situation, lead to extra traffic, increase pressure on train services and on already congested street parking around the station. The development would prevent future widening of the crucial A65 road. This is not sustainable development, either in socio-economic or environmental terms.
186. Mr Lavery does not dispute the traffic data and software that the applicant relies on, but has assessed the impact that 500 houses would have, based on his extensive knowledge of the way in which the local transport system operates, including the A65, which is already a heavily congested route. An additional 500 new homes would add to existing traffic volumes and queues on an overstretched network, and although the public transport proposals (particularly the bus service proposals), would provide some benefit, there would be little in the way of any gain from diverting buses through the site.
187. The Council has put great weight on the provision of the proposed new primary school, arguing that it adds considerable weight to the "very special circumstances" which the Council considers justifies an exception being made to established Green Belt policy. However, there is no certainty that the new school would be delivered as Mr Joy conceded. For the applicant, Ms Knowler advised similarly. Clearly, the school cannot give rise to "very special circumstances" if there is no guarantee that it would be delivered. In any case, a new school is not the only way to address educational issues in Burley. The inquiry was told that one of the schools has land available for an extension and the Council's CIL 123 list could be used to improve and enhance education provision in Burley without the need to rely upon a new development.
188. Although the applicant argues that the development is consistent with the policies in the LPCS, the application site is designated Green Belt land, therefore by definition the development is inappropriate as it does not fall within the very limited categories of appropriate Green Belt development. The applicant agrees that the proposal represents inappropriate development in the Green Belt, and has also conceded that there would be encroachment into the countryside and harm to landscape character. Burley residents consider that the application site contributes to the overall beauty of the village, and that much greater weight should be given to the harm that would be caused to the landscape and countryside. Evidence from the Objectors Group has also shown that other harm would result, in terms of pressure on infrastructure and risk of flooding.
189. The Objectors Group acknowledges that very special circumstances can result in compliance with the relevant LPCS policies, as well as those in the Framework. However, if the new school were not to be delivered, and if housing supply issues on their own cannot outweigh Green Belt harm, then 2 of the 3 key areas of very special circumstances set out in Mr Joy's Proof of Evidence are undermined. There

would also be other significant areas of harm in terms of highway impact and sustainability, together with the matters raised by the local Councillors.

190. The applicant is not a housebuilder and so would sell this site on to others who may attempt to renegotiate the proposed S106 agreement contributions, or the conditions requiring affordable housing. Some of the off-site highway contributions would not be made until years after site development work commences, consequently the resultant development may be different from that promised.
191. In summary, the Objectors Group considers that the benefits of the proposal would not outweigh the harm to the Green Belt by reason of inappropriateness, encroachment into the countryside, damage to landscape character, and the other harms identified. It requests the Inspector to conclude that there are no very special circumstances to justify allowing this inappropriate development, and to recommend to the SoS that planning permission should not be granted.

*Mr Dobson*

192. Mr Dobson is a local resident and businessman. He states that he is providing the opinions of an older man, who does not have the benefit of statistical evidence, but does have the advantage of more than 80 years' experience.
193. The Council's Planning Officers have used planning guidelines and policies to help them determine this application, but have not used sensible discretion to arrive at the best decision. Instead, they have undervalued the Green Belt and overstated the environmental aspects of the proposal.
194. The geography and geology of the area has created a special Green Belt situation. The Aire and Calder rivers to the south had qualities which made them suitable for the woollen industry, and with the South Yorkshire minefields and the canals and railways this area became a vast industrial area. However, the River Wharfe to the north of Burley does not have these same water qualities, and so the area through which it flows has remained as a beautiful rural and farming area.
195. The A65, the A659, the A660 and the A6638 trunk roads lead out of these industrial areas, and are routes to the open countryside of Wharfedale. They are used by millions of people at weekends and holidays as escape routes to the open spaces. Councils took advantage of this in the past by creating a health sanatorium, 3 outdoor lidos and a variety of other centres for outdoor activities.
196. Over the years Wharfedale has received countless visitors, as an area where nature could be enjoyed by townspeople and tourists. But in the last 65 years the roads have become clogged with "new build", with an almost continuous urban sprawl along these trunk roads, which all eventually feed into the eastern end of Burley. Now the applicant seeks to extend those built-up areas even further, through and beyond the village into the countryside, knowing that the application site would maximise profit. The Green Belt policy was brought in to preserve these precious areas so that they could be passed on to future generations.
197. Traffic congestion occurs every Friday, Saturday and Sunday. 25 years ago, the Highways Agency spent millions of pounds preparing to alleviate this congestion, but then had to postpone the plans for cost reasons. The situation has worsened over the last 25 years, and another 1,000 cars a day to be added by this application proposal is not wise planning. We have a duty to pass our countryside

to future generations in better condition than when we inherited it. Approving this application would not do this. It also flies in the face of Government policy for people to become more active in outdoor life.

198. There are many sites which can be developed for housing to satisfy Bradford's demands, without creating such sensitive Green Belt issues as the application proposal. Whilst he does not have the titles and accolades of the applicant's specialists, Mr Dobson considers that he does know what is right for the area.

## **The Case for the Applicant**

### *Introduction*

199. The following paragraphs summarise the applicant's case, which is presented in full in its written and oral evidence, including the Proofs of Evidence from its expert witnesses and the written Response Statements from these witnesses<sup>59</sup>, together with the comprehensive SoCG between the applicant and the Council<sup>60</sup>. The applicant's case is endorsed by the Council.

### *Overview*

200. This planning application has been made at a time when the Council remains in the grip of a dire housing crisis, classed as "acute" "persistent" and "chronic" by the SoS himself in a decision letter from September 2016, when granting planning permission for 440 dwellings at Sty Lane, Micklethwaite. At that time the Council's supply of deliverable land was 2.05 years, at best. This situation has not improved. Nearly 3 years later the Council can only claim 2.06 years of supply in its latest 5-year Housing Land Supply ("HLS") assessment<sup>61</sup>. But on the basis of the applicant's evidence, applying the Government's stated methodology, the supply has in fact fallen to an even more disturbing 1.43 to 1.65 year low<sup>62</sup>.
201. Whilst the Council contends for use of the "Liverpool" method<sup>63</sup> of calculation, it did not dispute Mr Darley's analysis that the sites relied upon in Appendix 2 of the 5-year HLS supply document should not be counted, because of the lack of clear evidence to demonstrate their deliverability. This, of itself, would mean a lower supply than 2.06 years. However, whichever figure is used, it represents a dire situation for the Council.
202. At the outset of the inquiry it was apparent that the main objection to the proposal by interested persons was predicated on an assumption that it was appropriate to question and attack the adopted LPCS. However, by the end of the inquiry that position had been rightly abandoned by the main interested persons, including Mr Orton for Burley PC, Mr Felstead and Mr McQuillan. They were right to do so. Section 38(6) of the 2004 Act, with section 70(2) of the Town and Country Planning Act 1990 ("the 1990 Act"), embodies the plan-led approach to the determination of this planning application for new market and affordable housing for Burley-in-Wharfedale and the District as a whole.

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<sup>59</sup> Docs APP/CD/1 to APP/AB/3

<sup>60</sup> CD5.1-CD5.6

<sup>61</sup> CD10.8

<sup>62</sup> Para 6.28 of Doc APP/CD/1

<sup>63</sup> The "Liverpool" method of calculating HLS involves spreading the shortfall over the whole remaining local plan period, whereas the "Sedgefield" method seeks to address any shortfall over the next 5 years of the plan period

203. Following the examination process, and after making the main modifications that were recommended by the Local Plan Inspector, the LPCS has been found sound and legally compliant in all respects. As part of this process Burley-in-Wharfedale's status in the settlement hierarchy was fully tested, as was its capacity to accommodate 700 new homes, with the recognised inevitability that land in the Green Belt adjoining the settlement would be required - in recognition of the reliance upon the application site. Adopted in July 2017 the LPCS represents an up-to-date part of the development plan.
204. It is now intrinsically unlawful to attempt to question the validity of those settled principles, in light of Section 113 of the 2004 Act. This sets down the basic principle that (after the relevant challenge period), an adopted development plan of this kind "*must not be questioned in any legal proceedings except in so far as is provided by the following provisions*" of that section. It was therefore always inappropriate to use this planning application as a vehicle for attacking the recently adopted LPCS in the way that the objectors originally sought to do. This would be to subvert the statutory process, the plan-led approach and the fundamental principles expressed in the Framework.
205. In light of the above points, this application falls to be determined in accordance with the development plan unless material considerations indicate otherwise. Both the applicant and the Council are clear that this application is in accordance with the development plan and should be approved without delay<sup>64</sup>.
206. As such, the basic starting point for assessing this planning application must be the established and adopted LPCS position that:
- a) Burley-in-Wharfedale has a confirmed status as a Local Growth Centre, under Policy SC4. It is required to take its appropriate share of housing growth identified in the LPCS;
  - b) The specific and identified requirement that Burley-in-Wharfedale must accommodate is 700 new homes, as set down in Policies HO3 and WD1, as well as now reflected in the recently made NP;
  - c) The LPCS itself confirms that "exceptional circumstances" have been demonstrated to justify using Green Belt land to provide the required level of housing<sup>65</sup>;
  - d) Policies HO3 and WD1 specifically confirm that provision of the 700 homes for Burley will require a "significant contribution" from Green Belt land, with these policies being promoted, examined, and adopted on the specific basis of the availability of the application site to provide the required land for the delivery of 500 homes.
207. But the LPCS is not just the adopted development plan in law. It is also the Council's specific, democratically adopted, targeted solution to address its housing crisis. It has been formulated, independently tested and then adopted after many years. Through that process, every person – including the residents of Burley-in-Wharfedale – has had the opportunity to express their views - and they did so. The notion that Burley-in-Wharfedale should not be a Local Growth Centre, or that it should not accommodate 700 houses, or that the application site was somehow

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<sup>64</sup> Paragraph 5.10 of CD5.1

<sup>65</sup> Policy SC7(B).

inherently unavailable, have all been rejected in that process. It would subvert the whole system to allow these issues to be reopened.

208. Although the LPCS is ultimately expected to be accompanied by a Land Allocations DPD, as part of the Local Development Framework ("LDF"), this has been repeatedly delayed. The initial options draft is some 3 years old and a preferred options DPD is still many months away. But that document is academic for Burley-in-Wharfedale in any event, as no-one is suggesting that there is any other credible alternative site for delivery of Burley's 700 house requirement than the application site. The PC (through Mr Ian Orton), expressly confirmed this at the inquiry, and it was known by the Council and the Local Plan Inspector when the LPCS was examined and adopted with the 700-house requirement.
209. Even after using all previously developed land, and land within the settlement boundary that is not in the Green Belt, (including the 190 units developed or committed), there is a need for at least 510 houses to be provided. This can only be met by using the application site. No-one is suggesting that any SHLAA sites can accommodate this amount of housing – nor is anyone suggesting that a combination of SHLAA sites would be better. Indeed, use of other SHLAA sites would clearly be unacceptable in relation to the Green Belt purposes. Mr Darley's Appendix 2<sup>66</sup> assesses each of the SHLAA sites and concludes that all the sites present difficulties, with the vast majority being unsuitable, and/or undeliverable, and/or unsustainable, for various reasons, which are not disputed by the Council.
210. The 700-house allocation for Burley-in-Wharfedale in the LPCS was expressly put forward in recognition of the application site's inherent suitability as the natural extension to Burley. In so doing, the Council itself made the case that the necessary exceptional circumstances for using Green Belt land, that would come from allocating 700 homes to Burley-in-Wharfedale, were made out. The LPCS was examined and found sound on that very basis.
211. In light of these basic points, there can be no proper objection to what is proposed on the application site. Indeed, it is absolutely essential to fulfil the LPCS. That said, the material supporting the planning application and the evidence produced for this inquiry confirms exactly why the LPCS adopted the approach it did. The site is an ideal one to meet the needs of Burley-in-Wharfedale for new housing, including affordable housing. The overwhelming merits, along with the very special circumstances which exist in various different forms to use this Green Belt land, are dealt with below, to reflect the issues on which the SoS wishes to be advised, along with other issues raised by objectors.

#### *Planning Policy*

212. The development plan includes the Bradford LPCS; the RUDP, and the Burley-in-Wharfedale NP. The Framework is also a highly relevant material consideration. It is common ground between the Council and the applicant that the emerging partial review of the LPCS, and the emerging Land Allocations DPD are at such an early stage in the process that no material weight can be placed upon them<sup>67</sup>.
213. In this context it is common ground with the Council that there is absolutely no basis for seeking to refuse this planning application on grounds of "prematurity",

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<sup>66</sup> Doc APP/CD/2

<sup>67</sup> Paragraph 5.11 to 5.16 of the SoCG

as was claimed by some objectors, principally by Mr McQuillan for the Objectors Group. With reference to paragraph 50 of the Framework, the application proposal would not prejudice the relevant development plan (given the scale of the required housing need in the District), nor can any emerging plans rationally be treated as anywhere near the description of “advanced”. The planning application therefore falls to be determined against the adopted development plan and other material considerations in the normal way.

214. The relevant policies within the development plan and the Framework and other material considerations, such as SPD, have been agreed by the parties and are set out in the Planning SoCG. As already noted, it is common ground with the Council that the application accords with the development plan, and that the presumption in favour of granting planning permission therefore applies. Because of this the relevant policies are not discussed in detail here, but are referred to below under the relevant subject-headings.

#### *Housing Need and Supply*

215. This issue is covered in the Planning SoCG at Section 6 and in the Update to the SoCG to take account of the Council’s latest 5-year HLS Statement. The only area of disagreement between the Council and the applicant relates to the extent of the shortfall. The Council considers the current HLS to be 2.06 years, but still recognise this as acute and chronic, whereas the applicant considers it is even lower at between 1.43 and 1.65 years.
216. Policy HO1 of the LPCS identifies the need to deliver at least 42,100 new homes across the District by 2030, with Policies HO3 and WD1 identifying a need for 2,500 houses in the Wharfedale area, and with 700 homes at Burley. As the overall numbers required are identified as “at least”, it is common ground that this 700-home requirement for Burley is not a maximum figure<sup>68</sup>.
217. Burley-in-Wharfedale was originally proposed as a Local Growth Centre, and had this equivalent status in the former RUDP. However, it was temporarily downgraded to a Local Service Centre (along with Menston) in the draft LPCS, prior to examination, in consequence of the Council’s then HRA, which suggested that no more housing could be accommodated in these settlements because of their proximity to the South Pennine Moors SPA.
218. This was directly challenged by the applicant and others in representations on the LPCS. The Local Plan Inspector accepted those representations and found the approach unsound and unlawful. Consequently, the Council revisited its HRA with NE and produced a lawful one which demonstrated that housing could be provided, with an appropriate precautionary approach. Consequently, the Council restored Burley’s status to that originally envisaged, and allocated 700 new homes consistent with that status and Burley’s needs<sup>69</sup>.
219. As the LPCS was only adopted in 2017, any suggestion that a lower overall housing requirement than set out in the LPCS should be utilised is inappropriate. Indeed, paragraph 73 of the Framework only suggests the use of alternative figures where strategic policies are more than 5 years old. That clearly is not the case here.

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<sup>68</sup> Para 6.2 of CD5.1

<sup>69</sup> Paras 51, 52, 55, 140 and 181 of CD3.8/CD7.2, and also paras 32 to 41 of Doc 60



220. The discussion of other housing figures, as at Appendix 1 to Doc APP/CD/2, has only arisen because interested persons have speculated about future housing need in the context of the extremely early stages of the LPCS review. For the reasons set out in that Appendix, speculation on the housing figures is not appropriate or relevant to the proper determination of this planning application. Nonetheless, the Appendix shows that the anticipated direction of travel will, in all likelihood, be in line with that set out by adopted planning policy. The local housing need figure is not an alternative to the LPCS requirement at this time.
221. Turning to housing delivery and supply in the District<sup>70</sup>, the Council's position is that it can demonstrate 2.06 years of supply. However, Mr Darley makes 2 very simple and irrefutable points to show why the situation is in fact worse<sup>71</sup>. Firstly, the Council's calculation applies the Liverpool method to the backlog, whereas national policy in the PPG is that the Sedgfield approach must be used when making these calculations for planning determinations<sup>72</sup>. By applying the Sedgfield method, the supply drops to 1.65 years.
222. Although the Council maintains that the Liverpool method can be adopted under the PPG, it has failed to distinguish between using the Liverpool method for the plan-making and examination process, as compared with the approach required for subsequent decision-making. The fact that the Local Plan Inspector accepted the Liverpool method for the LPCS does not mean that it can be applied for subsequent 5-year HLS assessment, when considering planning applications (as a recent appeal decision demonstrates<sup>73</sup>).
223. The Local Plan Inspector accepted the Liverpool method for the purposes of the LPCS examination when reporting in August 2016, based on his understanding of previous and current rates of dwelling completions of around 700-900 per year<sup>74</sup>. But the same figures do not apply nearly 3 years later. Submitted evidence<sup>75</sup> suggests that the Inspector must have been relying upon data about completions in the years 2011-2015/2016. However, the data for more recent years 2016/2017 and 2017/2018 has shown increased delivery achievements<sup>76</sup>. This further supports the use of the Sedgfield approach for 5-year HLS calculations.
224. The second unchallenged point made by Mr Darley<sup>77</sup> relates to the basic test of deliverability of the supply side, as now set down in the 2019 version of the Framework. The Council's reliance on Appendix 2 sites<sup>78</sup> is not justified, in the absence of the production of "*clear evidence that housing completions will begin on site within 5 years*"<sup>79</sup>. There is no such evidence, let alone clear evidence.
225. This point is graphically illustrated by the Sty Lane site itself. This site was granted outline planning permission 2016 by the SoS but it has not come forward

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<sup>70</sup> CD5.3

<sup>71</sup> Paras 6.10 to 6.30 of Doc APP/CD/1

<sup>72</sup> Para 6.20 of Doc APP/CD/1 and CD11.3

<sup>73</sup> CD11.3

<sup>74</sup> Page 21 of CD7.2

<sup>75</sup> Para 3.23 of Doc 39

<sup>76</sup> Table 6.1 of CD5.1 – showing 1,488 dwellings delivered in 2016/17 and 1,621 in 2017/18

<sup>77</sup> Paras 6.25 to 6.29 of Doc APP/CD/1

<sup>78</sup> CD10.11

<sup>79</sup> Glossary to CD6.1

for development. Mr Darley identified the serious challenges of developing this site in terms of topography and infrastructure with a bridge crossing needed. By contrast, the Council has not produced any evidence, let alone clear evidence, that development will begin within 5 years. Once such sites are removed from the supply side, as required by the Framework, the overall supply drops to 1.43 years.

226. But whilst the applicant stands by its assessment of a HLS of 1.43-1.65 years at best, whichever figure is used between 1.43-2.06 years, the overall description of a chronic and acute shortfall remains. Given the purpose of requiring a 5-year HLS to ensure delivery, the emphasis on boosting supply, and the basic point that the Council urgently needs this housing, the overall housing situation is dire. This is a matter to which at least very substantial weight attaches, as it did in the Sty Lane decision. Given the problems with Sty Lane itself, the increasing deficit and the length of time this has continued, the weight can only have increased.
227. Moreover, it is clear that it is capable of being a very special circumstance for Green Belt purposes, either alone or in combination. For the unchallenged reasons given by Mr Darley<sup>80</sup>, the grant of planning permission on this site would provide a significant boost to supply in the Council's area and it is anticipated that the site could be developed in full in 6-7 years. All that is needed now is the urgent grant of planning permission by the SoS to allow this delivery to occur.
228. The compelling case for housing generally is substantial enough, but it becomes even more compelling when the situation regarding affordable housing is considered<sup>81</sup>. The Council has a need for 587 affordable units per annum, but the evidence shows a year-on-year failure to deliver anything like this requirement, resulting in an ever-increasing deficit. The cumulative shortfall currently stands at 2,218 units since 2012.
229. The application proposes 30% affordable housing, representing up to 150 units, which would be a substantial contribution to the area's needs. This level is the maximum for the Council's area and would be provided in one of the most unaffordable areas in the whole District. In the Sty Lane case the SoS attached significant weight to the delivery of 20% affordable housing, so it is clear that delivery of 30% on this site must attract very substantial weight.
230. It is therefore difficult to over-emphasise the dire need for housing and affordable housing that this application would serve to address, in a material way, and the huge weight that ought to be attached to these factors in determining this application. These are things that the Council has rightly considered important. They must surely be equally, if not more, important to the SoS.
231. As already noted, the LPCS requires 700 homes to be delivered at Burley under Policies HO3 and WD1, and notes expressly that this requires a significant contribution from the Green Belt. There is therefore no basis for delaying the grant of planning permission for this site, as it is the essential piece in the jigsaw of delivering the housing requirement for Burley. The Land Allocations DPD will necessarily have to allocate the application site, but the Council properly recognises that there is no basis for awaiting that document, and no policy basis for doing so.

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<sup>80</sup> Docs APP/CD/1 and APP/CD/2

<sup>81</sup> Paras 6.65 to 6.68, and Table 6.3 in Doc APP/CD/1

232. Representations against the development from interested persons have all been predicated upon the basis that it is open to challenge the 700-home requirement for Burley, despite the recently adopted LPCS. But this is obviously incorrect. What the representations do not do, however, is contend that there is a basis for refusing permission for the application site if 700 homes are required. All recognise that the application site is required in these circumstances.

### *Green Belt*

233. With the above points in mind, it is necessary to consider how the application proposal sits alongside policies in the Framework on protecting Green Belt. This is a matter on which the SoS wishes to be informed, and is covered in Section 7 of the Planning SoCG, as well as in the evidence of Mr Darley<sup>82</sup> and the supporting information provided with the planning application.

234. It is common ground that the application site is in the Green Belt and the proposed development represents inappropriate development. As such, very special circumstances must exist to outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. In making those judgments, it is relevant to assess both the extent of harm caused, and then the nature of the very special circumstances that exist to outweigh that harm.

235. It is common ground that exceptional circumstances to justify use of the Green Belt in Bradford District and, in particular, around Burley, have already been demonstrated through the preparation, examination and adoption of the LPCS<sup>83</sup>. LPCS Policy SC7(B) explicitly states "*Exceptional circumstances required Green Belt releases in order to deliver in full the longer-term housing and jobs growth in the District as set out in Policy HO3 and Policy EC3*". The existence of such "exceptional circumstances", of itself, is clearly a "very special circumstance" in the decision to be made on this application.

236. Paragraph 3.102 of the LPCS explains that in demonstrating those exceptional circumstances, the Council considered all reasonable alternatives, other than Green Belt land, including consideration of brownfield land. The LPCS was adopted on that basis. This approach is entirely consistent with the most recent requirements in the new Framework.

237. When considering the soundness of Policy SC7 the LPCS Inspector confirmed that the Council had identified "the exceptional circumstances" needed to justify the release of Green Belt land in order to fully meet the development needs for housing and to support the regeneration and long-term economic success of the District. He recorded that evidence in the SHLAA "*confirms that insufficient land can be identified outside of the Green Belt to fully meet identified housing needs; some 11,000 dwellings are likely to have to be accommodated on Green Belt land, given the availability and constraints on non-Green Belt land*"<sup>84</sup>.

238. Moreover, the Inspector identified that this was subject to the evidence base in the Growth Study<sup>85</sup> confirming that land was available in the Green Belt in sustainable locations without undermining the functions and purpose of the Green

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<sup>82</sup> Section 7.0 in Doc APP/CD/1

<sup>83</sup> Paras 7.1 to 7.5 of CD5.1

<sup>84</sup> Paras 41 to 49 of CD3.8/CD7.2

<sup>85</sup> CD10.1 & CD10.2

Belt<sup>86</sup>. Turning to the need for Green Belt release around Burley itself, this is also expressly recognised and identified in the LPCS, and covered in the report of the LPCS Inspector. It is reflected in Policy WD1 with specific identification of the significant contribution from the Green Belt to meet the identified requirement.

239. It is also not in doubt that the Inspector was referring to the application site in this respect<sup>87</sup>, a matter which was confirmed in evidence at the inquiry by those who attended the LPCS examination, including Mr McQuillan and Mr Poulter. The LPCS Inspector also confirmed the sustainability of Burley as a Local Growth Centre, providing at least 700 new homes using the Green Belt<sup>88</sup>. The recently made NP reflects the LPCS requirement of 700 homes. The NP was found sound by the independent examiner, subject to the removal of the suggestion that this need should not be met on a large site (as Mr Orton accepted at the Inquiry).
240. The role and function of the Green Belt surrounding Burley-in-Wharfedale has been comprehensively assessed both in the preparation of the LPCS and also for the purposes of this application<sup>89</sup>. A review commissioned by the applicant identified the existing durable Green Belt boundaries to the north, south and east, but the lack of durable boundaries to the west - and the way in which the application site's boundaries (once developed) would create those durable boundaries, with existing strong boundaries to the north and south<sup>90</sup>.
241. There is common ground with the Council that the application site site represents the most appropriate location, outside of the currently defined settlement boundary, for potential Green Belt release, and this has not been challenged by any other party. The reality is that it is not just the best site to use in the Green Belt, but the only site that could deliver the requirements in a way which would prevent unacceptable impacts on the Green Belt<sup>91</sup>.
242. The harm that would be caused to the Green Belt is identified in the Planning SoCG and in Mr Darley's evidence in relation to landscape and visual effects, drawing on Mr Denney's evidence<sup>92</sup>. If the application proposal were to proceed there would inevitably be an impact on openness of the Green Belt. But there is a need for removal of land from the Green Belt and it is agreed that the application site is the ideal location for such removal. It is therefore rightly agreed that the harm to the Green Belt would be very limited and, in any event, fully justified by both the exceptional circumstances and very special circumstances that exist.
243. There is unequivocal consensus between the applicant and the Council that very special circumstances exist to justify the proposed development. Some of these are very special circumstances in their own right, but it is well-established that very special circumstances may arise by reason of cumulative factors, even if those factors are not "very special circumstances" in their own right.

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<sup>86</sup> Para 43 of CD3.8/CD7.2

<sup>87</sup> Para 184 of CD3.8/CD7.2

<sup>88</sup> Para 182 of CD3.8/CD7.2

<sup>89</sup> Paras 7.9 to 7.14 of CD5.1, and paras 7.11 to 7.12 of Doc APP/CD/1

<sup>90</sup> CD10.1 and CD10.2

<sup>91</sup> Para 7.15 of CD5.1 and paras 7.20 to 7.37 of Doc APP/CD/1

<sup>92</sup> Paras 7.26 to 7.28 of CD5.1, para 7.39 Doc APP/CD/1, and Doc APP/BD/1

244. These very special circumstances are dealt with in detail in the Planning SoCG<sup>93</sup> and in Mr Darley's Proof of Evidence<sup>94</sup>. They are overwhelming and clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. This is the case even having given substantial weight to the harm to the Green Belt as policy requires. The very special circumstances either individually or cumulatively include the following:

- a) The requirement in the recently adopted LPCS to meet the established need for housing in Burley-in-Wharfedale of delivery of 700 homes, which is specifically acknowledged as requiring a significant contribution from the Green Belt. This allocation was made in the knowledge of the application site and in reliance upon it. It is difficult to think of a better "very special circumstance" than this in the context of Green Belt policy;
- b) The very clear agreed position with the Council that there is no other alternative site or sites at Burley-in-Wharfedale to meet that need. An assessment of the alternative sites is included in the Planning SoCG<sup>95</sup>, with an updated assessment in Appendix 2 of Mr Darley's evidence<sup>96</sup>. Mr Joy, for the Council, confirmed that this updated assessment is agreed in full and no-one has challenged these assessments;
- c) The existence of a recognised "significant, chronic and acute" shortfall in market and affordable housing in the Council's area. Very substantial weight must attach to both these elements for the reasons already stated;
- d) The evidenced shortfall in primary education provision in this area which can be directly addressed by the planning permission for a school on the Site and the delivery of it to the Council for no material cost, coupled with the education CIL contribution that would allow the Council to deliver a new school (see later);
- e) The unique (and certainly "very special") substantial heritage and educational benefits that would arise from the development, by allowing the likely Roman Temporary Camp to be investigated, revealed and then celebrated in the development as a dynamic educational resource (see later);
- f) The delivery of clear and defensible future boundaries for the Green Belt around the site and the settlement of Burley-in-Wharfedale, together with the landscape buffers and the range of recreational and open space and ecological benefits that would go beyond mitigating the impacts of the proposal, but would also deliver real benefits to the area including: the creation of new PRoWs; the creation of new allotments; the enhancements to the Sun Lane LNR; and the enhancements to the South Pennine Moors SPA/SAC (see later).

#### *Compliance with the Development Plan and other Policies*

245. It is common ground with the Council that the proposal complies with the development plan and all other relevant policies. The reasons for this are

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<sup>93</sup> Paras 7.30 to 7.34 of CD5.1

<sup>94</sup> Paras 7.43 to 7.81 of Doc APP/CD/1

<sup>95</sup> Paras 6.10 to 6.15 and Appendices 3, 4 & 5 of CD5.1

<sup>96</sup> Doc APP/CD/2

comprehensively addressed in the evidence<sup>97</sup> and the SoCG, including the various subject areas identified below.

*Presumption in Favour of Sustainable Development*

246. As it is common ground with the Council that the proposal complies with the development plan and all other relevant policies, it is also common ground that the presumption in favour of this proposal as sustainable development should apply, in accordance with paragraph 11(c) of the Framework. Mr Darley's Proof of Evidence contains a comprehensive assessment of the proposal in terms of the three core objectives (economic, social and environmental), which draws on the conclusions of an economic benefits assessment of the proposed development, utilising Lichfield's well established eVALUATE model, and explains how the proposal meets each of these, and would deliver significant benefits<sup>98</sup>.
247. If the proposal had, however, been considered to conflict with the development plan as a whole, the application would have to be considered in the context of the tilted balance under Framework paragraph 11(d). In those circumstances, greater weight should be given to the LPCS, being a more recently adopted element of the development plan than the saved policies of the RUDP, with its clearly out-of-date Green Belt boundaries. The evidence presented in support of the proposal leads to the conclusion that there are no clear reasons for refusing the development, and any perceived disbenefits of the development would not significantly and demonstrably outweigh the many benefits.
248. Whilst the first of the above approaches is preferred, both result in the clear conclusion that the planning application ought to be allowed.

*Design and Layout, including the Delivery of High-Quality Homes*

249. The effect of the proposed development on the character and appearance of the site and surrounding area in terms of design and layout has been the subject of detailed assessment. Although this is an outline application, with all matters reserved save for vehicular access into the site, it has been accompanied by detailed information about masterplanning of the site to reflect the applicant's absolute commitment to the Government's objective of securing good design as a necessary part of the delivery of new housing.
250. The planning application is accompanied by a Parameters Plan which would be secured by condition as part of any permission<sup>99</sup>, and is supported by additional information set out in an Indicative Masterplan<sup>100</sup>. The applicant has also committed to additional conditions to guarantee the quality of the detailed design at the reserved matters stage, through agreed conditions to reflect key principles embodied in the DAS<sup>101</sup>, which are reflected on the Indicative Masterplan. This is also supplemented by the conditions relating to the Heritage Design Brief to reflect the design approach to the Roman Temporary Camp<sup>102</sup>. These are further secured

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<sup>97</sup> See Section 8 of APP/CD/1

<sup>98</sup> See Section 9 of APP/CD/1 and Appendix 7 in Doc APP/CD/2

<sup>99</sup> See agreed conditions 4 and 44

<sup>100</sup> Doc 15

<sup>101</sup> See agreed condition 44

<sup>102</sup> See agreed conditions 10, 11 and 12

by the applicant's proposal for a Development Framework Plan<sup>103</sup> ("DFP"). As such, this is no ordinary outline application, but one which would result in exactly the high-quality development reflected in the DAS. The approach to design and masterplanning is agreed by the Council, and forms the subject of Chapter 10 of the Planning SoCG, as well as the agreed conditions<sup>104</sup>.

251. The masterplan approach took into account the policy context<sup>105</sup>, analysis of the site itself, and design optioneering in terms of constraints and opportunities. This resulted in a draft framework masterplan which was the subject of full public consultation and engagement. It was only then that the emerging Indicative Masterplan was prepared, reflecting comments received. This process, and the consequential design principles that have emerged, are fully reflected in the DAS, and in agreed condition 44.
252. This agreed condition expressly incorporates the principles set out in various sections of the DAS, namely: Strategic Site Design Principles, Incorporating Heritage Features, Street Typology, Green Infrastructure, Landscape and Play Strategy, Creating Characterful Streets and Spaces, and Design Parameters. This is in addition to the incorporation of the principles in the Heritage Design Brief and the Parameters Plan itself. In addition, agreed condition 5 requires approval in due course of a DFP reflecting Condition 44.
253. Having regard to all the above points, the Planning SoCG summarises this matter by stating: "*It is therefore concluded that the proposed development represents high standards of design and will provide for a safe and secure environment for its future occupiers in accordance with paragraphs 127 and 128 of the Framework and policies DS1, DS2, DS5 and HO9 of the LPCS, and that there is no reason why the application should not be approved as a result of design*<sup>106</sup>".
254. Despite the various representations received from objectors, and the thrust of the Objectors Group case, there is no objection to the quality of what is reflected in the DAS or Indicative Masterplan. The concern expressed was that what is shown simply represents a "glossy brochure", and that the quality depicted would not actually be delivered. To that effect, Mr McQuillan expressed concerns about the type of materials that might be used, if the application is allowed.
255. However, whilst this would be the subject of natural control at reserved matters stage, the applicant has gone considerably further. Condition 44 incorporates "Creating Characterful Streets and Spaces", which includes the provision of 6 proposed Character Areas on the site, with the principles for those Character Areas being set out in turn in the DAS. For each Character Area the urban form, approach to parking, public realm and buildings and plots are all identified, together with a specific section dedicated to "details and materials".
256. The SoS could therefore grant planning permission safe in the knowledge that good design is secured but, more than that, this would be an exemplar of the approach that Government has been urging on developers to facilitate the delivery of housing by demonstrating to communities what good design means in practice.

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<sup>103</sup> See agreed condition 5

<sup>104</sup> Doc 45

<sup>105</sup> See Docs APP/JW/1 to APP/JW/3

<sup>106</sup> Para 10.9 of CD5.1

There is absolutely no basis for characterising the development as “bolted on”. To the contrary, the design approach demonstrates how the proposal would integrate into the existing settlement, with the continuation of the character of Main Street in the prescribed Character Area being an obvious example.

257. Furthermore, the approach to design has taken full account of the Conservation Area (“CA”), with the design principles serving to integrate the application site into the settlement. Insofar as objectors express concerns over building scale, the Parameters Plan specifies maximum heights in different areas, to provide housing at a maximum height, reflective of the scale in Burley-in-Wharfedale. Moreover, there is no justification for concerns about density, as the Indicative Masterplan reflects densities appropriate to the area.
258. There is also no basis for concerns about open space, and the NP does not identify any deficiencies. In any event, the proposed development would create open space for the community as a whole, as well as delivering very significant enhancements to the Sun Lane LNR. In addition, there is no basis for concerns about PRowS. Rather, development of the application site would deliver a significant new PRow across the site to connect up 2 existing bridledways, which would be secured by the DFP as part of agreed condition 5.
259. Housing types and mix would not be fixed at this stage, but the Indicative Masterplan demonstrates that a full range of housing types and mix could be delivered on the site at the reserved matters stage, consistent with paragraph 127 of the Framework, Policy HO8 of the LPCS and Policy BW5 of the NP.
260. In summary this proposal, in terms of its DAS and agreed conditions, is an exemplar of the high-quality design standards that would serve to demonstrate how essential housing can, and should, be delivered in a way which will be a beacon of good design for the future.

#### *Landscape and Visual Matters*

261. The effects of the proposed development in terms of the character and appearance of the surrounding area, with particular reference to landscape and visual amenity, has been the subject of comprehensive assessment through a Landscape and Visual Impact Assessment (“LVIA”) that forms Chapter G of the ES<sup>107</sup>, together with accompanying technical appendices (G1-11<sup>108</sup>). Mr Denney’s evidence on these matters<sup>109</sup> was not materially challenged. In addition, the comprehensive common ground reached with the Council regarding the LVIA and landscape and visual matters is set out in Chapter 9 of the Planning SoCG<sup>110</sup>.
262. It is common ground with the Council<sup>111</sup> that the LVIA is comprehensive and that it was undertaken in accordance with relevant best practice guidance in the form of GLVIA<sup>112</sup> Third Edition (2013). No-one contests the robustness of the LVIA, the methodology used or the findings that are set out in it. It can therefore be

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<sup>107</sup> CD1.11

<sup>108</sup> CD1.12

<sup>109</sup> Docs APP/BD/1 to APP/BD/3

<sup>110</sup> Pages 28-30 of CD 5.1

<sup>111</sup> Para 9.1 of CD5.1

<sup>112</sup> Guidelines for Landscape and Visual Impact Assessment, Third Edition – Published by the Landscape Institute and the Institute of Environmental Management & Assessment



considered as a reliable and comprehensive assessment of the effects of the development in relation to landscape and visual matters.

263. The LVIA was supplemented by 3 further documents during the consideration of the planning application. These were, firstly, a response to the consultation of NE in relation to Landscape and Visual Matters<sup>113</sup>, providing additional detail of the effects of the development on the Nidderdale AONB, in accordance with the request from NE for further information<sup>114</sup>. This confirmed that there would be no more than a moderate effect overall on the AONB in the short term, and that these effects would be limited to a small part of the AONB and would reduce over time, as a result of the proposed mitigation measures within the development. In consequence of receiving this information, NE confirmed that it has no objection to the development proposal.
264. Secondly, response to comments from the Council with regard to the proposed Landscape and Green Belt Buffer<sup>115</sup>. This provided further information about the extent and nature of existing vegetation and proposed landscaping to be included along the west and south-western boundary of the site to represent the new Green Belt buffer. In light of this information the Council was fully satisfied and accordingly recommended the grant of planning permission.
265. Thirdly, a drawing entitled "A65 Frontage – Landscape Proposals", submitted in December 2017<sup>116</sup>, informed by the Tree Retention and Removal Plan provided as Appendix SUP5 of the November 2017 Supplementary ES. This shows the areas of existing vegetation for removal and retention alongside proposed new vegetation along the site's frontage with the A65. In light of the LVIA and this additional information, the Council's Landscape Design Unit confirmed that they had no objection to the principle of the development, as recorded in the report to the Council's committee for the meeting in May 2018<sup>117</sup>.
266. Developing a site of this kind would inevitably have some landscape character and visual effects, but the application site is naturally suited to accommodate this form of development because of its ideal location immediately adjoining the existing built-up area and within natural boundaries to that settlement. Indeed, development of the application site would form a far more defensible and logical boundary to the Green Belt in this area than is currently the case.
267. Mr Denney's evidence explains in detail how landscape and visual effects have been fully and properly assessed against the relevant national and local policy context<sup>118</sup>, and then sets out a thorough assessment of the effects of the proposed development on landscape features, character and visual amenity. This includes a detailed consideration of the effect of the development on trees.
268. In summary, the development would have no material impact on landscape features. Whilst there would be some areas of vegetation affected, generally only low quality trees are expected to be removed, with very limited impact on higher-

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<sup>113</sup> CD1.26

<sup>114</sup> CD2.30

<sup>115</sup> CD1.27

<sup>116</sup> CD1.20

<sup>117</sup> CD3.2

<sup>118</sup> Sections 5.0 & 6.0 of Doc APP/BD/1

grade trees. Any such impacts would, in any case, be fully mitigated by the proposed extensive landscape planting, including the provision of new trees. With the imposition of the agreed conditions ensuring the provision of an appropriate landscape scheme and tree replacements, the proposal would not have any significant impact on the visual character of the area in relation to tree cover<sup>119</sup>.

269. The effects on landscape character have been comprehensively assessed, having regard to the Council's Landscape Character SPD<sup>120</sup>. The site lies within the Wharfedale Landscape Character Area and the "Wharfedale Enclosed pasture" for the southern area and "Wharfedale Floodplain pasture" for the northern area in terms of Landscape Character Types ("LCTs")<sup>121</sup>.
270. Due to the location, scale and massing of the existing vegetation within and around the site the proposed development would generally not be widely visible from the surrounding landscape<sup>122</sup>. Assessed against the LCTs, there would only be (a) slight adverse effects on the Wharfedale Enclosed Pasture area, even at Year 1 - but with the additional landscape and visual mitigation measures set out in the LVIA, these would reduce within the slight adverse category in the longer term; and (b) moderate adverse effects on the Wharfedale Floodplain Pasture at Year 1 - but again, this would reduce to slight adverse in the long-term, with the additional landscape and visual mitigation measures set out in the LVIA.
271. Whilst there would be a major effect on the immediate character of the site itself, the site is very well located to accommodate those effects, which would be localised in extent and nature. The proposal is appropriate in relation to the existing scale and landscape context of the site and could be accommodated within, and relate sympathetically to the landscape.
272. As to effects on visual amenity, the visibility of the site and the proposed development has been carefully assessed from all potentially affected receptors<sup>123</sup>. This thorough assessment clearly demonstrates how well-suited the application site is to accommodate the proposed development, with visual effects again being highly limited and localised.
273. The proposed development has also been assessed in terms of its effects on the Nidderdale AONB that lies some 230m to the north of the site, within the adjacent administrative area of Harrogate<sup>124</sup>. The submitted evidence clearly demonstrates the absence of any unacceptable harm to the AONB, or indeed the overall character of the area or visual amenity generally. All of this is agreed by the Council, and NE in respect of the AONB. The Planning SoCG notes that there is limited visibility of the site from the lower-lying areas of the southern part of the AONB, due to the intervening vegetation associated with the River Wharfe and the A65 road corridor, and vegetative field boundaries. It further notes that the largest part of the AONB has no views of the Wharfe valley and Burley, due to the topography of the Pennines, and so has no intervisibility with the site.

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<sup>119</sup> Para 6.18 of Doc APP/BD/1

<sup>120</sup> CD9.1

<sup>121</sup> Paras 6.19 to 6.20 of Doc APP/BD/1

<sup>122</sup> Appendix G10 in CD1.12

<sup>123</sup> Paras 6.41 to 6.66 of Doc APP/BD/1

<sup>124</sup> Paras 6.67 to 6.78 of Doc APP/BD/1

274. It is common ground with the Council that the development could be accommodated within this part of the Green Belt whilst maintaining the integrity of the wider Green Belt and the purposes and functions of the Green Belt lying between Burley-in-Wharfedale and Ilkley<sup>125</sup>. This underpins the conclusion already reached in the LPCS, that exceptional circumstances exist for using the Green Belt at Burley-in-Wharfedale to accommodate growth, and the significant contribution that is necessary from Green Belt land which must involve this site.
275. Mr Denney has carried out a full Green Belt analysis of the site and other alternatives in his Appendix 2<sup>126</sup>, and has revisited the Green Belt appraisal by Broadway Malyan of 2016<sup>127</sup>. Both of these documents define the same key features of the Green Belt around Burley, which demonstrate why the application site is not just ideal for the development in terms of creating new defensible boundaries for the future, but why there is no other suitable alternative.
276. The plan attached to Mr Darley's Summary Proof of Evidence<sup>128</sup> shows the unsuitability of any other SHLAA site in terms of size and effects on the Green Belt purposes and landscape character. Sites to the south lie in the most vulnerable part of the Green Belt for both Burley and Menston, in terms of coalescence, whilst sites to the north would represent an unnatural and indefensible incursion beyond the natural barrier of the A65. Sites to the east would represent a similar unacceptable incursion with no logical boundary, and would be highly visible. Sites to the west and south-west would result in incursion beyond the natural boundary of the railway line or, in cases of sites further beyond, be obviously unsuitable in terms of incursion and isolation in the countryside and Green Belt.
277. These points were not specifically challenged by any objectors at the inquiry. Mr Orton for the PC expressly confirmed that (a) the PC's formal position is that of no objection to the proposed development<sup>129</sup>; and (b) it can identify no other site to accommodate the additional housing required, or which would be preferable to accommodate the additional housing required. Moreover, the Objectors Group confirmed that it was not putting forward any other site to meet the identified LPCS need, in terms of significant contribution from the Green Belt. The simple and straightforward agreed position by all parties is that the application site is the only site that is capable of delivering the identified requirements of the LPCS.
278. Mr Denney provided an unchallenged analysis of the concept of valued landscapes in the Framework, noting that the application site does not fall within this definition<sup>130</sup>. He also fully addressed all representations on landscape and visual matters made by interested persons, in Appendix 4 to his Proof of Evidence<sup>131</sup> and in his Response Statement<sup>132</sup>.
279. Mr Denney also dealt expressly with the development of the application site in terms of its consistency with the NP. The NP identified important views to be

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<sup>125</sup> Para 9.14 of CD5.1, Section 7 of Doc APP/BD/1 and Appendix 2 in Doc APP/BD/2

<sup>126</sup> Appendix 2 in Doc APP/BD/2

<sup>127</sup> Appendix 4 in CD 5.1

<sup>128</sup> Doc APP/CD/1S

<sup>129</sup> See CD2.29

<sup>130</sup> Appendix 3 in Doc APP/BD/2

<sup>131</sup> Doc APP/BD/2

<sup>132</sup> APP/BD/3

protected, and none of these would be affected by the proposed development<sup>133</sup>. In stark contrast, it is clear that a number of alternative SHLAA sites would directly affect such views in varying degrees. Mr Denney also produced a plan showing how development on the application site, based on the indicative layout, could clearly be accommodated with a more than satisfactory relationship with the existing housing on the western edge of the settlement<sup>134</sup>.

280. In summary, the evidence on landscape and visual effects demonstrates the application site's inherent qualities and suitability for the development proposed; demonstrates how the development could be accommodated without any unacceptable effects on landscape character, visual effects or the Nidderdale AONB; and demonstrates how the application site's development would accord with the purposes of the Green Belt, would create durable boundaries, and represent the only suitable site to provide for Burley's needs.

#### *Flood Risk, Drainage and Ground Conditions*

281. The proposed development has been the subject of a full and comprehensive assessment in relation to any flood risks, proposed drainage arrangements and ground conditions. This is the subject of common ground with the Council<sup>135</sup>, and was the subject of expert and comprehensive evidence from Dr Tilford<sup>136</sup>.

282. The application is supported by a comprehensive and up-to-date Flood Risk Assessment ("FRA")<sup>137</sup>. It is agreed that the vast majority of the site is located in Flood Zone 1 (with a low probability of river flooding – less than 1 in 1,000 years), as shown on the Flood Map for Planning<sup>138</sup>, and all proposed development vulnerable to flooding would be kept within that zone by the Parameters Plan.

283. There is only a small part of the site within Flood Zone 2 (medium probability of river flooding – between 1 in 100 years and 1 in 1,000 years), and a very small part in Flood Zone 3 (high probability of river flooding – greater than 1 in 100 years). There are also 2 watercourses on the site. However, development would be kept away from these areas, and the site would be served by 2 accesses in Flood Zone 1, ensuring that access could be maintained.

284. The submitted FRA shows that flood risk from all identified sources - the river, surface water, ground water, or the watercourses - could be acceptably mitigated and that the development would be safe from flood risk for its lifetime, taking into account climate change<sup>139</sup>.

285. The assessment also demonstrates that the proposed development would not increase the risk of flooding elsewhere, as the required drainage strategy (which would be secured by conditions<sup>140</sup>) would ensure that post-development peak run-off rates and run-off volumes would not be greater than pre-development<sup>141</sup>.

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<sup>133</sup> Appendix 5 in Doc APP/BD/2

<sup>134</sup> Appendix 7 in Doc APP/BD/2

<sup>135</sup> Sections 15 and 17 of CD5.1

<sup>136</sup> Chapters H & L in CD 1.11, Appendices H1, H2, L1 & L2 in CD1.12, Docs APP/KT/1-3 and Docs 38, 43 56 & 57

<sup>137</sup> Para 15.1 of CD 5.1

<sup>138</sup> Figure 3 of Doc APP/KT/1

<sup>139</sup> Para 15.3 of CD5.1, and Section 4 & Figures 1 to 5 of Doc APP/KT/1

<sup>140</sup> See agreed conditions 19 and 20 in Doc 45

<sup>141</sup> See para 4.43 of Doc APP/KT/1

286. It is therefore common ground between the main parties that the proposal is acceptable in water management terms and complies fully with Section 14 of the Framework, including paragraphs 155, 163 and 165, as well as Policies EN7 "Flood Risk", EN8 "Environmental Protection" and SC2 "Climate Change and Resource Use" of the LPCS. Accordingly, there is no reason why the application should not be approved in terms of flood risk or drainage matters<sup>142</sup>.
287. The site has also been the subject of comprehensive assessment regarding ground conditions, as identified in the ES. Expert geotechnical assessment has been undertaken and reports provided, confirming the suitability of the site for the proposed development. The Council and the EA both accept the suitability of the proposed development on the site, as recorded in the Planning SoCG<sup>143</sup>.
288. In view of the amount of objection from interested persons on matters of flood risk and drainage, it is important to note that the points set out above are not simply the expert assessment of Dr Tilford on behalf of the applicant. They are also the expert assessment of the relevant officers in the Council, in its capacity as a LLFA, and also reflect the expert assessment of the statutory consultees, including the EA (the Government's adviser on flood risk matters) and Yorkshire Water, the relevant water and sewerage undertaker.
289. Contrary to a claim made repeatedly by some interested persons, it is categorically not the case that the Council, the EA or any other person consulted upon the application have been misled as to the size of the application site or the proposed development. This allegation is misconceived as Dr Tilford repeatedly explained and demonstrated by reference to the documents<sup>144</sup>.
290. When the site was initially identified in the Council's SHLAA process, it did not include the north-western parcel, but this area was subsequently included as a part of the site during the very early stages of pre-application discussions. The promotion of the site in its current form has been consistent throughout the pre-application public consultation commencing in April 2016, the application planning process and to the present date. All persons have been properly consulted and provided with the correct plans showing the application site. Persistence with this allegation (by, for example, the mysterious Mr Bryson) is completely unwarranted and simply ignores the facts demonstrated by the documents.
291. It remains the case that all qualified persons and bodies dealing with flood risk and drainage are satisfied that the proposed development is acceptable<sup>145</sup>. No one has called any expert evidence, or provided any expert opinion, to contradict this basic fact. One of the consequential important facts about this conclusion and the common ground is that the application site is confirmed to be entirely suitable to deliver Burley's identified housing needs, so far as flood risk and drainage is concerned, as well as in relation to ground conditions (dealt with further below). There is no such conclusion or certainty in respect of any of the other SHLAA sites.
292. Other matters raised by interested persons, including some raised only days before the close of the inquiry, are summarised below, and are dealt with in detail

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<sup>142</sup> Para 15.14 of CD5.1

<sup>143</sup> Paras 18.1 to 18.5 of CD5.1

<sup>144</sup> See, in particular, Doc 38

<sup>145</sup> See Section 5 of Doc APP/KT/1

in Dr Tilford's main Proof of Evidence and in his various Response Statements<sup>146</sup>. Firstly, despite the comprehensive assessment and common ground demonstrating the contrary, interested persons continued to assert that the proposed development would add to flooding in the area, such as on the A65. However, development of the site would simply not increase flood risk, or exacerbate such existing problems, as the drainage strategy would prevent any increased run-off through well-established means, already discussed above.

293. Secondly, despite the technical assessments and evidence, there were contentions that development was proposed in flood risk areas, but this is not correct. Interested persons were, in fact, referring to an area of land to the west of the site, near Manor Park bends, which lies outside the application site boundary. It is an area of low-lying land in close proximity to the River Wharfe and would, for this reason, be unsuitable for development because of flooding. This addresses the further, unjustified, concern that the development of the application site might lead to future pressure to develop the land further to the west.
294. Mr Lavery, for the Objectors Group, raised concerns about possible "compaction" of the site from development, leading to groundwater impacts elsewhere. However, these concerns are not technically justified and information submitted to the inquiry by expert assessors, Sirius Geotechnical, indicate that this phenomenon would not be a problem<sup>147</sup>. The basic need to avoid settlement when constructing houses means that construction would ensure that no "consolidation" of more than 25mm could occur, through appropriate construction techniques.
295. There was also a concern from interested persons that Yorkshire Water was dictating a limit of construction of 50 dwellings per year, so leading some objectors to question the ability of the site to deliver dwellings as quickly as indicated by the applicant. However, submitted evidence made it clear that not only would there be no such limit on development, but that Yorkshire Water is already planning expansion of its facilities in its post-2020 capital programme<sup>148</sup>.
296. Although some interested persons expressed concerns that the FRA had not taken account of climate change, or used the correct technical standards, climate change effects were included in the assessments in accordance with the relevant guidance, and all the relevant applicable standards have been applied.
297. Concerns expressed about the Council's performance as a LLFA and production of Section 19 reports are baseless so far as the applicant's professional dealings with the Council are concerned, and the point about Section 19 reports is misconceived. Not only are these discretionary reports, but for the LLFA they are not applicable to flooding events from the River Wharfe anyway (for which the EA is the responsible authority) - which is the point objectors were raising<sup>149</sup>.
298. Further concerns were expressed about Sirius Geotechnical's contaminant risk assessment, but these are without substance<sup>150</sup>. Contrary to the assertions of Mr Turner, the boreholes did encounter water and the consequential water sampling

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<sup>146</sup> See Docs APP/KT/1, 38, 56 & 57

<sup>147</sup> Doc 43

<sup>148</sup> See Appendix 1 in Doc APP/KT/1

<sup>149</sup> See paras 2.1 to 2.23 of Doc APP/KT/3

<sup>150</sup> See paras 2.33 & 2.36 of Doc APP/KT1/3, the appended letter from Sirius Geotechnical dated 7 May 2019 and the attached plan

demonstrates that there would be no significant risk to future users of the sites. In addition, the relevant reports confirm that the boreholes and assessments allowed Sirius to be confident of its conclusions for the site as a whole, including the north-western parcel, as expressly set out in Appendix L to the ES.

299. A concern was expressed that the flood risk and drainage measures would not be maintained in the future but this is unwarranted. The measures in question would be secured by conditions, if planning permission is granted, and these conditions would require the measures to be maintained. This would normally be achieved by the establishment of an estate management company.
300. Mr Lavery sought to rely upon an ALC report produced in 1991, in connection with a now-abandoned road scheme for the A65, which he maintained suggested that the site was susceptible to flooding. However, inspection of the relevant report demonstrates that this is clearly not the case<sup>151</sup>. The references to flooding in the report relate to Grade 2 soils on land outside the site and on Grade 4 land also outside the site. In any case, there is a separate ALC report for the site itself, produced for the ES by Soil Environment Services Ltd in 2014 and 2016, identifying the soil type as poorly-drained clays or clay loams, which has formed the basis of the assessment and proposed surface water drainage scheme.
301. For all the above reasons, the evidence overwhelmingly demonstrates the suitability of the site for the proposed development in terms of flood risk, drainage and ground conditions. The agreed position is properly evidenced, clear and undoubtedly correct and the objections advanced under this heading by interested persons are baseless.

#### *Ecology, Biodiversity and Habitats Regulations Assessment*

302. Various sections of the Planning SoCG<sup>152</sup> set out the agreed position with the Council on a number of matters under this general heading. Section 11 deals with ecology and biodiversity; section 12 with HRA; and section 14 with arboriculture. Then there is the HRA SoCG<sup>153</sup> itself, which is also agreed by NE.
303. Following extensive ecological assessment of the site and its surroundings which has been the subject of detailed scrutiny by the Council's biodiversity team, as well as statutory consultees including NE, it has been agreed (a) not only would the proposed development meet the requirements of both national policy<sup>154</sup> and local policy<sup>155</sup>; but (b) in addition, the development would, in fact, deliver overall benefits for ecology and biodiversity over the lifetime of the proposal.
304. This remarkable achievement should be recognised as part of the very special circumstances justifying this proposal. It is a singular virtue that delivery of Burley's principal housing needs could also improve the overall ecology and biodiversity of the area. This is a consequence of the comprehensive and detailed assessment work that has occurred over many years, led by Mr Baker, who has been able to ensure that the development's effects would be properly mitigated and that the opportunities for enhancement of the area would be delivered.

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<sup>151</sup> See Doc APP/KT/3

<sup>152</sup> CD5.1

<sup>153</sup> CD5.6

<sup>154</sup> See paras 170 & 175 of the Framework

<sup>155</sup> See paras B, C, D & E of LPCS Policy EN2, and paras D4 & D5 of LPCS Policy WD1

305. In summary, the submitted evidence conclusively demonstrates that the site is not of high ecological interest, and the habitats on the site are not pristine and do not support high quality communities that are rare or uncommon<sup>156</sup>. It does not support any significant populations of protected species, or other species of interest. Whilst it is used by wildlife of different types (as would be expected for any undeveloped site of this nature), none of that wildlife is at material risk in consequence of the development proceeding with the agreed mitigation measures.
306. Development of the site would deliver enhancements that would benefit ecology and biodiversity principally through (a) the delivery of the green infrastructure across the site as envisaged in the DAS, and secured in principle by the Parameters Plan; (b) the significant financial contribution to the adjacent Sun Lane LNR that is immediately adjacent to the site; and (c) the financial contribution to deliver the Council's recreational access management measures and/or habitat management and monitoring measures for the South Pennine Moors Phase 2 SPA and South Pennine Moors SAC. It is therefore little wonder that the Council's own expert team are satisfied that the development is acceptable, as is NE.
307. There has been no expert evidence presented to contradict that presented by the applicant, the position agreed by the Council's own Biodiversity Team, and NE's satisfaction with the effect on the European protected sites. Not a single qualified ecologist, wildlife trust or other qualified body questions the detailed work and conclusions of the applicant. There have, however, been some ill-informed and unjustified asserted criticisms made by interested persons, but all of these have been addressed in detail by Mr Baker<sup>157</sup>.
308. To summarise these objections, first, there have been a number of unfortunate and baseless claims that the survey work which has been undertaken over the years is somehow deficient. These claims were principally pursued by the mysterious Mr Bryson (who did not appear at the inquiry and certainly did not claim any expertise in this area) and then by Cllr Barker, who read out a prepared statement on 17 May 2019 which had not been previously provided. However, Cllr Barker confirmed that he is not an ecologist, and the reluctance of any qualified individual to give evidence at the inquiry to advance these sorts of claims is consistent with their lack of substance.
309. The objectors' claims are unsustainable in the face of the huge volume of survey material and consequential evidence base that has been amassed over the years. Mr Baker noted that a total of some 22 surveys had been undertaken – a level of data which he rightly described as "quite exceptional".
310. The surveys of the site that inform the Ecology ES Chapter<sup>158</sup> include: a Desk Study/Data Search; an Extended Phase 1 Habitat Survey; a Detailed Botanical Survey; a Badger Survey; a Breeding Birds Surveys; a Winter Birds Survey; SPA Vantage Point Bird Surveys; a Bat Roost Assessment; Bat Activity Surveys; an Otter and Water Vole Survey; Great Crested Newt Surveys; Reptile Surveys; and a Crayfish Habitat Assessment Survey<sup>159</sup>. The interested persons do not begin to explain what other surveys could possibly be required. Moreover, it is clear that

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<sup>156</sup> See para 30 onwards of Doc APP/AB/1

<sup>157</sup> See Section 8 of Doc APP/AB/1 and Docs APP/AB/3 & APP/AB/4

<sup>158</sup> Chapter F of CD1.11

<sup>159</sup> See Appendix F in CD1.12



they have simply not read, or considered, such material when alleging, for example, that there is no Winter Birds Survey, when one was in fact conducted<sup>160</sup>.

311. The surveys were comprehensive and carried out in accordance with the relevant survey guidelines, wherever applicable, and carried out at the correct times of year<sup>161</sup>. Far from there having been any lack of scrutiny, or independent assessment by the Council, the planning application process conclusively demonstrates that the Council's Biodiversity team carefully and comprehensively considered all submitted information. The Council's Senior Countryside Officer responded to the planning application with a detailed Memorandum<sup>162</sup> which identified where the Officer was satisfied that no further surveys or information was required, and areas where additional information was required, such as in respect of Bat Roosts and Barn Owls.
312. This further survey work was undertaken, and the Council's Countryside and Rights of Way Manager noted and accepted the additional information. The Council's Biodiversity Team therefore had no objection to the proposal when it was considered by the Council itself. That remains the position today, as set out in the Planning SoCG.
313. The allegations of supposed deficiencies in parts of the survey information, set out in the statement read by Cllr Barker, are completely unjustified and unsupported by the purported references to literature included in the statement<sup>163</sup>. The statement, for example, claims that "hundreds of Curlew" were on the site - when that is not true and relates to a finding off the site; claims that Golden Plover were not properly surveyed - when this is not true; misunderstands the concept of "functionally-linked land"; and claims that the surveys show bat roosts on the site - when they clearly do not.
314. In short, there is absolutely no substance in these allegations, and regardless of the title of Cllr Barker's document, it is not in fact an ecology report at all. Instead, it includes a mixture of demonstrably incorrect assertions and pseudoscience, with some unstructured references to a number of scientific papers which have been misapplied, along with misinterpretation of statutory instruments and policy. Suffice it to say that had there been any deficiency in the survey information, Mr Baker himself would have identified it. But Mr Baker's own work has been independently scrutinised and approved by both the Council's expert ecological officers and those of NE through the consultation process.
315. In contrast, Cllr Barker, or the author of his document, has provided no new ecological data. Neither he nor anyone else has carried out, or presented, any surveys of his own, nor has he sought the support of a professional ecologist or any other appropriately qualified person. Cllr Barker's document has either not been prepared with the benefit of professional ecological advice - or such advice must have been ignored - as it is irreconcilable with the evidence and the comprehensive information and analysis on ecological and HRA matters submitted by the applicant and scrutinised by other appropriate professionals.

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<sup>160</sup> See Doc APP/AB/4

<sup>161</sup> Para 32 of Doc APP/AB/1, and Doc APP/AB/4

<sup>162</sup> See Appendix 1 in Doc APP/AB/2

<sup>163</sup> See Doc APP/AB/4

316. During the inquiry, additional representations were submitted regarding use of the site by various species, including Barn Owl, Curlew, Lapwing and Deer<sup>164</sup>. But the use of the site by such species had already been identified and assessed. The development would have no material adverse effect on such species, not least because there is suitable if not better habitat for them elsewhere.
317. Indeed, Mr Baker correctly pointed out that there would, in fact, likely be potential benefits to Barn Owls, which are quite probably only on the site in the first place because a nesting box has been erected there. However, in view of the proximity to the A65, the siting of such a box is contrary to advice prepared by the Barn Owl Trust in its document "Barn Owls and Major Roads"<sup>165</sup>. Moving the box as part of the development would therefore be in the interests of Barn Owl.
318. Turning to the effects of the proposal on European protected sites, this has been the subject of separate and comprehensive assessment in accordance with the 2017 Regulations, which give effect to the relevant parts of the European Habitats Directive and Wild Birds Directive. SHRAs have been produced at all appropriate stages to enable the proper and lawful assessment of the site, and these have conclusively demonstrated that planning permission can be granted consistently with the requirements of the 2017 Regulations. The contents and conclusions of those sHRAs have been endorsed by NE, a specific consultee on such documents.
319. As this application has now been called-in, the SoS has become the relevant "competent authority" for the purposes of the 2017 Regulations. Consequently, the applicant has prepared an updated sHRA for use by the Inspector and the SoS, in fulfilling the duties under the 2017 Regulations<sup>166</sup>. However, that sHRA is not simply the product of the applicant's professional team, but has been produced in consultation with the Council (as the former competent authority) and NE as the Government's statutory adviser on such issues, and on whose views the SoS is expected to place great weight. Both the Council and NE have endorsed the sHRA as set out in the HRA SoCG<sup>167</sup>.
320. This sHRA meets the requirements of Regulation 63 of the 2017 Regulations, as clarified by caselaw from both Europe and domestically, and complies with the latest advice and guidance from NE on road traffic emission assessments. It correctly identifies the relevant 4 European sites for assessment, and correctly concludes that there would be no likely significant effect from the proposed development on any of the 4 European sites, either alone or in combination with other plans or projects via any impact pathway.
321. In light of the approach in *People over Wind*<sup>168</sup>, the sHRA goes on to carry out an appropriate assessment in relation to the recreational impact pathway on those sites, given that proposed mitigation has been put forward for that pathway. This is supported by specific unchallenged survey work and assessment<sup>169</sup>. The appropriate assessment concludes that there would be no adverse effect from the proposed development on the integrity of any of the 4 European sites through

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<sup>164</sup> Docs 16, 17, 18 & 19

<sup>165</sup> Doc 23

<sup>166</sup> CD13.16

<sup>167</sup> CD5.6

<sup>168</sup> CJEU Case C-323/17: *People Over Wind, Peter Sweetman v Coillte Teoranta*

<sup>169</sup> Appendices 2 & 6 of CD13.16

recreational impacts, or indeed through any other impact pathway through the proposed development alone, or in combination with any other plans or projects. Accordingly, planning permission could be granted for the development in full compliance with Regulation 63 of the 2017 Regulations.

322. With regard to criticisms from interested persons of alleged deficiencies in survey work that would be relevant to the sHRA, the Vantage Point Surveys undertaken both for the LPCS process and for the planning application demonstrate that the application site is emphatically not functionally-linked land, and there is no basis for suggesting it is. Moreover, species like Golden Plover were surveyed, but were not present on the site. But even if Golden Plover do use the site, this use must be sporadic and/or low in number and would not affect the conclusions in the sHRA, because it is impossible to see how affecting that use could have any adverse effect on the integrity of the SPA.
323. Mr Poulter, a member of the Objectors Group, sought to cast aspersions on the appropriateness of LPCS Policy SC8, which provides protection for the European sites consistent with the 2017 Regulations. However, the facts are that Policy SC8, in its original draft, had been found unsound and non-legally compliant by the LPCS Inspector, as a result of representations made by the applicant. The Inspector therefore specifically requested that the Council, NE and the applicant work together to produce a draft which would be legally compliant and sound in affording the necessary protection to the European sites. That is precisely what the parties did.
324. The Council produced an updated version, and this was then the subject of a Main Modification, which was duly publicised and then reconsidered at the resumed LPCS Examination. It was endorsed by NE and the Inspector, and was subsequently adopted as part of the LPCS. Mr Poulter accepted that there was absolutely nothing untoward about this process. His contrary suggestions were, therefore, unfortunate. The fact remains that the proposal is fully compliant with Policy SC8 of the LPCS, as both the Council and NE have confirmed.
325. Arboriculture matters were the subject of evidence from both Mr Baker<sup>170</sup> and Mr Denney<sup>171</sup>, and are also covered in the Planning SoCG<sup>172</sup>. It is common ground between the applicant and the Council that the site has been subject to an extensive, comprehensive and up-to-date arboricultural assessment, and the conclusions are agreed. The indicative scheme shows how the loss of trees to facilitate access to the site could be appropriately mitigated. The Council's Trees Section and the Landscape Design Unit have been fully consulted and had no objection to what was proposed, with the compensatory planting. With the agreed conditions the proposal would not have any detrimental impact on local landscape or visual character in relation to tree cover, and the proposal would accord with LPCS Policy EN5 "Trees and woodlands".
326. In overall summary under this heading, the proposed development would be fully compliant with all relevant national and development plan policies relating to ecology and biodiversity, including that relating to trees and HRA<sup>173</sup>, and would

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<sup>170</sup> Paras 87 to 90 of Doc APP/AB/1

<sup>171</sup> Paras 6.3 to 6.18 of Doc APP/BD/1

<sup>172</sup> Chapter 14 of CD5.1

<sup>173</sup> See Section 7 of Doc APP/AB/1

also be compliant with the legal requirements of the 2017 Regulations, as set out above. In relation to national policy it would accord with paragraphs 170, 175 and 177 of the Framework, and in relation to the LPCS it would be in compliance with Policies EN2, EN5 and SC8. The development would be subject to a landscape and ecological management plan ("LEMP"), which would be secured by condition.

327. Importantly, the development would also deliver a net gain for biodiversity<sup>174</sup>. Mr Baker identified that "great weight" should, in his professional view, be attributed to such an exceptional offer in ecological terms. Delivering this net gain, at the same time as delivering the housing needs for Burley-in-Wharfedale, is properly to be considered as part of the very special circumstances of this case.

### *Heritage*

328. The position regarding heritage matters is the subject of detailed common ground between the applicant and the Council<sup>175</sup>, but it merits special attention because of the truly unique and very special heritage benefits that the proposal would deliver. These arise from the discovery of a Roman Temporary Camp on part of the site, found only as a consequence of this proposed development, and which would be revealed and celebrated in a wonderful way if planning permission is granted.
329. By way of background, the planning application was accompanied by a comprehensive, robust and up-to-date heritage assessment<sup>176</sup>, the conclusions of which are agreed with the Council. Evidence on this matter was given to the inquiry by Mrs Fraser who produced the heritage assessment.
330. In relation to "designated heritage assets", it is common ground that there are none on the application site itself<sup>177</sup>. Burley-in-Wharfedale CA lies to the east of the application site, encompassing the historic core of Burley. At its closest point along Main Street, the CA boundary is approximately 60m to the east of the application site and is physically and functionally separated from it by the existing significant modern 2 and 2½-storey residential development at Wellfield Lane.
331. The effect on the CA of developing the site as proposed has been thoroughly considered in the Heritage Assessment and in the evidence of Mrs Fraser<sup>178</sup>. It is common ground with the Council (who has consulted Historic England ("HE")) that there would be no adverse impact on the CA having full regard to the CA Assessment 2004<sup>179</sup> and CA Appraisal 2007<sup>180</sup>. The application site does not contribute to the special historical and architectural interest of the CA, nor its setting, and both would remain unaffected.
332. Views into the site from the western end of the CA are mostly restricted by the site's topography and the physical and visual barriers arising from the existing modern residential development, and existing vegetation. In addition, Mr Denney has produced a plan, based on the indicative layout, showing how development on the application site could clearly be accommodated with a more than satisfactory

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<sup>174</sup> See Section 5 of Doc APP/AB/1

<sup>175</sup> See Section 8 of CD5.1

<sup>176</sup> Chapter K of CD1.11

<sup>177</sup> See para 8.4.CD5.1

<sup>178</sup> Doc APP/MF/1

<sup>179</sup> CD9.7

<sup>180</sup> CD9.6

relationship with the existing Wellfield Lane housing on the western edge of the settlement<sup>181</sup>. It is therefore common ground that there would be no detrimental impact on the character and appearance of the CA, or its setting, and that the proposal complies in full with LPCS Policy EN3 "Historic Environment" and paragraph 193 of the Framework, as well as with NP Objective 1 and NP Policy BW2 "Development Outside the Settlement Boundary".

333. Black Bull farmhouse and outbuilding are Grade II listed buildings on land outside, but immediately to the north of the application site. A full description and assessment of these assets and their significance has been provided in the Heritage Assessment and in Mrs Fraser's Proof of Evidence<sup>182</sup>. It is common ground that the effect of the proposal on these listed buildings has been fully assessed. This includes having regard to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is agreed that development of the application site would not result in any harm to the special character or immediate setting of these listed buildings, given their defined and enclosed nature. Nor would there be any material impact on any principal views of the buildings.
334. As to the wider rural setting of these buildings, the character of the main approach would remain unchanged. The surrounding farmland makes only a limited contribution to the significance of the listed buildings, and the rural aspect could be retained as part of the proposal, through the location and extent of the open space shown on the Parameters Plan. This would ensure that any impact on that aspect would be reduced<sup>183</sup>. The Council's Conservation Team consider that there would be some impact on the rural setting of the listed buildings, but that the level of harm to their significance would be less than substantial.
335. Consequently, in accordance with Framework paragraph 196, this limited harm should be weighed against the public benefits of the proposal. The Council is satisfied that the provision of the development, with new homes and an educational facility, is capable of providing public benefits that would outweigh the limited harm and that the layout of the development could provide for a buffer zone around Black Bull Farm that would protect the setting of the listed buildings.
336. It is therefore common ground that the proposal complies with the Framework, including its paragraph 196, and with Policy EN3 of the adopted LPCS. Any harm perceived to arise, even when giving great weight to that harm, would be less than substantial and the public benefits of the proposal would significantly outweigh any such harm. These conclusions were not materially challenged at the inquiry itself and HE have no objection to what is proposed.
337. Turning to "non-designated heritage assets", the Roman Temporary Camp has been the subject of the detailed heritage assessment and detailed discussion and agreement with HE. Although non-designated, the applicant and HE have agreed that it should be treated as being of equivalent significance to a scheduled monument and subject to the policies for designated assets, in accordance with footnote 63 to paragraph 194 of the Framework<sup>184</sup>. The discovery of this earthwork enclosure was made in 2016 as a result of survey work in the context

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<sup>181</sup> Appendix 7 in Doc APP/BD/2

<sup>182</sup> Paras 7.29 to 7.67 of Doc APP/MF/1

<sup>183</sup> Para 7.64 of Doc APP/MF/1

<sup>184</sup> See paras 7.142 to 7.148 of Doc APP/MF/1

of preparing a planning application on the site. It is unlikely to have been discovered at all, but for the proposed development, and it will continue to be at risk unless the development proceeds.

338. Despite assertions made by interested persons, the discovery of the camp patently was not concealed. As soon as the report was ready, the applicant engaged with HE. Criticism appears to be made that the discovery was not aired at the resumed LPCS Examination, but that criticism is entirely misplaced<sup>185</sup>, as the LPCS Inspector would not have allowed discussion of that sort of detail of the site. But if he had, the applicant would have identified the benefits of the discovery for development of the site in just the way it has done for this planning application, and in the way that has been endorsed by the Council and HE.
339. Far from the discovery presenting any obstacle to development it is, in fact, a unique and very special opportunity, confirmed by the endorsement of HE. The development provides the only real and viable opportunity for the Roman Temporary Camp to be revealed, through proper archaeological investigation. The masterplan design of development on the site has sought to celebrate its existence in perpetuity, by incorporating the physical presence of the Roman Temporary Camp into the design, as shown on the Parameters Plan.
340. Built development would be restricted to the area within the earthwork enclosure, allowing for any archaeological finds to be discovered and retaining the perimeter bank and ditch in situ. But the truly unique aspect would be the intended delivery of the education facility within the southern part of the Roman Temporary Camp itself, using the earthwork enclosure as part of the design. This would enable delivery of a primary school on the very foundations of the camp, offering a dedicated, on-site and fascinating historical resource literally on the door-step. It is difficult to conceive of anything which more vividly represents a "very special circumstance" than such an opportunity of developing this site in the Green Belt.
341. The enthusiasm and excitement for revealing and celebrating a heritage asset of this kind, in this way, is shared by the applicant's educational expert, Ms Knowler, who recognises the unique nature of such a proposition and the value it could bring to the education of future generations. The same position is shared by HE, as explained in their letter endorsing the applicant's approach<sup>186</sup> and by the Council, in its capacity as both local planning authority and education authority.
342. Although there were representations on this matter from interested persons, including a statement submitted by Dr Cook, a local archaeologist, these were not pursued at the inquiry. Indeed, Dr Cook attended and heard Mrs Fraser's evidence and read her Response Statement<sup>187</sup>, and stated that this had addressed her points. She then chose not to present her own statement at the inquiry. It is clear that the principles of approach Dr Cook relied on, based on an excavation of a Roman Camp at Kintore in Scotland, are not just being followed but would be trumped by what is proposed on the application site.
343. At Kintore, archaeological digs preceded development, but once the digs had occurred, development was placed on top in a way which meant that the previous

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<sup>185</sup> See Doc APP/MF/3

<sup>186</sup> CD2.14

<sup>187</sup> Doc APP/MF/3

existence of the camp could not be seen. By contrast, on the application site the design of the development would celebrate the previous form of the camp and preserve the key features on the ground. It is therefore no wonder that Dr Cook effectively withdrew her objection once she appreciated what was on offer.

344. Despite concern expressed by interested persons, there is no risk that the archaeological effort would be borne by the taxpayer and would not be delivered. The archaeological investigations are required, if planning permission is granted and the development proceeds<sup>188</sup>. It would therefore be for the developer to fund and deliver this before development can proceed. There would be no risk to the taxpayer, nor is it dependent on the future delivery of the school.
345. In response to other representations made by interested persons, the applicant, the Council and HE have followed the correct legislation and guidance throughout the process. The Roman Temporary Camp is not a scheduled monument, and is not proposed for scheduling given the protection proposed through this development. It is therefore not subject to the 1979 Ancient Monuments and Archaeological Areas Act. However, in accordance with Framework paragraph 194, it has been treated as a non-designated heritage asset of national importance, as noted above. It is imperative that planning permission is granted to allow the proper investigation and celebration of this asset to take place.
346. Whilst the proposed development would cause some harm to the camp through the construction of the school, housing and access roads, and through reduction of its rural setting, it is agreed that it would also cause significant heritage benefit. Indeed, in its final consultation response<sup>189</sup> on the application, HE considers that the development would deliver positive benefits by retaining and enhancing the external earthwork, undertaking further archaeological assessment, the development of support material for the school, and securing the long-term management of the earthworks.
347. The approach in such circumstances is clear from the Court of Appeal's position in *Palmer v Herefordshire Council*<sup>190</sup>. This indicates that where a proposed development affects a heritage asset in different ways, some positive and some negative, the decision-maker may legitimately conclude that although each effect has an impact, taken together there is no overall adverse effect on the asset. By the same token, it is clear from that statement of principle that the heritage benefits may outweigh the harm. That is obviously the case here.
348. As to other potential archaeological features on the site (including 2 ditch-like features in the north-west and south-east fields), Mrs Fraser has identified that these are not a signal station and has explained how, in any event, further archaeological work that would be required if permission is given, would enable these features to be properly investigated.
349. It is therefore common ground that the proposed development would not have a detrimental impact on above and below ground heritage assets, and that the proposal is considered to meet the requirements of statutory duty and comply

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<sup>188</sup> See agreed conditions 9 & 10 in Doc 45

<sup>189</sup> CD2.14

<sup>190</sup> See para 29 of *Palmer v Herefordshire Council* [2016] EWCA Civ 1061190

with relevant paragraphs of the Framework, including 127, 189-190, 192-193, 196-197 and 199-200, and LPCS Policy EN3, "Historic Environment".

350. In summary, far from leading to any unjustified harm, development of the application site would offer a unique and exciting opportunity to deliver the clear, public and perpetual heritage benefits of revealing the significance of this Roman Temporary Camp. Bringing it back to life would provide a life-long incorporation of this historic asset into the school at the site, the settlement of Burley-in-Wharfedale and our national heritage generally. This is not just a very special circumstances, it is a huge opportunity that can only be delivered by the grant of planning permission, and should be welcomed with open arms.

### *Education*

351. As already noted, the huge heritage benefits identified above would tie into the education benefits of the proposed development, which similarly feature as one of the very special circumstances of this proposal. This site is the only site at Burley that could deliver a new primary school (up to 2FE) - something that those interested persons who express concern on this ground actually want, and the village clearly needs. The real concerns centre around future delivery, but these concerns are not properly justified, as explained below.
352. The planning application expressly seeks permission for a new education facility on the site. The location of that education facility is shown and protected by the Parameters Plan and its future construction is controlled by the design principles in the DAS and the Heritage Design Brief that are the subject of agreed conditions<sup>191</sup>. No-one has seriously suggested that the site cannot physically deliver a new primary school, nor has anyone seriously sought to criticise the size, layout and obvious virtues of such a facility on this site.
353. Education matters are the subject of common ground between the applicant and the Council, not just as local planning authority, but in its capacity as the education authority<sup>192</sup>. They were also the subject of written and oral evidence from Ms Knowler<sup>193</sup>, with her conclusions also being endorsed by the education team of the Council.
354. Dealing first with primary school provision, it is common ground that the 2 existing primary schools in Burley – Burley Oaks and Burley & Woodhead are already operating at levels beyond their existing capacity<sup>194</sup>. The 2 schools have a combined capacity of 630 places, but in all but one of the past 7 years, the schools have been full or accommodating more pupils than they have capacity for. There is a current deficit of 11 places across the year groups<sup>195</sup>. These levels are in excess of the Council's own stated position<sup>196</sup> of striving to achieve a 95% occupancy rate in order to allow for volatility in preferences from one year to the next. Where surplus capacity falls below 5% of that threshold the Council looks to create new places.

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<sup>191</sup> Agreed conditions 11 & 44 in Doc 45

<sup>192</sup> Section 13 of CD5.1

<sup>193</sup> See Doc APP/HK/1 -3 and Doc 42

<sup>194</sup> Para 13.1 of CD5.1 and Doc APP/HK/1

<sup>195</sup> See para 5.4 and Table 1 in Doc APP/HK/1

<sup>196</sup> See CD2.24



355. Both schools are already full, with no operating surplus<sup>197</sup>. Moreover, both schools are having to operate oversubscription criteria because there are more applicants than places. This means that both schools can only presently offer places to children within 0.394 and 0.492 miles away, which does not cover the whole of Burley-in-Wharfedale<sup>198</sup>.
356. In summary, this means that 19 applicants were refused a place at Burley Oaks in September 2018 and 16 were refused a place at Burley & Woodhead. Overall, the Council has confirmed that 19 pupils were not offered a place in either school, which is already the equivalent of 0.63FE (or 133 pupils) when carried across the 7 school years. It is likely that those refused pupils in Burley-in-Wharfedale would have to travel outside of the settlement to access primary school education. Indeed, the Council has confirmed that of the 19 pupils refused places, 12 were resident within the area for which the 2 schools would have been closest.
357. Replicated across the school years, this means that 84 pupils in Burley would have applied for places, but would not have been able to access a primary school in the village. The radii of the oversubscription criteria show the significant areas not covered, including the areas of housing closest to the application site<sup>199</sup>.
358. The existing situation at Burley therefore already creates a compelling case for a new school in a location which could address these existing needs, as is the case with the application proposal. But the situation becomes all the more compelling when the specific requirements of the LPCS are considered. The adopted LPCS requires the delivery of at least 700 new homes at Burley-in-Wharfedale, of which only 190 have been granted planning permission to date. There is an identified requirement for the new housing proposed on the application site and this would, of course, increase the need for primary school provision.
359. But that is precisely what is special about the application proposal - it is the only site in Burley-in-Wharfedale that is capable of delivering a new school. The LPCS Inspector was expressly aware of the application site for such purposes, as paragraph 184 of his Report<sup>200</sup> specifically refers to development providing new infrastructure in the form of a school, which was only on offer from the application site. The expected pupil yield from the 190 dwellings already granted planning permission and the additional 510 required, emphatically demonstrates the need for a minimum additional provision of approximately 1FE<sup>201</sup>. Having regard to planned new housing in the wider Wharfedale area, only 75 spare primary school places will exist in order to accommodate a need of 503 pupils<sup>202</sup>.
360. However, the 2 Burley schools are the only ones that have been unable to admit significant numbers of applicants, and the only schools that restricted their admissions on distance criteria to less than half a mile away. This shows that there is a fundamental issue in Burley, which is particular and unique to it as a settlement within the Wharfedale Planning Group. It therefore illustrates why use of the application site for a new school would be "very special".

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<sup>197</sup> See para 5.7 of Doc APP/HK/1

<sup>198</sup> See paras 5.8 to 5.10 and Table 3 of Doc APP/HK/1

<sup>199</sup> Paras 5.13 to 5.18 and Maps 2 & 3 of Doc APP/HK/1

<sup>200</sup> CD3.8/CD7.2

<sup>201</sup> Table 7 and paras 6.1 to 6.7 of Doc APP/HK/1

<sup>202</sup> Table 10 and paras 6.7 onwards of Doc APP/HK/1

361. For the 2 existing schools, Ms Knowler has identified that Burley & Woodhead has no physical capacity to expand, and whilst Burley Oaks could theoretically expand, it is clear that this is not a desirable solution to address the future expansion of Burley that would arise from development of the application site. In any case, Burley Oaks has no proposals to expand, and any such expansion would simply increase pressure on the existing school location in terms of access, as well as perpetuating the inherently unbalanced provision across the settlement. In addition, to create a 3FE in this location would involve significant disruption to the school itself, and is therefore not an appropriate solution.
362. By contrast, the delivery of a new school on the application site would be on the doorstep of the new pupils generated by the development, and would serve the existing part of the settlement outside the current admissions reach of the 2 existing primary schools, thereby providing balanced provision across the settlement. It would deliver a new school and playing fields without disruption to any existing school and without exacerbating any existing access issues. It is, of itself, a fabulous opportunity. But when combined with the delivery of a school within the location of Roman Temporary Camp, with the educational resource this embodies, it is a truly unique and exceptional proposition.
363. It could be delivered as either 1FE or 2FE, or 1FE with ability to expand to 2FE. Ms Knowler considers this latter option to be the most beneficial delivery profile<sup>203</sup>. Under the application proposal the school site would be delivered at effectively nil cost (£1), and the CIL contributions would provide a large educational provision which would enable the Council to build and operate the school.
364. In addition, the S106 agreement ensures the creation of a PSDP to be made up of representatives of the Council, the applicant and other local stakeholders, including - potentially - representatives of the existing schools. This PSDP would be responsible for guiding the delivery of the new school at the right time and in the most appropriate way. This is also dealt with by an agreed condition. The applicant is therefore committed to the delivery of the school on this site and is doing everything within its power to facilitate this.
365. Dealing briefly with objections from interested persons<sup>204</sup>, concern was expressed that whereas the applicant was originally proposing delivery of the school itself, back in 2016, it is now seeking to facilitate the delivery by transfer of the land to the Council for £1, together with payment of the relevant CIL contributions for education. This is not actually an objection in principle to the proposed development, but is simply a concern about the delivery mechanism.
366. However, the applicant is doing exactly what is required of it by proposing delivery in this way. Now that the Council operates CIL to cover education provision (introduced in July 2017), the applicant has no choice but to pay the CIL contributions for education. In these circumstances actual construction of the school would constitute "double-dipping" in terms of school provision, which Government policy prevents<sup>205</sup>. It is therefore necessary to channel the money for the delivery of the new school to the Council in this way.

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<sup>203</sup> Section 8 of Doc APP/HK/1

<sup>204</sup> See Section 12 of Doc APP/HK/1 and Docs APP/HK/3-4

<sup>205</sup> See para: 003 Ref ID: 23b-003-20190315 - March 2019 of the PPG

367. A concern that the Council might not use the collected CIL money to deliver a new primary school is not an objection in principle to what is proposed, just another concern about delivery. However, the Council is under a statutory duty to educate the children in its area, and as there is already a deficiency of spaces within Burley, it will have to provide additional places if planning permission is granted for the development. It would clearly be in its interest to take delivery of the school site for £1 and to use its CIL money to deliver a new school here. The alternatives are neither practical nor economically efficient.
368. As Mr Joy confirmed for the Council, there is absolute confidence in the delivery of such a school, and coincidence of interests to do so. Moreover, the applicant has reinforced this by the creation of the PSDP, so that although the separate statutory regimes applicable to school delivery mean that it is technically impossible to provide an absolute guarantee, there is as much certainty as there can be at this stage, and no reason to doubt that delivery would occur.
369. There were also concerns about the new school threatening the stability of the 2 existing schools if it was built too early – and further concerns about what would happen if it was built too late. But again, these are not real objections in principle to what is proposed, but a concern about the timing of delivery. They are commonplace issues arising with new development where a new school is planned, and would be addressed by the creation of the PSDP which would ensure its delivery at the appropriate time.
370. Insofar as there would be any temporary period where pupils from some of the housing would need to use the existing primary schools, they would be subject to the admission criteria already described. In any case, there is the ability to provide temporary facilities at Burley Oaks without material disruption, to cover any such interim period.
371. As to secondary school provision, the principal provision is at IGS which is in the process of expansion to a capacity of 1,960 pupils. Its Priority Admission Areas (“PAAs”) cover the entire settlement of Burley, and beyond. The forecasts demonstrate that in the medium term it has capacity to take all the pupils likely to arise from the proposed development. Should numbers rise beyond that in the future, such that further expansion work was required, the Council would remain under a statutory obligation to deliver secondary education to pupils in the area, and accepts that the CIL charge would need to cover the cost of any such work.
372. Overall the submitted evidence demonstrates that the application proposal would have no unacceptable impacts on educational facilities in Burley and the general area, but rather would significantly improve the existing situation by facilitating the delivery of a new primary school within the Roman Temporary Camp. This would be a very substantial benefit, and indeed a unique educational opportunity.

#### *Other Facilities and Services*

373. With regard to the effect of the proposal on health services, Mr Darley and Mr Joy both confirm that doctors within the village have spare capacity for new residents<sup>206</sup>, and there are numerous dentists accepting new patients in the local area<sup>207</sup>. As to the other facilities and services in the village, the provision of new

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<sup>206</sup> See paras 10.15 to 10.18 of Doc APP/CD/1 and paras 7.12.1 to 7.12.4 of Doc CBMDC/MJ/1

<sup>207</sup> See para 10.21 of Doc APP/CD/1

housing would provide significant economic benefits by increased patronage and spend. There would be "first occupation expenditure" of £2.8 million, a proportion of which should be captured by the local area, and also a total gross spend of £5.7 million net local expenditure per annum, supporting existing and potentially new shops and services<sup>208</sup>.

### *Transport and Traffic*

374. The effect of the proposed development in traffic and transport terms and on the safety and convenience of users of the existing highway network has been comprehensively assessed, along with the sustainability of the site. The development is the subject of a Transport Assessment ("TA"), compiled in accordance with the PPG, covering all relevant matters relating to the site. This document forms part of the ES<sup>209</sup>. The proposal was then subject to a Supplementary ES<sup>210</sup> to deal with proposals for accommodating a 2FE school on the site, as opposed to just 1FE. It is also the subject of a full and detailed Highways SoCG and Addendum SoCG between the applicant and the Council in its capacity as local highway authority<sup>211</sup>.
375. It is also the subject of detailed evidence from Mr Wilkins, who provided a Proof of Evidence, 3 volumes of Appendices, and a number of Response Statements dealing with further points that arose towards the end of the inquiry, in relation to queries from interested persons<sup>212</sup>. It is common ground with the Council as highway authority that the TA is comprehensive, covers all relevant matters and that the conclusions are comprehensive, robust and acceptable to assess the impact of the development, and allow the application to be approved<sup>213</sup>.
376. It is also common ground that the proposed development would constitute sustainable development in an appropriate location; that there are no highway reasons why the development should not be approved; and that the proposed vehicular accesses to the site have been assessed appropriately and would operate satisfactorily and safely with the development in place<sup>214</sup>.
377. The off-site highway effects have also been appropriately assessed in accordance with the required standards, against appropriate future scenarios, and the development would result in acceptable effects on each and every highway and junction considered, with the inclusion of the identified off-site highway mitigation measures<sup>215</sup>. Moreover, it is common ground that there is no impediment to connection of the site to the local pedestrian network, and that access to PRowS in the vicinity of the site would also be readily available.
378. In addition, the proposal has been the subject of additional traffic surveys, commissioned to provide an update as to the effects of the development on the highway network. This survey work and its conclusions confirm the acceptability of the development and form the subject of the Addendum to the SoCG. This

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<sup>208</sup> See para 10.23 of Doc APP/CD/1

<sup>209</sup> Chapter E of CD1.11, with accompanying technical appendices in Appendix E in Doc CD1.12

<sup>210</sup> CD1.22

<sup>211</sup> CD5.4 & CD5.5

<sup>212</sup> See Docs APP/SCW/1, 1S, 2 & 3, and Docs 34, 35, 36 58 & 59

<sup>213</sup> See paras 2.3.1 to 2.3.3, 2.8.1 & Section 4.1 of CD5.4

<sup>214</sup> See Section 3 & paras 4.1.3 & 4.1.7 of CD 5.4,

<sup>215</sup> See Appendix SCW30 in Doc APP/SCW/2

Addendum confirms that there are no highways reasons why the development should not be granted planning permission<sup>216</sup>.

379. No technical evidence has been produced to challenge the agreed position of the applicant and the Council in its capacity as highway authority. Those representations from interested persons which have commented upon sustainability or traffic-related matters are not informed by any relevant expertise, but rather rely on impression and lay opinion. Mr Wilkins has dealt in full with such impressions and opinion in his various submitted documents<sup>217</sup>, and they are summarised briefly in the following paragraphs.
380. Representations were made about the sustainability of development on the site in terms of distances between the centre of Burley-in-Wharfedale and access to facilities and services, including schools and the railway station. But as already noted, it is common ground with the Council that the site is in a sustainable location<sup>218</sup> and could be sustainably integrated into the settlement. These representations simply ignore the basic established points in the adopted LPCS and, indeed, the PC's own recently made NP, that Burley-in-Wharfedale is a Local Growth Centre with a good range of facilities and services and is required to accommodate at least 700 new homes.
381. Likewise, it is clear and has been confirmed at the inquiry by the PC and the objectors themselves, that this allocation of 700 new homes was made because of the availability of the application site. Its location was, of course, known to all concerned including the Local Plan Inspector. Therefore, alleging that it is in some way unsustainable is in direct conflict with what has already been established in the LPCS. But it is also unjustified on the facts. The site is well-placed to encourage trips to Burley-in-Wharfedale village centre and all the facilities it has to offer, by sustainable modes of transport.
382. It would benefit from a network of high-quality pedestrian and cycle routes which would link the site with the existing footway provision within Burley-in-Wharfedale. The centre of the site would be around a 1km walk from the village centre, taken as being the area in and around the junction between Main Street and Station Road. The nearest shops to the site would be around 500m away on Main Street, whilst the furthest walk distance from the western side of the site to the Co-op store on Main Street would be about 1.85km. The rail station would be around 1.6km from the centre of the site.
383. These distances accord with the findings of a Transport Research Note prepared by Consultant WYG: "Accessibility – How far do people walk and cycle<sup>219</sup>", which indicates an 85<sup>th</sup> percentile walk distance for all journey purposes of 1.93km. This fits well with the 2km walk distance referenced in the Institution of Highways and Transportation document "Guidelines for Providing for Journeys on Foot".
384. The street network within the site would be designed in accordance with the principles of Manual for Streets<sup>220</sup>, to ensure that a high priority is placed on

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<sup>216</sup> Para 3.1.3 of CD5.5

<sup>217</sup> See Section 10 of Doc APP/SCW/1, Doc APP/SCW/3 and Docs 34, 35, 36, 58 & 59

<sup>218</sup> See also Appendix SCW12 in Doc APP/SCW/2

<sup>219</sup> Appendix SCW9 in Doc APP/SCW/2

<sup>220</sup> CD6.3 & CD6.4

meeting the needs of pedestrians, cyclists and public transport users, to encourage growth in these sustainable modes of travel, creating a network of streets that provide permeability and connectivity within the development, whilst being designed to keep vehicle speeds at or below 20 mph.

385. The site is also well placed with regards to the existing public transport network, both bus and rail. There are currently 3 bus stops within 400m of the site, and all the houses on the site would be within 600m of one of these bus stops. The development proposal would deliver improved pedestrian links to all 3 bus stops in the form of improved pedestrian footways and improved crossing facilities.
386. More fundamentally, the applicant has had discussions with the public transport authority, West Yorkshire Combined Authority ("WYCA"), to agree funding of £375,000 over 5 years, at £75,000 per annum to allow the existing 962 bus service that runs past the site on the A65 to re-route through the site, providing a high quality public transport service to the centre of Burley-in-Wharfedale and the railway station. This contribution is secured in the S106 agreement.
387. In addition, the frequency of this service would be increased to a half-hourly service, and the hours of operation would be extended to cover commuting hours, so as to provide an improved service to the railway station, and ensure that access to the station for residents would be as attractive by bus as on foot or by bicycle. This would be a significant sustainability benefit for Burley-in-Wharfedale as a whole, delivered only by the grant of planning permission. The increase in the frequency of the service, and its extension into commuting hours, would mean that this service could be used at these times by all residents.
388. Representations received during the inquiry about this service were contradictory. It was suggested, anecdotally, that the operator of the service was considering withdrawing it, although no evidence to corroborate this was provided. But even if thought is being given to that, the grant of planning permission could only serve to minimise that possibility through the significant increase in potential patronage, and so revenue, which the development would provide, along with the pump-priming contribution.
389. In any case, it is not open to the operator to simply withdraw the service without giving notice to WYCA, as it is a tendered service. If, at the end of the tender contract period an operator chose not to retender, others could. Moreover, these claims were inconsistent with the other concerns that the bus would be too small to cope with the increased demand. The reality is that the proposed development would serve to revitalise this service, extend its hours and frequency, and reroute it into the application site to provide a service that would be of value to everyone.
390. WYCA have also confirmed that operators of other commercial services that currently pass the site on the A65 have indicated they would consider diverting through the site on a commercial basis. Any bus services that were to divert through the site would be within 400m of all the houses, via a single bus stop to be located within the site. Although representations were received suggesting that such other services do not provide realistic linkages with other settlements (eg Harrogate), analysis of the timetables demonstrate this is not the case<sup>221</sup>.

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<sup>221</sup> See Docs 34 & 59

391. One of the great sustainability virtues and qualities of Burley-in-Wharfedale is its railway station. This is a key factor in its status as a Local Growth Centre, with direct and regular services to Leeds and Bradford. Moreover, as part of the 2016 rail franchise award to Arriva Rail North, capacity enhancements are proposed for the services on the Wharfedale line, as confirmed by WYCA. These franchise commitments include the delivery of new electric trains of 6 carriages on the busiest services (the longest trains at present have only 4 carriages).
392. Whilst representations have been made relying upon a letter from Network Rail dating from 2016, identifying the need for improvements to the power supply to serve the increased length of trains at peak times, this is not a meaningful barrier to the future provision of such enhancements as indicated by WYCA in its much more recent response of 29 March 2019<sup>222</sup>. This confirms the franchise commitment to increased capacity by increasing train lengths and identifies that Transport for the North and the Train Operating Companies are working with the stakeholders to address any issues.
393. It is acknowledged that the car park at the railway station is well-used, but as the station is within a reasonable walking and cycling distance of the development it would be accessible for new residents by foot or by bicycle. The station currently has provision for cycle parking on the southbound platform, and in the car park. For those residents unable to walk or cycle to the station, the diverted and improved frequency 962 bus service would provide a direct link from the proposed development. There would therefore be alternative, sustainable means of travel to the station available to new residents as genuine alternatives to the private car.
394. Even if there were the opportunity to provide additional car parking at the railway station, this would not be proposed by the applicant as it would simply encourage more car-borne access. As such, it would be contrary to the thrust of current national and local transport policy, which places the emphasis on promoting travel by sustainable modes of transport.
395. In addition, the development would be supported by a detailed Travel Plan<sup>223</sup>, containing initiatives aimed at maximising walking, cycling and public transport access to the site, and minimising car-borne travel. The primary school on the site would help to create a walkable neighbourhood, and a specific School Travel Plan<sup>224</sup> would be developed to reinforce the benefits of walking to school. Other important sustainable travel measures include the securing of electrical vehicle charging points on the site as part of the conditions.
396. All of the above points serve to demonstrate, beyond any question, the sustainability credentials of the application site, in the context where Burley must deliver 700 homes in accordance with the LPCS.
397. Turning to other matters raised by objectors, Mr Lavery's contention that the TA has not taken proper account of anticipated future development was misconceived in principle, and out of step with established guidance. The normal approach, as set out in the PPG, is to carry out a TA taking account of committed development for the next 3 years, and allow for additional future growth using the

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<sup>222</sup> See Appendix SCW12 in Doc APP/SCW/2

<sup>223</sup> See agreed condition 40

<sup>224</sup> See agreed condition 41

Government's Trip End Model Presentation Program ("TEMPRO")<sup>225</sup>. However, in this case, the applicant has extended that assessment to 5 years, in agreement with the Council, to ensure that the assessment is robust.

398. Mr Lavery's suggestion that the TA should assess and model the surrounding roads on the assumption that all 2,500 homes for the Wharfedale area in the LPCS are in place would not reflect reality or guidance. It also ignores the basic point that each development proposal, when it comes forward, needs to address its own impacts against whatever has been permitted, and taking account of future growth in the same way. Therefore, such other development will need to meet its own impacts acceptably (just as this development is doing). In addition, Mr Lavery has ignored the fact that the sustainability and infrastructure requirements for delivery of the LPCS as a whole have been looked at by the Council (in conjunction with Leeds City Council) as part of the development plan process<sup>226</sup>.
399. Mr Lavery also sought to suggest that the A65 had not been properly assessed as a trunk road – but this road was de-trunked in 2003<sup>227</sup>. The applicant and the Council have correctly assessed the impacts of the proposed development on the A65, and the site access proposals, on the basis that the A65 is now the responsibility of the Council. Mr Lavery and others also made reference to a former proposal from 1991 to dual the A65 from Burley to Ilkley, but this was never pursued, and there are no current proposals for any such scheme<sup>228</sup>.
400. Although Mr Lavery maintained that traffic surveys he had commissioned of the A65 in October 2016 showed that the applicant's traffic figures are very optimistic, the recent assessments undertaken by Mr Wilkins resulted in predicted peak hour flows some 20% and 21% greater than Mr Lavery's flows for the morning and evening peak periods respectively<sup>229</sup>. This emphasises that for both peaks, the applicant's assessment of the road network has been very robust.
401. Mr Lavery also sought to rely upon his own survey of 40 homes at Wellfield Lane, to dispute the applicant's trip generation figures for the proposed development. However, this survey is unreliable in terms of data, and in terms of the size of development used. But even if these trip rates were used, the sensitivity tests used in the TA are close to these trip rates. Moreover, Mr Wilkins has pointed out that his own subsequent surveys of housing areas within Burley, of a more equivalent size, again demonstrate that the approach in the TA was very robust<sup>230</sup>.
402. The proposed development would give rise to increases of about 40% and 49% in morning and evening peak hour traffic flows respectively, on Ilkley Road to the north of the site access, but there is nothing to suggest that either the site access or the A65 roundabout junction would have any difficulties accommodating such increased flows. Indeed, both junctions are predicted to continue to operate within capacity. To the south of the proposed site access, the flows on Main Street are predicted to increase by a much lower amount – just some 5.5% in the

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<sup>225</sup> See para 2.1.3 of Doc APP/SCW/3

<sup>226</sup> See Doc APP/SCW/3

<sup>227</sup> See para 2.2.2 of Doc APP/SCW/3

<sup>228</sup> See paras 2.3.2 to 2.3.3 of Doc APP/SCW/3

<sup>229</sup> See paras 2.4.1 to 2.4.3 of Doc APP/SCW/3

<sup>230</sup> See paras 2.5.2 to 2.5.6 of Doc APP/SCW/3



morning peak hour and about 6.7% in the evening peak hour. Such flow levels would not result in any particular traffic problems.

403. Concerns about the safety of people accessing bus stops, particularly on the A65, are unfounded. As part of the proposal, pedestrian refuges would be introduced at the bus stop locations, thereby increasing safety over the existing situation. In any case, the access proposals have been the subject of appropriate Road Safety Audits<sup>231</sup>, which identified no significant issues.
404. Cllr Whiteley expressed concerns about parking in the village and illustrated these concerns with a number of photographs<sup>232</sup>. These have been analysed by Mr Wilkins, who considers that they simply show typical levels of parking, not unusual for the day-to-day operation of a thriving village such as Burley-in-Wharfedale. They generally demonstrate a good level of adherence to parking restrictions, and other than in a couple of areas where additional parking restrictions may be required, do not appear to indicate any significant cause for concern<sup>233</sup>. In any case, it would be entirely the wrong approach to provide more parking in the centre as this would only serve to encourage the use of cars, rather than other modes of transport, to access the facilities and services and the railway station.
405. A query was also raised at the inquiry about the interaction between the Buckle Lane junction and the A65 High Royds Drive junction, and whether the proposed development would have any adverse impact on the operation of this latter junction. Mr Wilkins notes that the approach to modelling the Buckle Lane junction was agreed with the highway authority, and that the proposed improvements to this junction would enhance its capacity, compared to the existing situation<sup>234</sup>. As such, these improvements would also improve the situation at the High Royds Drive Junction.
406. Finally, in a late representation, Mr Askham suggested that further development at Scalebor House has the potential to provide additional car parking at the railway station. However, this strange suggestion is not relevant to the consideration of the application proposal, as this potential SHLAA site<sup>235</sup> is unsuitable in principle, for the reasons explained by Mr Darley, and could not deliver the required housing. That said, the question of parking has been fully addressed by Mr Wilkins in his Proof of Evidence<sup>236</sup>. Providing additional parking at the station would only be likely to encourage car use, at the expense of more sustainable transport modes<sup>237</sup>.
407. For all the above reasons, the application proposal is compliant with all relevant development plan policies relating to transport and highways, and with national policy in the Framework. There are, therefore, no highway, traffic or transportation reasons why the proposed development should not be approved.

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<sup>231</sup> CD10.12

<sup>232</sup> Doc OD/JW/1

<sup>233</sup> See paras 3.3.3 to 3. 1.24 of Doc APP/SCW/3

<sup>234</sup> Doc 36

<sup>235</sup> Site BU013

<sup>236</sup> See paras 5.37, 5.38, 5.40 & 5.41 of Doc APP/SCW/1

<sup>237</sup> See paras 4.2.1 & 4.2.2 of Doc APP/SCW/3

### *Section 106 Agreement*

408. The application is the subject of a S106 agreement between the applicant, the site owners and the Council. It is common ground with the Council that this, with the agreed conditions, would satisfactorily address the impact of the proposed development. It would secure the delivery of 30% affordable housing on the site - or its equivalent in the event that a lesser percentage is provided but at a greater discount on Open Market Value. This would be provided in accordance with an agreed affordable housing scheme as part of a reserved matters approval. It would be subject to a cascade mechanism which is the subject of a separate note, showing that it is in a form recently approved by the SoS<sup>238</sup>.
409. With regard to education, the agreement reserves an area of land within the site of up to 1.78ha, for development of an up to 2FE primary school. The precise area of this land will be agreed with the Council. There is an obligation to offer this land to the Council prior to occupation of more than 2 dwellings. The land will be reserved for 10 years from the date of the Offer (or such longer period that may be agreed). On trigger, the agreement requires transfer of the land for the purposes of the development of a school for £1. On transfer, the Council is required to construct the School within 5 years of the date of the transfer.
410. The agreement also secures the setting up of a PSDP, and secures its membership. It will meet quarterly (or as otherwise agreed by the parties) with its terms of reference being limited to seeking to facilitate the delivery of the school.
411. Finally, the agreement would provide the following sums to secure delivery of a number of sustainable transport and other measures<sup>239</sup>:
- a) £15,000 to allow a review of the existing Traffic Regulation Orders ("TROs") on Main Street, Burley-in-Wharfedale;
  - b) £55,000 towards traffic calming and footway strengthening TROs in the Sun Lane area;
  - c) £40,000 for improvements to the A65 Coutances Way/Wheatley Lane junction taking the form of the installation of Microprocessor Optimised Vehicle Actuation within the traffic signals;
  - d) £25,000 towards Vehicle Activated Signs and introduction of traffic islands on Manor Park;
  - e) £65,000 towards software improvements to the traffic lights at the Buckle Lane/Bingley Road Junction;
  - f) £320,000 towards a scheme of wider improvements to the Buckle Lane/Bingley Road junction;
  - g) £75,000 per annum to fund improving, rerouting and increasing the frequency of the 962 bus service (or any equivalent replacement facility) for a period of 5 years (£375,000);
  - h) £18,000 towards procuring recreational access management measures and/or habitat management and monitoring measures on the South Pennine Moors SPA/SAC; and
  - i) £25,000 towards various improvements to the Sun Lane LNR.

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<sup>238</sup> See Docs 46, 47 & 48

<sup>239</sup> See Docs 48, 60 and Appendix SCW30 in Doc APP/SCW/2 for further details

412. The S106 contributions should be seen in the context of the charges that would be collected by the Council pursuant to its CIL scheme. The final amount to be levied would depend upon the detailed design, but it is clear that the amounts would be considerable (currently estimated to be in the region of £3.5-£5.0 million), with 25% of that levy going direct to the PC for spending in Burley-in-Wharfedale itself. This would therefore deliver very significant benefits for the local community, in addition to those benefits from the S106 obligations above.

*Other Miscellaneous Matters*

413. The PC refers to a proposed Wharfedale Greenway and expresses concern about the application proposal "blocking" part of its route between Burley-in-Wharfedale and Ilkley. However, this section of the proposed route is envisaged to be a later phase of the proposal, with no route finalised, nor indeed safeguarded in any way. It is understood, however, that a possible route option in this area would follow the path along Sun Lane. The proposed development would in no way prevent or prejudice this. Indeed, should this become the identified route, part of the CIL payment associated with the application proposal could assist in funding this.
414. Moreover, the proposal would also allow for an alternative option for this part of the Greenway, as it is possible that a new bridleway could be accommodated along the southern boundary of the application site, adjacent to Sun Lane. With these points in mind, the application proposal has the potential to assist with the Greenway's delivery, rather than prejudicing it.
415. In relation to the other concerns raised by interested persons, and detailed in the PIM note:
- a) The size of the proposed development and its appropriateness has already been dealt with above, including in particular the requirements of the adopted LPCS and the need for the site to accommodate up to 500 houses to meet those requirements;
  - b) The issue of brownfield sites in Bradford has been recognised in the LPCS itself. The distribution of development in the LPCS identifies what is required for the Wharfedale area, in addition to the very significant brownfield and other development in Bradford. There is no basis for suggesting that those other sites should be developed in preference to the application site, as those other sites will need to be developed anyway, in addition to the application site;
  - c) The suggestion that the housing demand figures that the Council is working to are not correct has been dealt with above and in Mr Coop's evidence to the inquiry<sup>240</sup>, which no one wished to question;
  - d) The suggestion that the development might be premature in light of any emerging reviews has been dealt with above. There is no basis for this suggestion, whether in policy terms or on the facts, where it is known that the application site is required anyway;
  - e) There is a suggestion that there is a lack of employment locally, but that is something that was fully considered in the LPCS in identifying what development is required for Burley-in-Wharfedale. There is no requirement for additional employment floorspace. Indeed, the Council recently approved the use of Greenholme Mills (in use for

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<sup>240</sup> Appendix 9 in Doc APP/CD/2 and Doc 39

- employment purposes) for residential development and this was supported by the PC;
- f) The issue of parking near the railway station is dealt with by Mr Wilkins in his evidence as summarised above.

### *Planning Balance and Conclusions*

416. For all the reasons set out above, the planning balance is overwhelmingly in favour of the grant of planning permission for the application proposal. It has the full support of the Council. The formal position of the PC is one of not objecting, as reflected in their formal minutes<sup>241</sup> and confirmed by Mr Orton at the inquiry. It is a necessary proposal to deliver the very recently adopted requirements for Burley-in-Wharfedale. It is urgently needed to provide housing in the District, and affordable housing – particularly in this area. It complies with the development plan and all other relevant policy. It would be a hugely beneficial scheme. It is a proposal of great quality, subject to many very special circumstances.
417. Having been called-in for the SoS's own determination, the SoS is urged to grant planning permission as soon as possible to allow the development to proceed. Anything else would subvert the planning process, the Council's adopted LPCS, the local democratic decision-making process, and would be irreconcilable with the central Government objective of delivering new housing.

## **The Case for the Council**

### *Introduction*

418. The application comprises EIA development. Given the date of its submission to the local planning authority, the ES and its Addendum had to comply with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, rather than the 2017 EIA Regulations. The Council is satisfied that the ES and its Addendum together provide all of the requisite information, that they comply with the EIA Regulations and that they are entirely fit for purpose. It is noted that there has been no claim to the contrary at the inquiry.
419. The Council's support for this application, expressed in its resolved position remains unaltered. The Council continues to consider that the application should be supported and ought to be allowed to proceed in the public interest.
420. At the outset, the Council wishes to make clear a point which really ought not to be up for debate. At all times, the Council's Officers and Members have acted in good faith, forming and expressing their honest professional judgments. Both of the Council's witnesses expressly confirmed that was the case at the outset of their evidence. It is most unfortunate that some objectors and onlookers at the inquiry seem to have a problem with the concept that a person can hold a different view from their own, and yet still be acting honestly and properly.

### *Appropriate rigour in the Core Strategy examination process*

421. Some objectors have sought to portray the outcome of the LPCS examination process as some cosy relationship between the applicant and the Council. It was not. The applicant made representations to the Plan, as it was fully entitled to do, and the Council and Local Plan Inspector accepted that some of these points had

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<sup>241</sup> CD2.29

merit, in particular its point that the draft LPCS had been too cautious about the impacts of new development in Wharfedale upon European protected sites. That led to Burley-in-Wharfedale and Menston being reinstated to the status of Local Growth Centres, as they had been in an earlier draft of the LPCS.

422. At all stages of the LPCS examination process the examining Inspector was fully involved. His final report found that, with the Main Modifications, the Plan would be sound. The Council was not given some inappropriate free hand to deal with Burley as it sought fit, as some objectors seem to believe. Rather, the Inspector had full involvement in assessing the District's housing need; how and where it could and should be met; what status Burley-in-Wharfedale should have in the settlement hierarchy; and in deciding whether there were exceptional circumstances for altering Green Belt boundaries, including at Burley, in order to accommodate a total of 700 new dwellings at Burley in the period 2013 to 2030. The Inspector obviously knew that the largest contributor to that 700 figure was likely to be the application site, as he expressly referred to it in his report<sup>242</sup>.
423. But the scrutiny did not end there. Mr Philip Davies MP was plainly unhappy about the outcome of the Examination as he asked the SoS to intervene in the plan-making process after the Local Plan Inspector's report was published. A holding direction<sup>243</sup> contained in a letter dated 10 October 2016 was issued on behalf of the SoS, preventing the Council from proceeding with the adoption of the LPCS until the SoS had considered whether he wished to intervene in the plan-making process. The first paragraph of that letter raised the concerns that Mr Davies had expressed, including the overall housing need for the District, the need for the release of Green Belt land before previously developed land has been exhausted, and the appropriate locations for meeting housing need.
424. The SoS decided not to intervene, and the holding direction was removed by a further letter dated 28 March 2017<sup>244</sup>. The SoS made it clear that he was not to be taken as accepting that exceptional circumstances existed to "*justify the amendment of any specific Green Belt boundaries*", but it is clear that he was there referring to settlement-specific or site-specific issues, because he clearly was satisfied that the LPCS had properly identified that some Green Belt releases in the District were going to be required. Nor did he express any concern about Burley's status in the settlement hierarchy, the housing numbers ascribed to it in the LPCS, or the need to release some Green Belt land to secure that number.
425. Further, the release of the holding direction must be taken to be a conclusion by the SoS that the plan-making process in Bradford, carried out by the Council and as examined by that Inspector, had proceeded properly - otherwise he would have intervened. In short, the imposition and removal of the holding direction bolsters the point that the LPCS was sound. Indeed, there was no attempt to challenge the adoption of the LPCS pursuant to section 113 of the 2004 Act.

*The Council's support for the application: general*

426. The Council's position as regards this application is comprehensively set out in the numerous SoCG which have been entered into with the applicant and, in one case,

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<sup>242</sup> See paragraph 184 of CD3.8 (also at CD7.2)

<sup>243</sup> CD3.5

<sup>244</sup> CD3.9

NE. The starting point has to be the development plan which, in this part of the District, comprises (a) the Bradford LPCS 2013-2030, adopted on 18 July 2017; (b) the saved policies of the RUDP, adopted 18 October 2005; and (c) the Burley-in-Wharfedale NP, made in 2018.

427. The LPCS is less than 5 years old. As a result, paragraph 73 of the Framework requires the Council's housing land requirement to be calculated using the figures set out in the strategic policies of the development plan. Interested persons make 2 kinds of argument about the housing requirement set out in the LPCS:
- a) That the LPCS figure should not be used because, in essence, it was never correct or sound. This is an impermissible attempt to go behind the adopted LPCS. That plan was examined by a Planning Inspector and found sound in accordance with the Framework (2012 version) and was never challenged in Court. It is not permissible for a participant in a later application process to seek to query the soundness, propriety or legality of the adopted development plan; and
  - b) The LPCS is out of date. Insofar as that argument is based on the revised Framework, and the concept of local housing need figures, it is misplaced, because of the content and effect of paragraph 73 of the Framework. If it is based on a view that the housing requirement is going to reduce the simple answer is, as Mr Bartle confirmed, that the Council has made no decisions on that matter, still less any decisions that appear in an emerging DPD that can be afforded any weight.
428. In short, there is no justification for using any housing requirement figures other than those in the adopted LPCS.
429. Policy HO1 of the LPCS<sup>245</sup> requires the provision of at least 42,100 new homes over the period 2013 to 2030. LPCS Policy SC4<sup>246</sup> sets out a hierarchy of settlements, with the Regional City of Bradford, together with Shipley and Lower Baildon, to be the prime focus for development in the District. Then come the Principal Towns of Ilkley, Keighley and Bingley which are the main local focus for development. The third tier comprise the Local Growth Centres, which include Burley-in-Wharfedale, together with 5 other settlements. Then there is the fourth tier of Local Service Centres and Rural Areas.
430. The Local Growth Centres are the most sustainable local centres, providing good access to the larger, higher order settlements. Policy SC4 says that the Local Growth Centres are accessible, attractive and vibrant places to live, work and invest, whilst LPCS Policy HO3<sup>247</sup> distributes the LPCS housing requirement around the District. As a group, the Local Growth Centres are assigned a total of 4,900 new dwellings, of which 700 are apportioned to Burley-in-Wharfedale.
431. Policy SC7 of the LPCS<sup>248</sup> is clear that achieving the housing growth set out in policy HO3 will necessitate Green Belt releases and that exceptional circumstances exist to make such changes across the District. The Green Belt releases will be made in a Land Allocations DPD. As set out in the Planning SoCG<sup>249</sup>, the LPCS

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<sup>245</sup> Page 156 of CD7.1

<sup>246</sup> Page 41 of CD7.1

<sup>247</sup> Page 172 of CD7.1

<sup>248</sup> Page 57 of CD7.1

<sup>249</sup> CD5.1

partial review and the Land Allocations DPD are both at very early stages. No weight can be attached to them, not least because no draft policies yet exist. The Council has made no decisions about which aspects of the LPCS it will seek to revise, or to what effect. No allocations exist, even in draft form.

432. The LPCS has a series of chapters providing policy at more local levels. Chapter 4.3<sup>250</sup> deals with Wharfedale and, amongst other things, policy WD1<sup>251</sup> refers again to the 700 units at Burley and says, in terms, that the 700 new homes will be provided through redevelopment of sites within the settlement with “a significant contribution from Green Belt changes”.
433. The evidence is that, other than the application site, no individual site or combination of sites can acceptably be released to provide the requisite number of dwellings. This is demonstrated in the alternative sites assessment at Appendix 3 to the Planning SoCG<sup>252</sup>. The assessment has been updated in Appendix 2 of Mr Darley’s evidence, with which Mr Joy agrees.
434. On the evidence, if the 700-dwelling figure for Burley-in-Wharfedale is to be met, then development of the application site is inevitable. In strategic terms, the provision of up to 500 dwellings on the application site would therefore be in complete accordance with the LPCS requirement, Burley’s status in the settlement hierarchy, and the apportionment of housing requirement to Burley-in-Wharfedale.
435. The LPCS contains no development management policies for proposals in the Green Belt. Such provision is found in saved Policy GB1 of the RUDP<sup>253</sup>, which is consistent with up to date national policy in the revised Framework as regards inappropriate development.
436. The application proposal would be inappropriate development in the Green Belt, and should therefore not proceed except in very special circumstances. The Council appreciates that this is not a matter of whether those aspects of the proposal which are beneficial are unusual, but rather is an expression relating to the required outcome of a balancing exercise: all of the benefits are balanced against all of the harm and “very special circumstances” only exist if the benefits clearly outweigh the harm. It is not necessary for each individual benefit to clearly outweigh the harm – the benefits can be weighed in aggregate. In conducting that balancing exercise, paragraph 144 of the Framework requires that the harm caused by the simple fact that the development would be inappropriate development in the Green Belt is given substantial weight. In this case the application proposal would bring considerable benefits, as explained below.

#### *Housing land supply*

437. The Council does not have a deliverable 5-year supply of housing land. Based on the latest assessment of deliverable supply<sup>254</sup> it has a 2.06-year supply, having regard to the revisions to the definition of a “deliverable” site set out in the latest version of the Framework. The Council’s figure uses the Liverpool method of

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<sup>250</sup> Page 89 of CD7.1

<sup>251</sup> Page 90 of CD7.1

<sup>252</sup> CD5.1

<sup>253</sup> Page 192 of CD7.1

<sup>254</sup> CD10.8

dealing with the shortfall in provision to date, so that the backlog would be eradicated over the remaining plan period, and not in the first 5 years.

438. The applicant says that is not a justified approach, but the Council does not agree. PPG paragraph ID 3-044020180913 has the heading "How can past shortfalls in housing completions against planned requirements be addressed?" and provides, so far as presently relevant "*The level of deficit or shortfall will need to be calculated from the base date of the adopted plan and should be added to the plan requirements for the next 5-year period (the Sedgefield approach). If a strategic policy-making authority wishes to deal with past under-delivery over a longer period, then a case may be made as part of the plan-making and examination process rather than on a case by case basis on appeal.*"
439. This guidance clearly does not mean that the Sedgefield approach to backlog must always be used in decision making. Rather, it means that if a local planning authority wishes to use the Liverpool method in preference to the Sedgefield method, in a decision-making context, then it has to have had that approach endorsed beforehand by the Local Plan Inspector. To interpret the guidance otherwise would lead to nonsensical consequences.
440. That is because an authority could have a recently adopted plan which has been found sound and which uses the Liverpool approach, but if a Sedgefield approach to shortfall produced less than a 5-year supply, then all of its decision-making<sup>255</sup> would have to use the tilted planning balance and would render the most important policies for decision making out of date, even though the development plan had just been found sound using the Liverpool method. That cannot be what the SoS intended, and it is not what the guidance's terms suggest.
441. The question of how to deal with the shortfall in housing provision since the LPCS base date was raised in representations to the draft LPCS and was considered by the Local Plan Inspector at paragraph 83 of his final report<sup>256</sup>. He describes this as "a critical issue". He expressly supported the Liverpool basis to dealing with shortfall for 2 reasons:
- a) Using the Sedgefield method would lead to a need to build "an excessive amount" of housing within the first 5 years of the plan, over 4,000 dwellings per year; and
  - b) That would, in the Inspector's judgment be unrealistic and undeliverable, particularly having regard to past completion rates and the infrastructure demands that such a rate would create.
442. The Inspector concluded paragraph 83 by saying "*Consequently, there are sound reasons to justify an approach which envisages meeting the shortfall in housing delivery over the full plan period, ensuring an aspirational, but realistic supply of housing land*".
443. The applicant takes a point about the inclusion of sites in Appendix 2 of the latest supply assessment<sup>257</sup>, on the basis that it has seen no clear evidence of their deliverability. The Inspector and SoS are not in a position to adjudicate upon that difference of opinion because:

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<sup>255</sup> Unless it engaged the restrictive policies listed in footnote 6 of the Framework

<sup>256</sup> CD3.8

<sup>257</sup> CD10.8



- a) The applicant and Council are ultimately of the same view as regards the application and have not wanted to or been able to challenge each other's cases at this inquiry; and
- b) Neither party provides detailed evidence on the sites in Appendix 2, to allow the issue to be fully explored.

444. The Council adheres to its supply figure but accepts that it is plainly a long way short of a deliverable 5-year supply. The SoS in the decision letter for the called-in application at Sty Lane, Micklethwaite called a 2.05 year supply an "acute shortage"<sup>258</sup>. The Council itself accepted at that inquiry that the housing shortfall in Bradford was "acute in extent and chronic in duration"<sup>259</sup>. Although the supply figure at Sty Lane is not directly comparable with the supply figure at this inquiry, given the changes in the definition of deliverability that have been made to the Framework between the 2012 and 2019 versions, it is common ground between the applicant and Council at this inquiry that the shortfall is to be characterised as "significant, chronic and acute"<sup>260</sup>.
445. Another recurring theme of the objectors' representations is that there are masses of previously developed sites spread around the District (although local people point in the main to the City itself), which can be used to provide housing, meaning that there is no or a significantly reduced need to develop on greenfield and Green Belt sites and sites in Wharfedale and in Burley in particular. These assertions are entirely unsupported by any convincing evidence. Only Mr Poulter has tried to tackle the subject in any detail, but his evidence simply points to previously developed sites with permission, sites without permission (either because the site never had permission or because permission has lapsed), and some sites which have undetermined applications.
446. The problem with his evidence is that, as he accepted in cross-examination, he has carried out that exercise without any regard to what the Framework requires if a site is to be considered deliverable. Only the Council and applicant have addressed housing land supply in the proper context of what the Framework requires. It is, in any event, inherently unlikely that the position would have so markedly improved since the LPCS Inspector considered that the Council had a supply of "barely" 2.3 or 3.3 years, according to whether the Liverpool or Sedgefield approach to backlog was used<sup>261</sup>.
447. The development of up to 500 homes on the application site would make an important contribution towards meeting housing needs and easing the supply difficulties being experienced in the District.

*A wide choice of homes, including types of market housing and affordable housing*

448. As regards the specifics of the housing on site, the proposal would undoubtedly fit comfortably with policies in the Framework on delivering a wide choice of high-quality homes, including the type of market housing and the provision of affordable housing. That is because the Council has, at its disposal, policies to ensure a scheme including an appropriate mix of houses is provided at reserved

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<sup>258</sup> Paragraph 22 of CD11.4

<sup>259</sup> Para 6.42 of CD11.4

<sup>260</sup> CD5.1, page 17

<sup>261</sup> Para 82 of CD3.8/CD7.2

matters stage. Policy HO8 of the LPCS<sup>262</sup> requires large sites to provide an appropriate mix of houses by type, size, tenure and price, and part D of the policy sets out 6 strategic priorities to be borne in mind. The need for an appropriate mix of housing is also reinforced by policy BW5 of the NP<sup>263</sup>.

449. Policy HO9 of the LPCS<sup>264</sup> requires housing to be of high quality and design and larger sites are required to provide a proportion of houses which are accessible or adaptable as occupants' needs change over time. The LPCS thus provides ample means for the Council to secure an appropriate mix of homes of the right quality. The applicant's design evidence shows that these policies' aims are easily capable of being secured. Indeed, it is obvious that the applicant has given considerable and careful thought to how the site could be developed and the Council submits that the Inspector and SoS can be confident that a high-quality proposal can be proposed by the applicant, demanded by the Council and secured on the site. The density proposed would be appropriate, given the character of the site's surroundings, complying with the aims of LPCS Policy HO5<sup>265</sup>.
450. Nor is the fact that the site is not previously developed land an impediment to permission. Policy HO6 of the LPCS<sup>266</sup> seeks to maximise the use of previously developed land and has a target of 50% of new housing over the plan period, and across the District, taking place on previously developed land. But the target for Local Growth Centres, as a group not as individual settlements, is 15%, and the policy does not require permission to be refused on a greenfield site if previously developed land is available. It is not a sequential or "brownfield first" policy.
451. The application would provide 30% affordable housing (up to 150 units), secured by the S106 agreement, and would comply in full with the 30% target for Wharfedale set out in LPCS Policy HO11<sup>267</sup>. The provision of such an amount of policy-complaint affordable housing should be afforded significant positive weight because sufficient affordable housing is not being delivered currently<sup>268</sup>.

*The site-specific effects of the proposal*

452. The site-specific impacts of the proposal would be entirely acceptable, and the Council has therefore not sought to duplicate the applicant's site-specific evidence. Instead, the Inspector and SoS should have regard to the detailed and comprehensive SoCG that set out the Council's position. However, the Council is keen to emphasise that the brevity of treatment of these matters, here, should most definitely not be equated with either a lack of attention being given to these issues, or a lack of importance being attached to ensuring that the impacts of the site's development are minimised.
453. Landscape and Visual Amenity. The Council's position is set out in section 9.0 of the Planning SoCG. The Council is content that chapter G and Appendices G1 to G11 of the ES is methodologically sound and comprehensive. The ES was built upon by a response to the consultation response from NE, a response to the

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<sup>262</sup> Page 186 of CD7.1

<sup>263</sup> page 39 of CD7.4

<sup>264</sup> page 190 of CD7.1

<sup>265</sup> page 177 of CD7.1

<sup>266</sup> page 179 of CD7.1

<sup>267</sup> Page 198 of CD7.1

<sup>268</sup> See Table 6.3 in APP/CD/1

Council's Officers' requests for clarification of certain matters and a drawing showing illustrative proposed treatment of part of the A65 site frontage. The Council's landscape officers had and have no objection to the proposal. In addition, Mr Denney's evidence provides another review of the landscape and visual issues raised by the proposal. The Council takes no issue with Mr Denney's evidence.

454. Given the topographical relationship of the site to the Nidderdale AONB and the presence and nature of intervening vegetation, it is common ground that any adverse effects on the AONB would be slight in the long term. There is also common ground about the landscape and visual issues which can be related to Green Belt matters, but the Council accepts that the Green Belt is not primarily a landscape protection policy, but a policy aimed at protecting openness. The proposal affords the opportunity to provide a more defined, and therefore durable, boundary to the Green Belt.
455. Overall, the application proposal would cause acceptable change to the landscape and no unacceptable impact upon visual amenity. The proposal would therefore accord with LPCS Policy EN4 "Landscape".
456. Heritage Matters. The Council's position is set out in section 8.0 of the Planning SoCG and the applicant has bolstered that with Mrs Fraser's evidence, with which the Council takes no issue. Any harm to the designated assets at Black Bull Farm and the Burley-in-Wharfedale CA would be less than substantial and amply outweighed by the public benefits of the proposal. This acknowledges that, in the case of the listed buildings, the duty to pay special attention to the desirability of preserving the setting of the listed buildings has to be given considerable importance and weight, as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
457. The application site contains a likely Roman Temporary Camp, which is an exciting find. The Council has paid close attention to that asset and accepts it should be treated as being of national importance, despite the lack of any legal protection for it. The application provides the opportunity to conserve the asset itself, whilst enhancing public appreciation of its significance by making it a significant focus of the development, particularly the school site. HE has been fully involved in assessing the proposal's effects upon the camp and is content with the approach taken in the application. The application proposal would therefore comply with LPCS Policy EN3 "Historic Environment".
458. Ecology. The Council considers that the application has been informed by a comprehensive and appropriately timed set of surveys of ecological interest of the site and that its off-site impacts, particularly as regards European protected sites can be well understood. NE has signed the HRA SoCG. All impacts other than recreational pressure were scoped out at a fairly early stage. Mitigation measures can be put in place to ensure that any adverse effects of recreational pressure on the South Pennine Moors and North Pennine Moors SPAs and SACs are avoided.
459. The initial sHRA was revisited in order to comply with the *People over Wind* case, so as to ensure that mitigation measures were only considered at the appropriate assessment (and not screening) stage. The applicant spells out the detail in Mr Baker's evidence. The proposal accords with LPCS Policies SC8 "Protecting the South Pennine Moors and their Zone of Influence"; Part D of policy WD1 "Wharfedale"; Part C of policy EN1 "Open Space, Sports and Recreational"; and

part A of policy EN2 "Biodiversity and Geodiversity. Other ecological interests would be protected by the application proposal. Indeed, it is common ground between the Council and applicant that the proposal would secure overall ecological benefit. Again, the Council takes no issue with Mr Baker's evidence on these matters. The proposal would accord with parts B, C, D and E of LPCS Policy EN2, and parts D4 and D5 of policy WD1.

460. Open Space. The proposal would incorporate considerable areas of public open space, which could be used by the wider public and not just occupants of the proposed dwellings. A particular aspect of the importance of opening up the site to public access would be the ability of local people to see, explore and understand the Roman Temporary Camp.
461. Traffic and Transport. In traffic and transport terms, the applicant has provided comprehensive information which Mr Wilkins' evidence explained. The application has been the subject of detailed involvement and scrutiny by the Council as the local highway authority, and the Council has entered into a detailed SoCG on Highways matters, to which the SoS should refer. In short, the Council considers that the application proposal has been carefully designed in highways terms and that the assessment of traffic generation, distribution and impact from the proposed development has been robustly assessed, including appropriate consideration of traffic growth and committed developments.
462. The existing highway network has no particular current problems (such as a concerning accident record) which are suggestive of any particular difficulties in developing the site, and the proposal would create no unacceptable impacts on highway safety. The impacts on highway capacity would be far less than "severe", as referred to in paragraph 109 of the Framework, and so provide no basis for refusing planning permission. All of the junctions studied as part of the assessments have been modelled using the appropriate software packages and all would have ample remaining capacity with the development in place.
463. The site would provide good opportunities for travel by means other than the private car. The facilities in Burley-in-Wharfedale are conveniently walkable from the site and the proposal provides the opportunity to secure a new school on the site itself. The site would provide easy access to bus stops with a good frequency of services which provide access within Burley but also to larger settlements. The village has a railway station with a good range of frequent services allowing access to all points along the Wharfedale line, including to the major centres of Leeds and Bradford. In addition, the application is accompanied by a Framework Travel Plan<sup>269</sup> which provides a robust basis for devising a final plan to maximise the take-up of sustainable modes of travel.
464. Overall, the proposal accords with (a) the applicable LPCS<sup>270</sup> policies, namely Policies TR1 "Travel Reduction and Modal Shift", TR2 "Parking Policy", TR3 "Public Transport, Cycling and Walking", WD1 "Wharfedale" and WD2 "Investment Priorities for Wharfedale"; (b) RUDP<sup>271</sup> policies TM6 "Bus Priority", TM8 "New Pedestrian and Cycle Links" and TM10 "The National and Local Cycle Network";

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<sup>269</sup> See Appendix E2 in CD1.11

<sup>270</sup> CD7.1

<sup>271</sup> CD7.3

and (c) Burley-in-Wharfedale NP<sup>272</sup> policies BW10 "Design of New Car Parking in Residential Development", BW13 "Walking and Cycling Routes and Bridlepaths", BW14 "Design of New Foot, Cycle and Bridlepaths", BW15 "Green Infrastructure" and BW16 "Supporting the Development of New or Extended Community and Health Facilities".

465. Flooding and Drainage. The proposal would create no unacceptable impacts in terms of flooding and drainage. The Council's position is set out in section 15 of the Planning SoCG. The Council is content with the submitted FRA and the proposal is to locate all of the proposed dwellings in Flood Zone 1. This could be secured by the suggested planning conditions. Paragraph 15.5 of the Planning SoCG sets out the mitigation measures proposed to ensure that all identified potential sources of flooding can be guarded against. Surface water run-off would be restricted to greenfield run-off rates, ensuring that the development of the site would not create increased flood risk elsewhere. No statutory consultee objected on flooding or drainage grounds, and the proposal would comply with LPCS Policy EN7 "Flood Risk" and part D of Policy EN8 "Environmental Protection".
466. Demand on local facilities and infrastructure. The proposal would have no unacceptable impact on the facilities within the existing village. The proposed primary school would not merely meet the needs generated by the proposed development, but would also alleviate existing problems. The provision of the school would be a benefit, not mitigation, and the Council is confident in the deliverability of the school, given the detailed mechanisms in the planning obligation and the clear incentive on the Council to procure the new school on the site. The incentive is provided by the statutory duties placed on the Council in its capacity as education authority to secure sufficient school places for school age children, resident or looked after in its area.
467. The IGS secondary school has planning permission to expand, and if any demand created by the application proposal could not be accommodated at the enlarged school it could be dealt with by the use of CIL receipts, as secondary education is on the Council's Regulation 123 list of infrastructure to be funded by CIL.
468. Evidence provided by the applicant<sup>273</sup> demonstrates that the local doctors' surgery has the capacity to accommodate patients from the proposed development and, on a different topic, there would be no difficulty in accommodating the sewerage demand of the proposal. Yorkshire Water does not object to the application.

#### *The Planning Obligation.*

469. The application is accompanied by a S106 agreement, to which the Council is a party. It would secure the following:
- a) Up to 30% on-site affordable housing provision with a mechanism to secure a commuted sum in the unlikely event that securing on-site provision is not possible;
  - b) The safeguarding of the land for the primary school for a 10-year period and the transfer of that land to the Council upon demand, together with the formation of a PSDP;

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<sup>272</sup> CD7.4

<sup>273</sup> Paras 10.15 to 10.20 of Doc APP/CD/1

- c) Financial contributions to secure various off-site highway improvements and a review of existing TROs; and
- d) A contribution to improve, re-route and increase the frequency of the 962 bus service for a 5-year period.

470. The Council has submitted a CIL compliance statement<sup>274</sup> which shows how the 3 tests in Regulation 122 of the CIL Regulations 2010 are met, and that the pooling restriction in Regulation 123 would not be breached.

*Whether very special circumstances exist to justify inappropriate development in the Green Belt*

471. The Council considers that the benefits of the application do, indeed, clearly outweigh the harm caused by inappropriateness and any other harm such that very special circumstances exist. The benefits which fall to be weighed are the following, which have been addressed in detail above. They are:

- a) The need and justification for Green Belt releases in Burley-in-Wharfedale, as recognised by the LPCS;
- b) The absence of a 5-year supply of deliverable housing land and the failure to provide sufficient affordable housing, both of which issues the application could help to address in important ways;
- c) The lack of realistic alternative housing sites around Burley-in-Wharfedale: achieving the LPCS figure for the village requires the development of the application site;
- d) Permission for and the provision of an area of land of sufficient size to accommodate a new up to 2FE primary school which would not merely provide for the needs generated by the development but contribute towards easing primary school capacity issues which already exist at the primary schools in the village;
- e) Securing the preservation of and increasing public understanding of the significance of the recently discovered Roman Temporary Camp; and
- f) The provision of recreation and open space which could be used and enjoyed by the wider public as well as occupants of the development.

472. The proposal is inappropriate development in the Green Belt, and substantial weight has to be attached to the harm caused by that inappropriateness. However, it would not harm the Green Belt purposes of (a) checking unrestricted sprawl of large built up areas; (b) preventing the merger of neighbouring towns; or (c) preserving the setting of historic towns.

473. Whilst there would be inevitable encroachment into the countryside, any impacts could be mitigated through careful landscaping. There are limited and insufficient opportunities to recycle derelict and other urban land in the areas protected by the Green Belt, whilst providing sufficient housing development. The adverse impacts on the Green Belt would be limited to those which are inevitable if the LPCS requirement for Burley-in-Wharfedale is to be met. For the reasons set out above, the proposal would cause no significantly adverse site-specific effects.

474. On balance, it is the Council's firm submission that the varied and significant benefits do clearly outweigh the harm caused through inappropriateness and any

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<sup>274</sup> Doc 27

other harm, such that very special circumstances to justify inappropriate development in the Green Belt exist in this case.

#### *Development Plan compliance*

475. Although the site is in the Green Belt, granting planning permission would not be contrary to the development plan if very special circumstances exist, which is the case. As set out above, the proposal would comply with the relevant development plan policies and the proposal accords with the development plan as a whole. The relevant development plan policies are consistent with the Framework and therefore up to date. Paragraph 11(c) of the Framework provides, in such circumstances that, planning permission ought to be granted without delay.
476. Something needs to be said about the NP and Mr Orton's appearance at this inquiry. The NP contains policy BW2 which deals with proposals to develop outside the village's settlement boundary. It requires proposals to meet 5 criteria, in addition to meeting the requirements of national policy on development in the Green Belt. The tests are that the proposals:
- a) Do not have an adverse impact on the cultural, ecological and archaeological importance of key features of Wharfedale; and
  - b) Protect moorland habitats; and
  - c) Protect and enhance the role of the River Wharfe for green infrastructure; and
  - d) Preserve field patterns, tree cover and the wider landscape of the Wharfedale Valley and the hills and moorland that surround the area; and
  - e) Do not have a significant adverse impact on natural and built heritage assets.
477. The application proposal meets all of these criteria.
478. There are no other policies of the NP which suggest that the application should be refused. The PC wanted to include a policy in the NP which sought to have new housing provided on a series of smaller sites and not one larger one, but the NP Examiner required the removal of this provision, as to include it would mean that the Plan did not meet the basic conditions, as detailed in paragraph 4.11 of the Examiner's report<sup>275</sup>.
479. The PC's formal position is that at its meeting of 17 December 2017 it resolved that it had no objections to the proposal<sup>276</sup>. Mr Orton confirmed in his oral evidence that that remains the position. Mr Orton's peroration to his evidence in chief, asking that planning permission ought to be refused is not the PC's position. Whoever Mr Orton was speaking on behalf of at the inquiry, he was not speaking on behalf of the PC as a corporate entity.

#### *Prematurity*

480. There can be no argument that the application is premature to either the LPCS partial review or the Land Allocations DPD. The Framework provides at paragraph 49 that prematurity will be unlikely to provide a reason for refusal other than in the limited circumstances where both of 2 circumstances apply:

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<sup>275</sup> Page 13 of CD7.7

<sup>276</sup> CD2.29

- a) That the development is so substantial or its cumulative effects would be so significant that to grant permission would predetermine decisions about the scale, location or phasing of new development that are central to an emerging plan; and
- b) The emerging plan is at an advanced stage but is not yet formally part of the development plan.

481. Neither of these conditions are met. The proposal relates to one site on the edge of a settlement and seeks planning permission for around a fifth of one year's housing requirement<sup>277</sup>. Neither the LPCS partial review nor the Land Allocations DPD can be said to be at an advanced stage. No draft policies yet exist or have been published, still less consulted upon, examined or reported upon.

#### *Sustainable Development*

482. The many varied benefits of the application proposal and the lack of significant harm which it would cause combine to mean that the proposal would be sustainable development. It has significant advantages as regards the social, economic and environmental aspects of sustainability.

#### *Summary and Conclusion*

483. The SoS's and Inspector's issues can be addressed as follows:

- a) The proposal accords with the development plan as a whole;
- b) It complies with national policy on protecting the Green Belt because very special circumstances exist to justify inappropriate development;
- c) The proposal would be able to deliver a wide choice of high-quality homes and would provide a suitable range of housing and a very significant contribution towards affordable housing;
- d) The development's site-specific impacts on the character and appearance of the area in terms of landscape character and visual amenity; heritage matters; ecology and design and layout would all be acceptable and a high-quality scheme could be secured at reserved matters stage;
- e) The proposal's effects on the safety and convenience of users of the existing highway network would be entirely acceptable;
- f) The proposal would cause no drainage or flood risk problems;
- g) Local facilities would be able to accommodate the demands generated by the proposal and the provision of a new school would be of significant local benefit;
- h) The planning obligation is legally fit for purpose and complies with the requirements of Regulations 122 and 123 of the CIL Regulations 2010; and
- i) The proposal would amount to sustainable development.

484. The Council wholeheartedly supports this proposal. It would bring important benefits and would be sustainable development. It ought to be allowed to proceed in the public interest. The Council therefore asks the Inspector to recommend and the SoS to determine that planning permission should be granted.

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<sup>277</sup> 42,100 dwellings over the 17 year period 2013 to 2030 = 2476 dwellings per annum



## Written Representations

485. A significant number of written objections and representations have also been submitted – many at the call-in stage - but it seems to me that the matters they raise have essentially been put forward by those objectors who spoke at the inquiry, and I therefore do not discuss them specifically here. In addition, a number of representations, dealing primarily with ecology, wildlife and flood risk matters, were submitted while the inquiry was sitting. Again, I do not consider that they raise any materially different points to those already aired in the earlier objections and representations, or by those objectors who spoke at the inquiry.
486. There was, however, a detailed bundle of representations submitted to (and during) the inquiry, by Mr Bryson<sup>278</sup>, some of which are potentially defamatory, and were referred to as such in the Council's opening statement<sup>279</sup>. Mr Bryson chose not to appear at the inquiry to present his evidence, and accordingly his evidence was not able to be orally tested. As many of the matters Mr Bryson raises appear to be unsupported by reliable and verifiable evidence, and are clearly at odds with the verifiable and well-documented evidence which has been placed before the inquiry by both the applicant and the Council, I do not consider it necessary or appropriate to set them out in any detail here.
487. I consider it sufficient to simply list the subject headings of the various submissions. They can be examined in detail at Doc OD/PB/1. The headings are: "Developers proposal not meeting exceptional tests under NPPF"; "Bradford Council's calculations of housing numbers"; "Professional conflict of interest"; "Protection of archaeological remains and test under NPPF"; "Listed Building and Conservation Area requirements"; "Flood risks and tests under NPPF"; "European Habitats Regulations"; and "Irregularities". The matters raised by Mr Bryson were, however, addressed as appropriate by the applicant in its various response statements, and by the Council. I refer to these points, as necessary, in my conclusions.

## Conditions

488. A schedule of conditions<sup>280</sup>, to be imposed should planning permission be granted, is set out at Appendix C to this Report together with stated reasons why each is considered necessary. The conditions were discussed at the inquiry and agreed between the applicant and the Council.

## Planning Obligation

489. As noted above, the applicant submitted a S106 agreement with the Council and the land owners<sup>281</sup>, aimed at securing various contributions and obligations, which have already been summarised in paragraphs 408-412 and 469-470 above. Should planning permission be granted, the applicant and the Council consider that this agreement would provide the necessary obligations to make the development acceptable and to meet the requirements of Regulations 122 and 123 of the CIL Regulations 2010.

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<sup>278</sup> Docs OD/PB/1 and Doc 37

<sup>279</sup> Para 18 of Doc 2

<sup>280</sup> Doc 45

<sup>281</sup> Doc 48

## Inspector's Conclusions

490. I have reached my conclusions on the basis of the evidence before me, the written representations, and my inspection of the application site and the surrounding area. References in superscript square brackets are to preceding paragraphs in this Report, upon which my conclusions draw.
491. I am satisfied that the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, have been complied with, and I have had regard to the ES, the Supplementary ES and the other environmental information in coming to my conclusions<sup>[6,8]</sup>. This information includes an updated sHRA<sup>[7,319-322]</sup>, produced, to assess any potential impacts of the proposal upon the protected European sites within the locality.
492. The various SoCG – Planning, Highways and HRA – agreed between the Council and the applicant (and NE in the case of the HRA SoCG), detail the wide-ranging areas of agreement between these parties<sup>[2,42]</sup>. For the avoidance of doubt, the Council's position is one of full support for this proposed development, which it considers should be granted planning permission<sup>[5,419,484]</sup>.
493. The application proposal was, however, strongly opposed by a number of individuals and local Councillors, who provided the main opposition at the inquiry<sup>[44-198]</sup>. Some of the interested persons had joined together to form the Burley Objectors Group, although this Group did not seek Rule 6(6) status. The SoS's call-in letter<sup>[4]</sup> set out a number of matters about which the SoS particularly wishes to be informed regarding this proposal, and having had regard to the concerns and objections raised by interested persons I identified further matters on which I wished to hear evidence. Accordingly, I have concluded that the main considerations for this application can best be expressed as:
- a) How the proposed development sits alongside policies in the Framework on protecting Green Belt;
  - b) How the proposed development sits alongside policies in the Framework on delivering a wide choice of high-quality homes;
  - c) The effect of the proposed development on the character and appearance of the surrounding area, with particular reference to landscape and visual matters;
  - d) The effect of the proposed development on matters of ecological or nature conservation interest;
  - e) The effect of the proposed development on the settings of designated heritage assets and on any non-designated heritage assets, including the Roman Temporary Camp;
  - f) The effect of the proposed development on flood risk and drainage;
  - g) The effect of the proposed development on facilities within the existing village, such as education and health care;
  - h) The effect of the proposed development on traffic and transport; on parking provision; and on the safety and convenience of users of the existing nearby highway network;
  - i) Whether the proposed development would represent sustainable development, in the terms of the Framework.
  - j) Whether the submitted planning obligation would satisfactorily address the impact of the proposed development; and
  - k) The extent to which the proposed development is consistent with the development plan for the area;

494. I discuss these considerations in the following sections, and then address some other matters which do not fall neatly into the above headings, before undertaking a final planning balance and reaching my overall conclusion and recommendation.

### **Main Considerations**

495. The first matter which the SoS indicated he particularly wishes to be informed about, for the purposes of his consideration of this application, is the policies in the Framework on protecting Green Belt. This is an understandable and appropriate starting point in this case, as the application site lies within the Green Belt, and there is common ground between the parties that the proposed development would be inappropriate development in the Green Belt<sup>[94,234]</sup>. However, as detailed below, policy requires there to be very special circumstances to justify allowing inappropriate development in the Green Belt. Whether or not very special circumstances exist can only be established once all potential harms and benefits of a proposal have been considered, and weighed in the balance.
496. Because of this, although I begin my conclusions by reviewing the Green Belt policies in both the Framework and the development plan, I then deal with the other main considerations set out above, so as to be able to assess whether or not very special circumstances exist. This is a matter I then return to at the end of my conclusions, when I carry out the necessary planning balance.

### **Green Belt**

497. Paragraph 133 of the Framework states that the Government attaches great importance to Green Belts, with the fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open. It goes on to confirm that the essential characteristics of Green Belts are their openness and their permanence, with paragraph 134 explaining that Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;
  - d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
498. Paragraph 136 states that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Paragraph 137 makes it clear that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development.
499. Amongst other things, these options need to ensure that the strategic policies: (a) make as much use as possible of suitable brownfield sites and underutilised land; (b) optimise the density of development in line with the policies in chapter 11 of the Framework; and (c) have been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development. Paragraph 138 makes it clear that when reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be

taken into account, and amongst other matters, paragraph 139 explains that Green Belt boundaries should be defined clearly, using physical features that are readily recognisable and likely to be permanent.

500. With regard to development proposals affecting the Green Belt, paragraph 143 carries forward earlier national guidance, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight is to be given to any harm to the Green Belt, with “very special circumstances” not existing unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
501. Paragraph 145 sets out the uses for which the construction of new buildings in the Green Belt are not considered inappropriate, but the application proposal does not sit within any of these categories. This means – as has already been noted, and as is common ground between the parties – that the proposed development would be inappropriate development in the Green Belt. In addition, by seeking to develop on what are currently open fields, the proposed development would also clearly have an adverse impact on the openness of the Green Belt.
502. The LPCS does not contain any development management policies relating to Green Belt, but saved RUDP Policy GB1, “New Building in the Green Belt”, presumes against new development in the Green Belt except where “very special circumstances” can be demonstrated<sup>[27,172]</sup>. I share the applicant’s view that whilst this policy has to be seen as out-of-date in relation to its identified Green Belt boundaries (as they related to the now outdated housing proposals in the RUDP), its thrust accords with the approach taken in the Framework and, in this regard, it still carries weight<sup>[435]</sup>.
503. But although the LPCS does not contain any relevant Green Belt development management policies, it does contain a number of policies of direct relevance to the Green Belt, Burley-in-Wharfedale, and this application. Starting with Policy SC7, “Green Belt”, this makes it quite clear that the resolved position of the Council is that there are exceptional circumstances that require the release of Green Belt land in order to deliver, in full, the longer-term housing and jobs growth in the District, as set out in Policies HO3 and EC3<sup>[32,33,235]</sup>. In brief, Policy HO3 sets out the way in which the total of at least 42,100 new dwellings will be distributed throughout the District, over the period to 2030 – allocating 700 new homes to Burley-in-Wharfedale - whilst Policy EC3 explains how the planned requirement of at least 135ha of employment land will be distributed between the different parts of the District<sup>[206,216,231]</sup>.
504. Policy SC7 goes on to indicate that changes to the Green Belt boundaries will be delivered by a selective review of boundaries in locations that would not undermine the strategic function of Green Belt, and that would accord with the Core policies and the strategic patterns of development set out in Policies SC5 and SC4<sup>[32,115]</sup>. In summary, Policy SC5, “Location of Development”, explains that the Council will allocate sites for development in the Land Allocations DPD and Area Action Plan DPDs by giving first priority to the re-use of deliverable and developable previously developed land and buildings; second priority to other greenfield opportunities within the settlements; third priority to Local Green Belt releases to the built-up areas of settlements in sustainable locations; and fourth priority to larger urban extensions in sustainable locations.

505. To my mind, this policy addresses those objectors who maintained that the Council should use previously developed brownfield sites in preference to greenfield or Green Belt sites<sup>[65,82,161,184]</sup>. It is clear that the Council has given this matter full and careful consideration, and has concluded that it cannot achieve its development objectives solely by using brownfield land. Brownfield, greenfield and Green Belt releases are all required if the Council is going to achieve its housing and employment objectives set out in the LPCS. Importantly, the supporting text to Policy SC7 emphasises that the Council has reviewed the evidence and all reasonable alternatives before coming to its conclusion that exceptional circumstances exist which justify and require changes to Green Belt boundaries in order to meet its development needs for housing in full<sup>[33]</sup>.
506. Indeed, this supporting text states that changes to the Green Belt will be necessary to accommodate around 11,000 of the 42,100 new houses during the LPCS plan period<sup>[33]</sup>. It goes on to make it clear that this conclusion is supported by evidence in the Growth Study that land is available in the Green Belt in sustainable locations, which would also not prejudice the strategic function of Green Belt. It also indicates that the Council will work closely with other local authorities and relevant stakeholders to adopt a strategic approach to any detailed change to the Green Belt. The Council considers that this exercise will establish a Green Belt which is capable of lasting beyond the LPCS plan period<sup>[498]</sup>.
507. Policy SC4, "Hierarchy of Settlements", referred to above, is an important component of the Council's strategy for achieving its development objectives. Put simply, the settlement hierarchy has the Regional City of Bradford (with Shipley and Lower Baildon) at the top – and this area will see the greatest proportion of development and growth, as set out in Policies HO3 and EC3. Then come the Principal Towns of Ilkley, Keighley and Bingley, followed by Local Growth Centres, which include Burley-in-Wharfedale and Menston.
508. These are described as being the most sustainable local centres, being accessible to higher order settlements such as Bradford, Keighley and Ilkley. Located along key road and public transport corridors, they should make a significant contribution to meeting the District's needs for housing and employment, and provide for supporting community facilities. Local Service Centres and Rural Areas occupy the lowest level of the hierarchy.
509. I return to the matter of the settlement hierarchy shortly, but before doing so it is necessary to complete this review of relevant LPCS policies by also outlining Policy WD1, "Wharfedale". This clarifies that in accordance with Policies HO3 and EC3, Wharfedale will accommodate 2,500 dwellings and at least 5ha of new employment land in the period up to 2030, and will sensitively manage this development, in conjunction with partner organisations, to ensure that vibrant and sustainable communities are created<sup>[31]</sup>.
510. Importantly, the policy is explicit that Burley-in-Wharfedale will see the creation of 700 new homes through redevelopment of sites within the settlement, and with a significant contribution from green belt changes, together with associated community facilities<sup>[29,35]</sup>. From the evidence before me, I have no doubt that this policy was formulated specifically to incorporate the development of 500 dwellings and a new primary school on the application site<sup>[210,276,277,351,359]</sup>.
511. Much was made by objectors of Burley's categorisation as a Local Growth Centre. Mr Orton, purporting to speak on behalf of the PC, called it a misclassification<sup>[90]</sup>,

and Mr Poulter for the Objectors Group argued that the original reasoning for Burley to be a Local Growth Centre was a "mystery", and that its subsequent return to this status – after being downgraded for a time to a Local Service Centre, in a draft version of the LPCS – was purely down to "sustained and overwhelming pressure" being placed on the Council during the LPCS Examination process, particularly in the context of Policy SC8. I consider this policy in more detail later in these conclusions, under the ecology main consideration, but the key point is that all the policies set out above form part of the adopted LPCS. As such, they are not open for debate or challenge through the current inquiry process.

512. It is clear that many of those objecting to this application proposal are dissatisfied with the adopted LPCS, but as rightly pointed out by both the Council and the applicant, the areas of concern now being raised against some of the LPCS policies were raised at the LPCS Examination, and were therefore given full consideration by the LPCS Inspector. The fact remains that these arguments and objections did not find favour with the Inspector, and have not been incorporated into the LPCS. No challenge was made to the LPCS, following its adoption by the Council, and there is therefore no reason for me to query or question the LPCS policies, or the position of Burley-in-Wharfedale in the settlement hierarchy<sup>[204,427]</sup>.
513. Insofar as the NP is concerned, I acknowledge that consultation responses showed local feeling to be in favour of new housing being spread over several sites, rather than comprising one big "estate-type development". However, the independent Examiner ruled that to include this as a policy or an objective would set the NP at odds with the LPCS and he therefore required the deletion of this requirement to avoid a single, large-scale site. As such, the made NP contains no restriction on large-scale development to address housing needs<sup>[95,239,478]</sup>.
514. In light of the above points I share the applicant's view that this application should be assessed against the established and adopted LPCS position that: (a) Burley-in-Wharfedale has a confirmed status as a Local Growth Centre, under Policy SC4, and is required to accommodate 700 new homes, as set down in Policies HO3 and WD1, as well as now reflected in the recently made NP; (b) "exceptional circumstances" have been demonstrated to justify using Green Belt land to provide the required level of housing; and (c) Policies HO3 and WD1 specifically confirm that provision of the 700 homes for Burley will require a "significant contribution" from Green Belt land, with these policies being promoted, examined, and adopted on the specific basis of the availability of the application site to provide the required land for the delivery of 500 new dwellings<sup>[206]</sup>.
515. I also note that it is common ground between the applicant and the Council that the development could be accommodated within this part of the Green Belt whilst maintaining the integrity of the wider Green Belt and the purposes and functions of the Green Belt lying between Burley-in-Wharfedale and Ilkley<sup>[274]</sup>. This underpins the conclusion already reached in the LPCS, that exceptional circumstances exist for using the Green Belt at Burley-in-Wharfedale to accommodate growth, and the significant contribution that is necessary from Green Belt land which must involve this site<sup>[206,210,235-237]</sup>.
516. It is against this backdrop that I now turn to consider some of the other main considerations.

### ***Delivery of a wide choice of high-quality homes***

517. The issue of delivering a wide choice of high-quality homes was the subject of a specific section in the original 2012 version of the Framework, which was in force around the time of the SoS's call-in letter, although this terminology does not now feature in the current February 2019 version of the Framework. That said, there is no indication that there has been any material change in national policy in this regard, and nothing to suggest that this matter should be approached in any different way. Indeed, the current Framework repeats the Government's objective of significantly boosting the supply of homes, stating that it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.
518. In this regard, LPCS Policy HO1 makes provision for the development of at least 42,100 homes to fully meet the objectively assessed need for market and affordable housing over the period 2013 to 2030. It is the case, however, that since adoption of the LPCS, the updated version of the Framework indicates that in order to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals<sup>[24,220,427]</sup>.
519. It is partly because of this change in national policy and guidance that the Council has indicated that it intends to carry out a partial review of the LPCS<sup>[38,81,91,115,182]</sup>. In these circumstances many of the objectors have argued that it would be premature to determine this application at this stage, as the LPCS partial review could result in housing numbers for the District being reduced<sup>[115,182]</sup>. As such, they recommend that determination of this application should be deferred until the outcome of the LPCS partial review is known<sup>[181,183]</sup>. In support of this view, a number of the objectors have cited a 30% reduction in housing targets in the neighbouring Leeds City Council area, arguing that if a similar reduction were to apply to the Bradford District, development of the application site would not be necessary<sup>[92,183]</sup>.
520. However, there are a number of points to make here. The first, and in my view the most important, is that paragraph 73 of the Framework makes it quite clear that it is the housing requirement set out in adopted strategic policies that Councils should work to, unless these strategic policies are more than 5 years old. It is only where strategic policies are more than 5 years old that the Framework requires use of the local housing need, determined using the standard method in national planning guidance<sup>[24,219,427]</sup>. In this case, as has already been noted, the LPCS was adopted as recently as July 2017 – only about 2 years ago. As such, there is no reason or requirement for the Council to use any other figure than the 42,100 for the LPCS plan period, set out in Policies HO1 and HO3.
521. Furthermore, it has to be noted that this partial review of the LPCS is only at an early stage of preparation, such that no conclusions can be drawn at present as to how or whether this review will result in any changes to key policies of relevance to this application, and to the settlement of Burley-in-Wharfedale<sup>[212,220,431]</sup>. It is therefore the view of the Council and the applicant, as set out in the Planning SoCG, that full weight should continue to be attributed to the housing requirements established by the adopted LPCS for the purposes of considering this

application. I share that view, because paragraph 49 of the Framework states that arguments that an application is premature are unlikely to justify a refusal of planning permission other than in certain limited circumstances<sup>[480]</sup>.

522. These are where both of the following apply: firstly, that the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and secondly, that the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. I share the view of the main parties, that neither of these conditions are satisfied.
523. As the Council points out, the application proposal relates to one site on the edge of a settlement and seeks planning permission for only around a fifth of one year's housing requirement<sup>[481]</sup>. As such I do not consider that the proposed development – whilst admittedly large in the context of Burley – could be said to be of a scale or location which would undermine the plan-making process. Indeed, such a scale of development at Burley is specifically allowed for in the LPCS and in the made NP<sup>[34,206,239]</sup>. Moreover, neither the LPCS partial review, nor the Land Allocations DPD, can be said to be at an advanced stage. No draft policies yet exist or have been published, still less consulted on, examined or reported on<sup>[481]</sup>. In these circumstances no justifiable case can be made that determining the application on the evidence and information currently available would be premature.
524. In any case, there is no firm evidence before me to indicate how – if at all – the housing target for Burley, as set out in LPCS Policy HO3 might change. Even if the District-wide housing requirement were to be adjusted downwards, as part of the LPCS partial review, there is nothing to say that the targets for individual settlements would necessarily be revised either upwards or downwards. For all the above reasons I share the view of the Council and the applicant that it is the housing requirement of 42,100 for the District, and 700 for Burley-in-Wharfedale, set out in LPCS Policies HO1 and HO3, which should be used as the basis for determining this application. A decision on the application cannot be deferred, as objectors suggest<sup>[181,183]</sup> - it has to be determined now.
525. Paragraph 73 of the Framework also makes it clear that planning authorities need to identify and update annually a supply of specific deliverable sites, sufficient to provide a minimum of 5 years' worth of housing against their housing requirement. In this regard the Council's latest assessment of its 5-year HLS is just 2.06 years, as set out in the Update to the Planning SoCG<sup>[200,215,221,437]</sup>. This includes the provision of a 20% buffer – as there has been significant under-delivery of housing in the previous 3 years (2015-2018) – and is based on the "Liverpool" method, which seeks to address the past housing shortfall over the remainder of the LPCS plan period.
526. However, the applicant disagrees with this assessment on 2 grounds. Firstly it argues that the "Sedgefield" method is the correct and appropriate way to address the shortfall (ie over the 5-year assessment period<sup>[201,221-223]</sup>); and secondly it argues that the Council is in error in including sites listed in Appendix 2 of the 5-year HLS supply document, as there is no firm evidence to demonstrate the deliverability of these sites, in accordance with the revised definition of "deliverable" which is contained in the current Framework<sup>[224-226]</sup>.



527. On the second of these points, I accept the Council's view that it is not possible for me to form a firm view on this matter, as neither of the main parties has submitted detailed evidence on this point<sup>[443]</sup>. However, in general I consider that the applicant's arguments are sound – and I note that the applicant's position on this matter was not disputed by the Council. This, of itself, would mean a lower supply than 2.06 years<sup>[226,444]</sup>.
528. But on the first point – whether the Liverpool or Sedgefield approach to the shortfall should be used – it seems to me that there is a logic in the Council's position that it would be inappropriate to adopt a plan on the basis of the Liverpool approach, but then use Sedgefield to determine the 5-year HLS. To do so could well mean that a plan only recently found sound, would find its most important policies for decision making out of date, leading to the use of the Framework's tilted balance – simply because an alternative method of assessment was employed. I share the Council's view that this cannot be what the guidance's terms suggest<sup>[440]</sup>.
529. As a result, I consider that the Council's use of the Liverpool approach to the shortfall, in calculating its 5-year HLS is appropriate and reasonable. However, the applicant's point that Appendix 2 sites should not be included in the calculation – with which I agree – would lead to a 5-year HLS lower than the Council's assessed 2.06 years<sup>[201]</sup>. I do not agree that the figure should be as low as the applicant's calculated 1.43 years, for reasons just given – but even if I am wrong on this, there is no real dispute between the main parties that the Council's current supply of deliverable housing land stands at less than 2.06 years.
530. This is a lower figure than that which the Council claimed back in 2016, at the time of the Sty Lane, Micklethwaite decision, when the SoS categorised the Council's housing situation as "acute" "persistent" and "chronic"<sup>[200,215,244,444]</sup>. Because of this I share the applicant's view that very substantial weight should be given to the provision of 500 new houses in the current proposal.
531. Moreover, I note that the SoS attached significant weight to the delivery of 20% affordable housing in the aforementioned Sty Lane decision, whereas 30% affordable housing forms part of the current proposal<sup>[229]</sup>. In these circumstances I consider that the proposed delivery of 30% affordable housing on this site should also attract very substantial weight, especially as paragraph 64 of the Framework only seeks a 10% affordable housing requirement for major development.
532. As to whether the proposed housing would be of high quality, this is properly a matter to be considered at reserved matters stage, in the context of this outline application. But it does seem to me that the applicant has made a clear and conscious effort to provide some certainty at this stage, of the type of development which it seeks to provide, and the indications are that it would, indeed, be high quality<sup>[249,250,448]</sup>.
533. In coming to this view, I have had regard to the fact that as well as the Parameters Plan, which would be secured by condition as part of any permission, the applicant has also committed to additional conditions to guarantee the quality of the detailed design through agreed conditions, which would reflect key principles embodied in the DAS and suggested on the Indicative Masterplan. These matters would be further secured by the applicant's proposal for a DFP<sup>[250,252,258]</sup>.

534. Taking account of all the above points, I conclude that the proposed development would make a significant contribution towards addressing market and affordable housing need, and that it would be able to provide a wide range of high-quality housing<sup>[448, 449]</sup>. As such, it would accord with the requirements of the Framework, in this regard, and would also accord with LPCS Policies HO8 "Housing Mix", HO9 "Housing Quality" and HO11 "Affordable Housing", as well as Policy BW5 of the NP, dealing with "Mix and Type of Housing".

***The effect on the character and appearance of the surrounding area, with particular reference to landscape and visual matters***

535. The main objections to the proposed development on this topic, from those appearing at the inquiry, came from Mr McQuillan, who spoke on behalf of the Objectors Group. He argued that the application site lies in a landscape sensitive area, but that the Council has given insufficient weight to landscape character and the significance of the AONB when dealing with planning policy and/or planning applications<sup>[114]</sup>. In addition, Mr Felstead contended that Burley residents regard the application site as contributing to the overall beauty of the village, and that much greater weight should be given to the harm that would be caused to the landscape and countryside<sup>[188]</sup>. However, such statements are not supported by any detailed evidence, and no-one with professional landscape qualifications has spoken against the proposal.

536. In contrast, there is a wealth of evidence on landscape and visual matters which supports the application proposal, starting with a comprehensive LVIA, with a variety of appendices<sup>[261,262]</sup>. This LVIA was supplemented by 3 further documents during the consideration of the planning application, as a result of consultation responses. These addressed concerns from NE requiring more detail as to the effects of the development on the Nidderdale AONB; concerns from the Council regarding the extent and nature of existing vegetation, and proposed landscaping to be included along the west and south-western boundary of the site to represent the new Green Belt buffer; and further information clarifying the landscaping and tree retention proposals for the A65 frontage<sup>[263-265]</sup>.

537. These further documents satisfied the concerns of the relevant external and internal consultees and, as a result, the Council's Landscape Design Unit confirmed that they had no objection to the principle of the development, as recorded in the report to the Council's Committee for the meeting in May 2018<sup>[265]</sup>. All of this is reflected in Chapter 9 of the Planning SoCG which, amongst other things, confirms that the LVIA is comprehensive; that its conclusions are agreed; and that was undertaken in accordance with relevant best practice guidance<sup>[261]</sup>.

538. The effects on landscape character have been comprehensively assessed, having regard to the various LCTs within which the application site falls, and the conclusion is that because of the location, scale and massing of the existing vegetation within and around the site, the proposed development would generally not be widely visible from the surrounding landscape<sup>[270]</sup>. As such, the impacts on both the Wharfedale Enclosed Pasture LCT and the Wharfedale Floodplain Pasture LCT would only be slight adverse and moderate adverse respectively, at Year 1, but both would reduce further in the slight adverse category, in the longer term, with the additional landscape and visual mitigation measures set out in the

LVIA<sup>[270]</sup>. In the absence of any detailed evidence to the contrary, I see no reason to dispute these conclusions.

539. The evidence indicates that there would be a major effect on the immediate character of the site itself, and this seems self-evident in view of its current, undeveloped nature. However, I share the view of the applicant and the Council that because it sits immediately adjoining the existing built-up area, and within natural boundaries formed by the Sun Lane LNR and the tree-lined A65, the site is well-located to accommodate these effects, which would be localised in extent and nature<sup>[271,272]</sup>. I also consider that the topography of land to the west, and the proposals to create a new Green Belt buffer along the site's western and south-western boundaries, means that the proposal would result in a far more defensible and logical boundary to the Green Belt in this area than is currently the case<sup>[244,266,275]</sup>.
540. With regards to any impacts on the Nidderdale AONB, which is located about 230m to the north of the site at its closest point, the Planning SoCG records agreement that there is limited visibility of the site from the lower-lying areas of the southern part of the AONB, due to the intervening vegetation associated with the River Wharfe, the A65 road corridor, and vegetative field boundaries. It is also agreed that the largest part of the AONB has no intervisibility with the site<sup>[273]</sup>.
541. Some more distant views of the site from the AONB are possible (although these are limited in number and extent), and I was asked to assess the site and the proposed development from the public highway and PRoW at Askwith, in the vicinity of LVIA Viewpoint 2, as part of my unaccompanied site visits. From these locations I saw that the site is largely screened by intervening vegetation, and it seemed to me that whilst development on the application site would be visible, in glimpsed views, it would be seen in a landscape already characterised by built form, and would therefore not appear out of keeping in its setting.
542. Indeed, the SoCG records that there would be no more than a moderate effect overall on the AONB in the short term, with these effects being limited to a small part of the AONB, and with the effects reduced over time, to be no greater than slight adverse in the long-term, with the various proposed landscape mitigation measures in place<sup>[263]</sup>. Because of this I share the view, set out in the SoCG, that the proposed development would not result in harm to the special qualities of the AONB.
543. I also viewed the site from raised ground to the south, on the Dales Way/Ebor Way, in the vicinity of LVIA Viewpoint 3 and, again, formed the view that whilst the proposed development would clearly extend the built-up area of Burley, it would not dominate the view, but would simply be seen in the context of existing built form. As such I do not consider that it would appear out of keeping in this setting.
544. With regards to any effects on visual amenity, the applicant's position is that having carefully assessed the proposed development from all potentially affected receptors, it has concluded that it could be satisfactorily and appropriately accommodated on the site, with any visual effects being highly limited and localised<sup>[272]</sup>. As with other similar matters covered above, no contrary, authoritative evidence has been submitted to cause me to take a different view.
545. Although Mr Felstead highlights the fact that Burley residents consider that the application site contributes to the overall beauty of the village, it is not suggested

that the site comprises a valued landscape, using the terminology of paragraph 170 of the Framework. This indicates that valued landscapes and other specifically listed areas, should be protected and enhanced in a manner commensurate with their statutory status or identified quality in the development plan. As has been made clear already, the application site is not statutorily designated, nor is it identified in relation to its landscape quality or value within the development plan. It is therefore not a "valued landscape" within the expected meaning of the Framework<sup>[278]</sup>.

546. Finally, I share the applicant's view that development of the application site would not have a material adverse effect on important views out of and into the village, as discussed in the NP and described in NP Policy BW3, "Views" <sup>[279]</sup>.
547. Drawing all the above points together, I conclude that the proposed development would not give rise to any unacceptable effects on landscape character, visual effects or the Nidderdale AONB. Moreover, the proposal would create durable boundaries, especially to the west and south-west, through the proposed introduction of a landscaped Green Belt buffer<sup>[244,264]</sup>. As such, the proposed development would not be at odds with LPCS Policy EN4, which seeks to ensure that any impacts on the landscape can be satisfactorily managed.

### ***The effect on matters of ecological or nature conservation interest***

548. This topic generated a lot of interest and objection from interested persons, with many photographs of wildlife on and close to the site being submitted whilst the inquiry was sitting, and with a detailed "Ecology Report" being presented to the inquiry by Cllr Barker<sup>[44-66]</sup>. However, insofar as the wildlife photographs and related information are concerned, the simple presence on the site of various forms of wildlife, at various times, does not constitute a valid reason why development should not go ahead on the application site. The situation is much more complex and involved than this, and in my opinion has been approached in the correct way by the applicant's consultants, as I detail later in this section.
549. But before that, it is necessary to address the statement made to the inquiry by Cllr Barker. It is a lengthy statement, containing much information, but not placed before the inquiry until Cllr Barker presented it orally on 17 May. It presented no new ecological data relevant to the application proposal, but primarily consisted of a critical review of the ecological information provided by the applicant. However, Cllr Barker confirmed that he is not an ecologist, and it is unclear whether the statement was prepared, or contributed to, by a professional ecologist or anyone with relevant professional qualifications. Because of its very late submission to the inquiry, the applicant was given the opportunity to respond to it in writing, and I have considered both Cllr Barker's statement and Mr Baker's subsequent written response<sup>[44-66,307,313]</sup>.
550. Mr Baker refers to Cllr Barker's statement as containing a mixture of demonstrably incorrect assertions and pseudoscience, with some unstructured references to a number of scientific papers which have been misapplied, together with misinterpretation of statutory instruments and policy<sup>[314]</sup>. Although Cllr Barker's statement seeks to cast doubt on the rigour, extent and accuracy of the surveys and assessments carried out by the applicant, the applicant's ecological work has been independently reviewed and scrutinised both by expert ecological officers for the Council, and also those of NE, through the consultation process<sup>[314]</sup>. With all

these points in mind I give much more weight to the applicant's ecological evidence, than to that put forward by Cllr Barker.

551. Turning to the evidence itself, I note that an extensive amount of survey work has been carried out by the applicant – some 22 surveys for the ES Ecology Chapter – a level of data collection and assessment described by the applicant as “quite exceptional”<sup>[309,310]</sup>. The Planning SoCG confirms that the applicant and the Council agree that the ecological survey data in Chapter F of the ES, and further evidence on ecological matters provided by the applicant, represents a thorough assessment of any potential ecological effects of the proposed development on ecological receptors.
552. The SoCG also confirms that the main parties agree that with the proposed enhancements or ecological mitigation measures (which would be delivered by a LEMP, secured by condition), and the proposed layout of the development (with extensive areas of open space and green infrastructure, that would be usable by all residents, not just those in the new houses), the application proposal would actually give rise to an overall positive impact on ecology<sup>[303,327]</sup>. This view is shared by the Council<sup>[459]</sup>. Mr Baker said that in his professional view great weight should be given to this net gain for biodiversity, and I see no good reason to take a contrary view.
553. Because of the application site's proximity to European protected sites the applicant has produced a sHRA in accordance with the 2017 Regulations, for which the SoS is now the “competent authority”<sup>[319]</sup>. This sHRA meets the requirements of Regulation 63 of the 2017 Regulations, and also complies with the latest advice and guidance from NE on road traffic emission assessments<sup>[7]</sup>. The sHRA identifies the relevant 4 European sites for assessment – the South Pennine Moors SAC, the South Pennine Moors Phase 2 SPA, and the North Pennine Moors SPA and SAC – and concludes that there would be no likely significant effect from the proposed development on any of these sites, either alone or in combination with other plans or projects via any impact pathway<sup>[320]</sup>.
554. The sHRA also undertakes an appropriate assessment to cover any potential increase in recreational pressures arising from the proposed development, having regard to the CJEU “People over Wind” case. This appropriate assessment is supported by unchallenged, specific survey work. The appropriate assessment concludes that there would be no adverse effect from the proposed development on the integrity of any of the 4 European sites through recreational impacts, or indeed through any other impact pathway through the proposed development alone, or in combination with any other plans or projects<sup>[321,459]</sup>.
555. This situation is summarised in the HRA SoCG between the Council, the applicant and NE. Its overall conclusion is that planning permission could be granted for the proposed development in full compliance with Regulation 63 of the 2017 Regulations. There is no contrary, authoritative evidence on this matter before me, to cause me to dispute this conclusion.
556. On other matters, I have noted Mr Poulter's interpretation of the situation which led to the version of Policy SC8 in the adopted LPCS<sup>[163-166]</sup>, but having also considered the applicant's summary of these events<sup>[323,324]</sup> I find nothing to suggest anything untoward in the development of the final version of the policy. In any case, as has already been mentioned above, no challenge was made to the LPCS and its policies therefore clearly carry full weight.

557. Having regard to all the above points, I conclude that the proposed development would have no adverse impact on matters of ecological or nature conservation interest but would, rather, result in a net benefit for biodiversity. As such, the proposal would accord with parts B, C, D and E of LPCS Policy EN2, dealing with Biodiversity and Geodiversity, and with parts D4 and D5 of LPCS Policy WD1 which seek to recognise and protect certain elements of the environment within Wharfedale.

***The effect on the settings of designated heritage assets and on any non-designated heritage assets, including the Roman Temporary Camp***

558. Turning to heritage matters, the Planning SoCG indicates that the application was accompanied by a comprehensive, robust and up-to-date heritage assessment in Chapter K of the ES, the conclusions of which are agreed with the Council<sup>[329]</sup>. The applicant also provided further detailed evidence on heritage matters to the inquiry, through Mrs Fraser, and the Council takes no issue with this evidence either<sup>[456]</sup>. There are no designated heritage assets on the application site, although Black Bull Farmhouse and an outbuilding are Grade II listed buildings which lie outside but adjacent to the site on its northern side, whilst the Burley-in-Wharfedale CA lies some little distance to the east of the site.

559. In assessing the likely impact of the proposed development on the significance of designated heritage assets I have had regard to paragraph 193 of the Framework, which explains that great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance. The Framework's Glossary states that in the context of heritage policy, conservation means the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.

560. Dealing first with the CA, it is common ground with the Council (who has consulted HE) that the proposed development would not have any adverse impact on the CA, having full regard to the CA Assessment 2004 and CA Appraisal 2007<sup>[331]</sup>. The application site is physically and functionally separated from the CA by the 2 and 2½-storey residential buildings at Wellfield Lane, and does not contribute to the special historical and architectural interest of the CA, nor its setting. Both would remain unaffected by the application proposal<sup>[331]</sup>.

561. In addition – as I saw at my accompanied site visit - views into the site from the western end of the CA are mostly restricted by the site's topography and the physical and visual barriers arising from the existing modern residential development, and existing vegetation. In view of these points it is common ground that there would be no detrimental impact on the character and appearance of the CA, or its setting<sup>[332,456]</sup>. I share that view.

562. The likely impact on the Black Bull Farm listed buildings was fully assessed in the ES, taking account of the statutory duty to have special regard to the desirability of preserving the buildings or their settings, or any features of special architectural or historic interest which they possess, as required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>[333]</sup>. The main parties agree that because of the generally defined and enclosed nature of these buildings, development of the application site would not result in any harm to their special character or immediate setting, nor would there be any material impact on any principal views of the buildings<sup>[333,456]</sup>.

563. It is agreed, however, that the proposed development would have some impact on the wider, rural setting of the buildings, although this would be limited because of the intention to retain an open space buffer around the listed buildings, as is made clear on the Parameters Plan. As a result, the Council's Conservation Team consider that the level of harm to the significance of these listed buildings would be less than substantial<sup>[334,456]</sup>. In accordance with paragraph 196 of the Framework, this limited harm needs to be weighed against the public benefits of the proposal.
564. The Council and the applicant both take the view that the provision of the development, with new homes and an educational facility, would be capable of providing public benefits that would outweigh this less than substantial harm<sup>[335,456]</sup>. As the intended layout of the proposed development would minimise any impact on the rural setting of these buildings, and as I have already concluded that very substantial weight should be given to the proposed delivery of market and affordable housing I, too, consider that the public benefits of the proposal would outweigh the less than substantial harm to these buildings' setting.
565. With regard to non-designated heritage assets, the Roman Temporary Camp, which has been discovered on the application site as a result of survey work for the current application, has been the subject of a detailed heritage assessment and detailed discussion and agreement with HE<sup>[329,337-347]</sup>. Although non-designated, the applicant and HE have agreed that it should be treated as being of equivalent significance to a scheduled monument, and subject to the policies for designated assets, in accordance with footnote 63 to paragraph 194 of the Framework<sup>[337]</sup>.
566. It is agreed that the proposed development would result in some harm to the camp, through the construction of the school, housing and access roads, and through reduction of its rural setting<sup>[346]</sup>. The Planning SoCG refers to this harm as less than substantial, and I share that view. As already noted above, in such circumstances the harm needs to be weighed against any public benefits of the proposal including, where appropriate, securing its optimum viable use, in line with paragraph 196 of the Framework.
567. In this case the main parties and HE agree that the proposed development would also give rise to significant heritage benefits. Indeed, HE considers that by retaining and enhancing the external earthwork, undertaking further archaeological assessment, enabling the development of support material for the school, and securing the long-term management of the earthworks, the proposal would deliver positive benefits<sup>[346]</sup>. I share that view, and have noted the applicant's reference to the approach adopted by the Court of Appeal in *Palmer v Herefordshire Council*<sup>[347]</sup>. In that case, it was accepted that where a proposed development affects a heritage asset in different ways, some positive and some negative, the decision-maker may legitimately conclude that although each effect has an impact, taken together there is no overall adverse effect on the asset.
568. Moreover – like the applicant – I consider that in some circumstances the heritage benefits may actually outweigh the harm, and give rise to positive benefits. In view of the points detailed above, that appears to be the case here. This is confirmed by the Council and Applicant in the Planning SoCG, where it is agreed that subject to the agreed conditions, the approach of revealing the Roman Temporary Camp, incorporating it within the development in an appropriate

manner and utilising it as an educational resource, represents heritage benefits of significant value, which outweigh any associated harm to the significance of this asset in its current form<sup>[346,350,457]</sup>. The main parties and HE also agree that the grant of planning permission for the current proposal would allow the proper investigation and celebration of this asset to take place, and would assist with its long-term conservation<sup>[348]</sup>. Again, I share this view.

569. Insofar as objections are concerned, some interested persons have alleged that the discovery of this camp was at first concealed<sup>[338]</sup>. However, the evidence before me does not support this and, in any case, I see no reason why this should carry weight against the proposed development, even if true. This application has to be determined on its own merits, on the basis of the evidence currently available.
570. The PC has alleged that the Roman Temporary Camp has not been treated with any sympathy, arguing that the proposed development could not be of benefit to an insufficiently documented archaeological site<sup>[107]</sup>. The PC also maintains that more detailed excavation of the site, such as has occurred with a similar find at Kintore in Aberdeenshire, could well reveal valuable insights into life in the area under Roman occupation, and that the proposed development would simply result in a loss of knowledge and education<sup>[107]</sup>.
571. Similar points were put forward in the Proof of Evidence prepared by Dr Cook for the Objectors Group – but it seems to me that neither these objections, nor any of the others put forward on this topic, had fully understood or appreciated what the applicant proposes for the Roman Temporary Camp on the application site, or that this course of action has the full support of HE. The submitted evidence indicates that whilst the camp at Kintore was, indeed, explored and excavated, once the excavations were complete development took place on the site of the camp, such that it could no longer be seen and appreciated<sup>[342]</sup>.
572. This differs markedly from what is on offer here, as with the application proposal, after excavations have been carried out, the form of the Roman Temporary Camp would be retained within the proposed development, with key features also being retained<sup>[343]</sup>. Indeed, once Dr Cook heard Mrs Fraser's evidence at the inquiry, she decided that she did not wish to present her own evidence<sup>[342,343]</sup>. Like the applicant, I consider this to be an acceptance that what the applicant proposes is not objectionable – but rather, would be a distinct and unique heritage benefit of the proposal.
573. Some objectors maintained that any archaeological effort would be borne by the taxpayer and would not be delivered. However, the archaeological investigations discussed above would be required if planning permission is granted and the development proceeds, and this could be secured by condition. The onus for this would be placed on the applicant/developer to fund and deliver<sup>[344]</sup>, before development could proceed. As such there would be no risk to the taxpayer.
574. Furthermore, although some objectors contend that the correct legislation and guidance has not been followed with regard to the discovery of the Roman Temporary Camp, this is not supported by the evidence before me. The camp is not a scheduled monument, nor is it proposed for scheduling, given the protection proposed through this development. It is therefore not subject to the 1979 Ancient Monuments and Archaeological Areas Act<sup>[345]</sup>. Nevertheless, in accordance with footnote 63 to paragraph 194 of the Framework, and as noted above, the



camp has been treated as a non-designated heritage asset of national importance, and subject to the policies for designated assets.

575. Drawing all the above points together, I conclude that the proposed development would not have an adverse impact on designated or non-designated heritage assets. The less than substantial harm to the significance of the Black Bull Farm listed buildings, and to the Roman Temporary Camp would be outweighed by the public benefits of the proposal. As such the proposed development would not conflict with LPCS Policy EN3 "Historic Environment", nor with relevant paragraphs in the Framework.

### ***The effect on flood risk and drainage***

576. The issue of flood risk and drainage generated a significant amount of objection, including some late objections submitted just days before the close of the inquiry<sup>[292]</sup>. Much of the concern of interested persons related to the fact that the A65 to the west of the application site has flooded on several occasions in the past, and a fear that the proposed development would worsen this situation, coupled with a view that the Council has not been carrying out its role as LLFA in a competent manner<sup>[47-152]</sup>. Concerns have also been raised as to the extent and rigour of the applicant's FRA (including whether the north-western corner of the site has been properly assessed); whether climate change has been taken into account; and whether leachate/contaminants are present on the site – particularly at the location of the proposed school<sup>[153]</sup>.

577. These points were not, however, supported by any credible technical evidence, nor were they put forward by anyone with appropriate professional qualifications, but rather, appeared to simply be the concerned views of lay persons. In these circumstances I can only give them limited weight, when compared to the expert evidence before me.

578. It is clearly the case that flooding has occurred in the vicinity of the application site in the past, and this matter is not disputed by either the Council or the applicant. However, the evidence before me from the EA's Flood Map for Planning (of November 2018) shows that some 95% of the application site lies within Flood Zone 1, with just about 5% of the site in Flood Zone 2<sup>[282,283]</sup>. A very small part of the site (about 0.04%), is shown as being within Flood Zone 3<sup>[283]</sup>. The map does show that significant areas of land in the vicinity lie within Flood Zone 3, but these areas lie to the north and west of the application site, not on the site itself.

579. With these points in mind I note that the Parameters Plan and the Indicative Masterplan show that development could be kept within Flood Zone 1, and I therefore see no reason to doubt that the proposed built development itself would not be at risk of flooding<sup>[282,465]</sup>. Indeed, it is common ground between the applicant and the Council that the FRA indicates that flood risk from all identified sources could be acceptably mitigated, and that the proposed development would be safe from flood risk, taking climate change into account. It is also agreed that the proposed development would not increase flood risk elsewhere<sup>[284,465]</sup>.

580. This is due to the fact that conditions could be imposed if planning permission is granted which would ensure, amongst other things, that the surface-water run-off rates would be restricted to the existing greenfield run-off rates from the application site<sup>[285,292,465]</sup>. This is made clear in the Planning SoCG, which also describes the other measures proposed to reduce flood risk, such as raising the finished floor

levels of dwellings where required, and ensuring that at least 2 of the proposed site accesses are located within Flood Zone 1<sup>[283]</sup>.

581. It is difficult to know what the interested persons' specific criticisms of the Council as LLFA are, in the particular context of this application. As stated before, no-one with any relevant technical expertise has been critical of the Council's performance or execution of its duties, and no statutory consultee objected to the proposed development on flood risk or drainage grounds. Moreover, the applicant makes it clear that insofar as its own professional dealings with the Council as LLFA are concerned, it considers any criticisms of the Council's performance to be baseless<sup>[78,297]</sup>.
582. Much appeared to be made of the fact that the Council has not produced any Section 19 reports relevant to the application site as LLFA<sup>[150]</sup>. But not only are such reports discretionary, the Council is not the responsible authority for flooding associated with the River Wharfe, which appeared to be of most concern to interested persons. As such, flooding from the River Wharfe does not fall within the scope of a LLFA Section 19 report<sup>[297]</sup>. In these circumstances it seems to me that the objections are largely conjecture, based on an incomplete understanding of the flood risk situation and data, and the Council's responsibilities as LLFA. As such, I am only able to give the criticisms and objections on this matter very limited weight.
583. Although Mr Turner for the Objectors Group drew attention to a consultation response on the planning application from Yorkshire Water, relating to peak pumped foul water discharge, this simply related to a request for a condition to be imposed if planning permission is granted<sup>[155]</sup>. It did not amount to an objection from Yorkshire Water. Indeed, the consultation response made it clear that Yorkshire Water considered that its interests could be adequately and satisfactorily safeguarded by the imposition of a number of conditions – with which the applicant and the Council agree – if planning permission is granted.
584. Concerns that consultees have been misled about the size of the application site are not supported by the evidence, and appear again to stem from an incomplete understanding of the facts and documents before the inquiry<sup>[97,151,289,290]</sup>. Similarly, the evidence does not support the view expressed by some interested persons that the applicant's contaminant risk assessment is not reliable<sup>[153]</sup>. As made clear by the applicant, the boreholes in question did encounter water – contrary to the assertions of Mr Turner – and the water sampling shows that there would be no significant contaminant or leachate risk to future users of the site – including the north-western portion of the site, about which objectors expressed concern regarding the extent of the sampling<sup>[298]</sup>.
585. Some interested persons expressed concern that the flood risk and drainage measures would not be maintained in the future, but like the applicant, I consider these concerns to be unwarranted. The measures in question would be secured by conditions, if planning permission is granted, and these conditions would require the measures to be maintained. The applicant has pointed out that this would normally be achieved by the establishment of an estate management company, and no evidence has been submitted to cause me to dispute this<sup>[299]</sup>.
586. Mr Lavery's concerns about compaction or consolidation of the soils on the site, if the development goes ahead, and any consequent groundwater impacts elsewhere have been shown by the applicant's geotechnical consultants to not be a particular problem<sup>[122,294]</sup>. In addition, Mr Lavery's reliance on a 1991 ALC report, purporting

to show that the application site is susceptible to flooding appears to be based on an incomplete understanding of the report and its associated maps<sup>[122]</sup>. Dr Tilford, for the applicant, points out that references to flooding made in the report refer to soil types located outside the boundary of the application site, namely soils located on land adjoining the River Wharfe to the north and west of the site, and an isolated pocket of land located to the north of the River Wharfe<sup>[300]</sup>.

587. In any case, I note that the proposed surface water drainage scheme intended for the development is already based on the presence of poorly drained soils across the whole site<sup>[300]</sup>, and see no reason to doubt the applicant's evidence that the design of this surface water drainage scheme would ensure that run-off rates would not increase as a result of the development, nor increase flood risk along the A65<sup>[292]</sup>.

588. Drawing all the above points together, I conclude that the proposed development would not give rise to any material problems in flood risk or drainage terms. It would therefore accord with LPCS Policy EN7, which indicates the measures by which the Council will manage flood risk pro-actively; and part D of LPCS Policy EN8, under which the Council indicates it will work to safeguard ground and surface water resources, and protect and improve ground water quality.

### ***The effect on facilities such as education and health care***

589. A significant number of the representations of interested persons related to the proposed primary school, but as highlighted by the applicant, these representations concentrated more on concerns about delivery, and the possible impact of a new school on the 2 existing schools in the village, rather than setting out actual objections to the proposed school itself<sup>[68,73-75,83,134-145]</sup>. Indeed, the main complaint related to what was seen as a change of approach by the applicant, from originally intending to deliver a new school, to the current position of safeguarding the land for a new school, with the offer to transfer it to the Council for £1<sup>[138]</sup>.

590. I can understand why this apparent change of approach has caused some concern, but as detailed by the applicant, there is a straightforward explanation. When the applicant was undertaking community engagement on the proposed development back in 2016 it was, indeed, proposing to deliver a new school. But with the subsequent adoption by the Council of its CIL Scheme in July 2017, which includes a CIL payment for "education, including primary and secondary provision", it became unlawful for the applicant to propose actual delivery of the school as well as making the mandatory CIL payments. This would have amounted to a double payment of the financial contributions for school delivery, which is prevented by Government guidance in the PPG<sup>[366]</sup>. The applicant is therefore correct in its current approach, as this is the only way it can now, lawfully, assist with school delivery.

591. Although some interested persons argue that there is no over-riding need for a new school, maintaining that the existing schools have land available for expansion, this view does not appear to be fully supported by the facts<sup>[96,116]</sup>. Firstly, no firm evidence was placed before me from either of the existing schools to confirm that expansion on-site is a possibility. In fact, the submitted evidence indicates that only Burley Oaks has any theoretical capacity to expand on site<sup>[361]</sup>. Secondly, as primary school provision is already unbalanced across the village, expanding an existing school to 3FE would not spread out the provision and would not therefore address this point<sup>[361]</sup>. In any case, Burley Oaks has no current plans to expand.

592. It is important not to lose sight of the fact that as a Local Growth Centre in the LPCS, Burley is going to have to accommodate at least a further 510 new houses by 2030 and these, self-evidently, will give rise to a further educational demand. Evidence before the inquiry shows that both existing primary schools are already full, with no operating surplus, and that 19 pupils could not be accommodated at these schools in September 2018<sup>[354,356]</sup>. Both schools are operating oversubscription criteria, limiting admissions to those living within a certain radius of the school<sup>[355]</sup>. This means that the western side of the village, in particular, is poorly served by the existing schools.
593. I share the applicant's view that this information already points to a clear need for increased primary education provision in the village, and with the aforementioned need to accommodate at least a further 510 dwellings, the case for a new school becomes very strong. To my mind this weighs heavily in favour of the application proposal, especially as no other site has been identified which could accommodate a new school<sup>[277,351]</sup>. Moreover, the evidence before me indicates that the allocation of 700 new dwellings to Burley, in the LPCS, had regard to both the application site and its ability to accommodate a new school<sup>[359]</sup>.
594. Concerns about the timing of the introduction of a new school, and the impact on the 2 existing schools could, in my view, be satisfactorily addressed by the proposed PSDP, which would ensure the delivery of the new school at the right time, and in the most appropriate way<sup>[369,370]</sup>. Interested persons were also concerned that neither the Council nor the applicant were able to give a firm guarantee that the school would be provided, with some expressing further concerns that the Council might not even use the collected CIL money to deliver the primary school<sup>[76,86,142]</sup>. However, the very fact that the Council has a statutory duty to provide education for the children in its area means that such concerns are misplaced. In this regard I note that Mr Joy, for the Council, indicated absolute confidence that the school would be provided if planning permission is granted, and no firm, contrary evidence has been submitted to persuade me to not support this view<sup>[368,466]</sup>.
595. Insofar as secondary education provision is concerned, the whole of Burley currently falls within the Priority Admissions Area 1 ("PAA1") of the IGS, and the proposed development would as well. I understand that the IGS is currently undergoing an expansion to provide an overall capacity of 1,960, but that it may not be possible to achieve further increases<sup>[73,136,139]</sup>. However, the IGS will have sufficient capacity to accommodate the forecast number of pupils for the proposed development<sup>[371]</sup>.
596. Should further secondary school places be needed in the future, the Council will have to use the CIL charge to address this, as it has a statutory obligation to deliver secondary education to pupils in the area. Whilst I have noted objectors' concerns that this could mean some pupils being sent to more distant schools<sup>[75,84]</sup>, this is not a matter directly related to the current proposal, and I therefore do not consider that speculation about such things should carry any material weight in the determination of this application.
597. I have also noted Mr Hoare's comment that pupils from existing houses at the south-eastern side of the village could lose out to pupils from new houses at the proposed Sun Lane site, as these latter dwellings would be closer to the IGS<sup>[144]</sup>. However, it seems to me that this situation would be unlikely, as all Burley pupils would have priority over pupils from Menston ("PAA2"), and over pupils from outside the 2 PAAs<sup>[371]</sup>.

598. Turning to consider the effect of the proposed development on other facilities, evidence from both the Council and the applicant indicates that doctors within the village have spare capacity for new patients, and that there are numerous dentists accepting new patients in the local area<sup>[373]</sup>. This evidence was not seriously disputed.
599. As to the other facilities and services in the village, I share the applicant's view that the provision of new housing would provide significant economic benefits as a result of increased patronage and spend<sup>[246]</sup>. These economic and social benefits are dealt with in more detail under a later main consideration, when I deal with sustainable development. In addition, the proposed development would give rise to a significant CIL contribution – estimated to be between £3.5 million and £5.0 million, 25% of which would go to the PC and would be available to support specific infrastructure projects in the village<sup>[412]</sup>.
600. Having regard to all the above points, I conclude that the proposed development would not have any adverse impact on education facilities within Burley-in-Wharfedale. Rather, it would provide a significant opportunity to improve primary school provision for both existing and future residents. In this regard I accept the view put forward by the applicant, that by providing for the delivery of a school within the location of the Roman Temporary Camp, it would result in a unique educational resource<sup>[244,362,457]</sup>. I further conclude that the proposed development would not have a materially adverse impact on health care or other facilities in the village.
601. As such, the application proposal would accord with LPCS Policy WD1 that seeks to ensure, amongst other things, that Burley-in-Wharfedale provides 700 additional dwellings during the plan period through redevelopment of sites within the settlement and with a significant contribution from Green Belt changes, together with associated community facilities. It would also accord with Objective 8 of the Burley-in-Wharfedale NP, namely to support education, health and community facilities. Finally, it would also accord with paragraph 94 of the Framework, which emphasises the need for a sufficient choice of school places to be available to meet the needs of existing and new communities, and states that great weight should be given to the need to create, expand or alter schools through the preparation of plans and decisions on applications.

### ***The effect on traffic and transport, parking, and safety and convenience***

602. A significant number of objections and representations from interested persons raised concerns about various aspects of traffic, transport and parking. These cover such matters as the ability of the highway and rail networks to cope with additional traffic; the view that the applicant's intentions to improve bus services and the hope that residents of the proposed dwellings would walk to village facilities are both unrealistic; and the extra pressure which the proposed development would place on parking provision at the rail station and in the village centre<sup>[68,69,80,103,118-133]</sup>.
603. These concerns are quite understandable, as the introduction of 500 new houses, on essentially a large, single site, would undoubtedly have an impact in such terms. However, as a designated Local Growth Centre in the LPCS, required to accommodate 700 new dwellings over the plan period, the Council has already accepted, as a matter of principle, that the village is a sustainable settlement, accessible to higher order settlements, and well able to satisfactorily accommodate

such growth<sup>[29,381]</sup>. This is made quite clear in LPCS Policies SC4, SC5, WD1 and HO3, and is accepted in Objective 2 of the Burley-in-Wharfedale NP.

604. In considering the various matters raised by interested persons I have been mindful of the fact that none of those who spoke at the inquiry claimed any technical expertise in highways or transport-related fields, but simply made their points as concerned lay people who live in the area, and have experience of the present day transport situation as local residents and users of the transport network.
605. Set against these views, I have a wealth of technical evidence in the form of a TA, prepared in accordance with the PPG, and forming part of the ES; a Supplementary ES, dealing with proposals for accommodating a 2FE school on the site; as well as a full and detailed Highways SoCG and Addendum SoCG between the applicant and the Council in its capacity as local highway authority<sup>[374,375]</sup>. In addition, Mr Wilkins, for the applicant, submitted a detailed Proof of Evidence, 3 volumes of Appendices, and a number of Response Statements dealing with further points that arose towards the end of the inquiry in relation to queries from interested persons<sup>[375,380-407]</sup>.
606. It is common ground between the applicant and the Council, as highway authority, that the TA is comprehensive, covers all relevant matters and that the conclusions are comprehensive, robust and acceptable to assess the impact of the development<sup>[375,461]</sup>. It is also common ground that the proposed development would constitute sustainable development in an appropriate location; that there are no highway reasons why the development should not be approved; and that the proposed vehicular accesses to the site have been assessed appropriately and would operate satisfactorily and safely with the development in place<sup>[376,461]</sup>.
607. Against this background I turn to address some of the specific matters raised, dealing first with criticisms of the TA and the way in which future development has been accounted for. Mr Lavery and others argued that the TA should have sought to model the future situation on the assumption that all 2,500 new dwellings proposed for Wharfedale are in place<sup>[75,102,113,119,125]</sup>. However, this would not accord with national guidance in the PPG on how to carry out TAs. As the applicant explained, the normal, accepted approach is to take account of committed development for the next 3 years, and allow for additional future growth using the Government's TEMPRO information<sup>[397]</sup>.
608. It is only necessary and appropriate for an individual development to seek to ensure that its own impacts (together with any other developments committed at that time), are satisfactorily catered for. Any future development making up the aforementioned 2,500 dwellings will have to plan to meet its own impacts acceptably, as the application proposal has done<sup>[398]</sup>. In this case, the applicant has extended the assessment to 5 years, in agreement with the Council, and I consider that, as such, it is robust.
609. Whilst I acknowledge that objectors commissioned their own traffic count information, and undertook a limited survey to calculate local trip generation rates, these do not persuade me that the applicant's figures are incorrect or unreliable<sup>[123-125]</sup>. Indeed, the more recent assessments undertaken by Mr Wilkins on behalf of the applicant show predicted morning and evening peak hour flows appreciably higher than those recorded by the objectors<sup>[400]</sup>.
610. Moreover, the trip generation work undertaken by Mr Lavery was of a very limited extent – just some 40 houses, and as such is not representative of the likely form

and composition of the proposed development<sup>[401]</sup>. But even using these figures, the applicant points out that the sensitivity tests used in the TA are close to these trip rates. I note the applicant's comment that its own, subsequent surveys of housing areas within Burley, of a more equivalent size to the proposed development, demonstrate that the approach in the TA was very robust<sup>[401]</sup>. No firm contrary evidence has been submitted on this point to cause me to take a different view.

611. Whilst the proposed development would clearly result in increased traffic on the highway network, the Highways SoCG states that all 3 proposed site accesses would operate satisfactorily, with the development in place<sup>[376,377]</sup>. In addition, other junctions likely to be affected by the increased traffic levels have also been assessed, and when the proposed improvement measures are taken into account, the Highways SoCG records that the impact of the development on the highway network in this location would be acceptable<sup>[377]</sup>. Contributions to these junction improvement schemes would be secured through the S106 agreement<sup>[386,388,411]</sup>.
612. Insofar as rail travel is concerned, objectors maintain that the train services are currently over capacity and that proposals to upgrade these services have stalled, as platforms are not long enough, and Leeds station is said to be at full capacity<sup>[68,80,103,128]</sup>. Objectors also claim that the services cannot meet the current needs properly, let alone cater for an increased demand, and this is all coupled with parking difficulties at Burley station, where the existing car park is always full and there is overspill parking in nearby residential streets<sup>[69,103]</sup>.
613. However, dealing first with capacity, as part of the 2016 rail franchise award to Arriva Rail North, capacity enhancements are proposed for the services on the Wharfedale line, as confirmed by WYCA. These include the delivery of new electric trains of 6 carriages on the busiest services, compared to the longest trains currently operating, which only have 4 carriages. Despite objectors' comments to the contrary, these franchise commitments are confirmed in the most recent information before the inquiry, from March 2019<sup>[391,392]</sup>.
614. Furthermore, whilst I have noted the concerns about the parking difficulties at the station, the station would lie within a reasonable walking distance and an easy cycling distance of the site<sup>[393]</sup>, and the planned improvements to the frequency and timetabling of the 962 bus service (which would benefit existing residents as well), means that the station would be very accessible by modes of transport other than the private car<sup>[393]</sup>. In this regard I note, and share the view expressed by the applicant, that even if it were possible to provide additional car parking at the rail station this would not be a sustainable option as it would simply encourage more car use, contrary to the overall aims of both the LPCS and the Framework<sup>[394,406]</sup>.
615. Objectors have made general criticisms of the available bus services<sup>[80,129-131]</sup>, but it is the Council's clear policy, as set out in the likes of LPCS Policies TR1 "Travel Reduction and Modal Shift", and TR3 "Public Transport, Cycling and Walking", to promote and encourage the use of sustainable modes of transport, rather than the private car, wherever possible. The application proposal would accord with these policies and aims<sup>[464]</sup>.
616. With regards to walking, I acknowledge Mr Lavery's point that the elderly, the less able, and parents with toddlers, or those pushing prams, may not be comfortable with walk distances of up to about 1.5 km or 1.6 km from the application site to village shops and facilities<sup>[127]</sup>. Nevertheless, there would be many people for whom

such distances would be perfectly acceptable, as confirmed by relevant research<sup>[383]</sup>. To my mind these points reinforce the sustainability credentials of the application proposal, and underline its consistency with the aforementioned LPCS Policy TR3. Moreover, the proposed development would also provide opportunities for improved leisure and recreational opportunities, by connecting 2 existing bridleways by a proposed link through the site<sup>[41,258,414]</sup>.

617. I note the concerns which have been raised regarding parking provision more generally within the village, and in this regard I have been mindful of the photographs submitted by Cllr Whiteley<sup>[69-71]</sup>. I do acknowledge and appreciate that this is seen as a particular problem by existing residents, with various parking matters featuring in the NP.
618. However, I have also had regard to the comments of Mr Wilkins, for the applicant, to the effect that Cllr Whiteley's photographs simply show levels of parking that are not unusual for a thriving village such as Burley-in-Wharfedale<sup>[404]</sup>. I share the applicant's view that the photographs appear to generally show a good observance of the existing restrictions, but that they do indicate some areas where additional parking restrictions may be necessary. To this end the applicant has agreed to make a contribution towards any review of TROs on Main Street<sup>[411,469]</sup>.
619. Both Mr Lavery and Mr Dobson referred to the A65 at Burley as a trunk road, but this road was actually de-trunked as long ago as 2003, and is now the responsibility of the Council as local highway authority<sup>[120,195]</sup>. There are no current plans to dual or otherwise improve this road, and in these circumstances the proposed development would clearly not compromise any plans of the highway authority<sup>[399]</sup>.
620. There is nothing before me to suggest that there are any particular safety concerns for the road network in the vicinity of the application site, with no indication that any personal injury accidents have arisen as a result of any adverse or unsafe junction layouts<sup>[376,403]</sup>. Mr Lavery has suggested that bus passengers crossing the A65 would present a significant accident risk<sup>[131]</sup>. But as the applicant proposes to introduce pedestrian refuges to assist the crossing of the A65 at the site access junctions, and also possibly at the proposed bus stop location, I am not persuaded that the proposed development would result in any materially increased accident risk.
621. Finally, I have had regard to the points raised by Mr Askham who is promoting a development at Scalebor House (SHLAA site BU013), and who says that parking provision could be made on this site to serve the rail station<sup>[406]</sup>. The applicant has, however, already identified difficulties in developing this site<sup>[209,433]</sup>. In any case I am not persuaded that development on this site, with or without station parking, has any material bearing on the application before me. I therefore give these points very limited weight.
622. The Highways SoCG concludes by confirming that the Council and applicant agree that the application proposal would be a sustainable development, in an appropriate location, and that there are no highway reasons why the development should not be granted planning permission. With this in mind, and having regard to all the above points, I conclude that the proposed development would not have any materially adverse impacts in traffic or transport terms, or on parking provision within the village, or on the safety and convenience of users of the nearby highway network. Accordingly, I find no conflict with LPCS Policies TR1, TR2 and TR2, referred to above, or with policies in the Framework. In particular I find no conflict with



paragraph 109 of the Framework, as there is nothing to suggest that any residual cumulative impacts of the proposed development on the road network would be severe.

### ***Sustainable Development***

623. The Framework makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development, through 3 over-arching and inter-dependent objectives – economic, social and environmental. I explore how the application proposal would perform against each of these roles in the following paragraphs, and what weight this should carry in my overall assessment. In so doing, I have been mindful of the fact that several of the objectors maintain that the proposed development would not be sustainable<sup>[68,75,116,132,185]</sup> – but they provide no firm, authoritative evidence, based on Framework requirements, to support these views. In contrast, Mr Darley for the applicant has provided a detailed assessment of the proposed development against the Framework’s core objectives, which is not disputed by the Council<sup>[246,376,380,381,484]</sup>.

#### The economic objective

624. Submitted evidence indicates that the delivery of 500 homes, alongside a new primary school would generate significant economic benefits, including a total capital investment in the order of £65.5 million. During the anticipated 7-year construction period it would create 605 person-years of direct construction industry employment, supporting 85 temporary construction jobs per annum, and would also support the creation of 130 indirect and induced jobs in the construction industry supply chain and local services per annum. It would also deliver about 20 direct full-time equivalent (“FTE”) jobs as a result of the new primary school, and an estimated £985,000 Gross Value Added (“GVA”) per annum, and would support a further 10 indirect/induced operational FTE jobs in the supply chain<sup>[246]</sup>.

625. Overall, the development is forecast to generate an estimated £8.7 million GVA per annum created during the construction period; generate approximately £2.8 million of “first occupation expenditure”, with a significant proportion likely to be retained locally; generate an estimated £5.7 million of net additional local expenditure per annum, with this increased local expenditure potentially supporting the creation of 90 new FTE jobs in the local area (primarily in the retail, leisure and hospitality and catering sectors)<sup>[246]</sup>. In addition, the Council would receive some £2.8 million of New Homes Bonus payments, and about £700,000 annually in additional Council Tax payments. It is also estimated that some £3.5 million to £5.0 million would be generated by way of CIL payments, with 25% of this being directed to the PC<sup>[246]</sup>.

626. In my assessment, these economic benefits of creating employment, supporting existing businesses and generating funds to support existing services and facilitate the creation of new community infrastructure would be significant. As a result, I consider that the proposed development would satisfy the economic objective of sustainable development. This weighs significantly in the proposal’s favour.

#### The social objective

627. The Framework summarises the social objective of sustainable development as supporting strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and

future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

628. The application proposal would help support strong, vibrant and healthy communities by the delivery of up to 500 new homes, including about 150 much needed affordable homes, particularly in the context of the Council's very low level of housing supply, which I consider to be less than 2.06 years. This would result in a boost to supply and an enhanced choice of new housing in a local market that has been starved of meaningful supply in recent years. In addition, rather than being "bolted on", as some objectors contend<sup>[116]</sup>, this housing would be delivered in a location that is well-integrated with the existing settlement and is located within walking distance of Burley's train station and the wide range of shops and services available in the village<sup>[381-383]</sup>.
629. The proposal would also facilitate the delivery of a new primary school in a highly accessible and central location, to address existing capacity issues and accommodate the pupil place requirements of the development itself<sup>[244,358,359]</sup>. It would also provide enhancements to existing public transport provision serving the village, by increasing the frequency of the 962 bus service, thereby improving access to the wider facilities and services in the higher order settlements of Ilkley and Otley<sup>[386-390]</sup>. In addition, the proposed development would facilitate healthy communities through the creation of new recreational facilities including new allotments, areas of open space and improved access to the wider network of footpaths and bridleways<sup>[244,258,377]</sup>.
630. Overall, it seems to me that the application proposal would help deliver a strong, vibrant and healthy community to assist in meeting the needs of the present and future generations in a well-designed, integrated and accessible environment. In light of these points I conclude that the proposed development would satisfy the social objective of sustainable development, and again I give this significant weight.

#### The environmental objective

631. The Framework explains that the environmental objective of sustainable development is to contribute to protecting and enhancing the natural, built and historic environment, including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
632. At first sight, the application proposal might seem to conflict with this objective, in view of the fact that the proposed development would be on Green Belt land, and is agreed by all parties to constitute inappropriate development<sup>[11,234,436]</sup>. However, as has already been noted above, the LPCS is quite clear that in order to deliver Burley-in-Wharfedale's housing need, a "significant contribution" will be needed from Green Belt, in the least sensitive location, thereby avoiding the need to breach defensible Green Belt boundaries elsewhere in the settlement, or risking coalescence with other settlements. For reasons given above, I consider that the application proposal would meet these requirements.
633. It is still necessary, however, to ascertain whether or not very special circumstances exist to justify such development in the Green Belt. I cannot complete this assessment, until I carry out the overall planning balance, which I do a little later in

this Report. For the time being, I therefore have to delay reaching a conclusion on whether or not the proposed development would meet the environmental objective of sustainable development.

634. That said, there are other ways in which the application proposal would contribute to protecting and enhancing the natural, built and historic environment, namely by delivering all of the proposed housing in Flood Zone 1, thereby minimising the need to build housing in other areas of greater flood risk<sup>[282,465]</sup>; delivering overall biodiversity enhancements by way of the improvements proposed to both the Sun Lane LNR and within the South Pennine Moors SPA/SAC<sup>[303,306,327]</sup>; and by revealing and celebrating an historic enclosure considered most likely to be a Roman Temporary Camp of potential national significance<sup>[350,471,460]</sup>.

### Summary

635. On this consideration as a whole, and having regard to all the above points, it is my overall conclusion that the application proposal would clearly satisfy the economic and social objectives of sustainable development, as detailed in the Framework. I return to consider whether the proposal would also satisfy the environmental objective, once I have carried out the necessary heritage and Green Belt balance, shortly.

### **Other matters**

636. At the PIM, and when opening the inquiry, I made reference to a variety of matters which had been raised by objectors and upon which I wished to hear evidence, even though they did not necessarily form part of the main considerations. These included such claims as the proposed development would be too large for Burley-in-Wharfedale to accommodate; that there are plenty of brownfield sites in Bradford which should be developed in preference to this site; and that there is a lack of employment locally, meaning that the proposed development would result in people having to commute out of Burley<sup>[4]</sup>.
637. However, as has already been noted, these are matters which have already been the subject of detailed discussion and consideration at the time of the LPCS Examination. The points raised by objectors were not accepted by the Council in the adopted version of the LPCS, which sees Burley-in-Wharfedale as a Local Growth Centre, required to accommodate 700 new dwellings over the plan period. The LPCS was not challenged, and it is not the function of this inquiry to seek to revisit such matters<sup>[204,425]</sup>.
638. Other matters raised, such as claims that the housing demand figures the Council is working to are not correct, or that the proposed development would be premature as the Council has not yet completed its Green Belt review, have been addressed under the main considerations, above.
639. Several objectors made reference to the fact that the SoS had placed a holding direction on the Council in the past, to prevent it progressing the LPCS<sup>[168,423]</sup>. However, in view of the fact that this holding direction was subsequently lifted by the SoS<sup>[424,425]</sup>, with the LPCS now adopted, this matter carries no weight against the proposed development.
640. Another matter not covered elsewhere is the proposed Wharfedale Greenway, which Mr Orton for the PC, and others, feared could be prejudiced by the proposed development<sup>[63,93,106]</sup>. However, as I understand it, no route options have been

decided upon for the Burley to Ilkley section, and the evidence appears to suggest that the Greenway could either follow the path along Sun Lane, or could even run along a possible bridleway along the southern boundary of the application site, adjacent to Sun Lane. In addition, part of the CIL payment associated with the application proposal could assist in funding this section of Greenway. In these circumstances I share the applicant's view that the proposed development has the potential to assist with the Greenway's delivery, rather than prejudice it<sup>[413,414]</sup>.

### ***The S106 Agreement***

641. As already noted, the applicant submitted a S106 agreement with the Council, providing a number of obligations, which are summarised below:
642. Affordable housing: The delivery of 30% affordable housing on the site, or its equivalent if a lesser percentage is provided but at a greater discount on Open Market Value. To be provided in accordance with an agreed affordable housing scheme, as part of a reserved matters approval. It would be subject to a cascade mechanism which is the subject of a separate note, explaining its purpose and showing that it is in a form recently approved by the SoS<sup>[408,469]</sup>.
643. Education: The reservation of an area within the application site of up to 1.78ha, for the purposes of development of an up to 2FE primary school. The land to be offered to the Council prior to occupation of more than 2 dwellings, for £1. The land will be reserved for 10 years from the date it is offered to the Council - or such longer period as may be agreed. On transfer, the Council is required to construct the school within 5 years.
644. Primary School Development Partnership ("PSDP"): The setting up of a PSDP which will meet quarterly, or as otherwise agreed by the parties, with its terms of reference limited to seeking to facilitate the delivery of the school<sup>[410,469]</sup>.
645. Sustainable transport and other measures: Contributions aimed at securing delivery of a number of sustainable transport measures, and other measures, including a review of the existing TROs on Main Street, Burley-in-Wharfedale; traffic calming and footway strengthening TROs in the Sun Lane area; improvements to various road junctions; improvements to the 962 bus service, for a 5-year period; procuring recreational access management measures and/or habitat management and monitoring measures on the South Pennine Moors SPA/SAC; and various improvements to the Sun Lane LNR<sup>[411]</sup>.
646. Having regard to the detailed note on this matter submitted by the Council<sup>[470]</sup>, I agree with the parties that all of these obligations are necessary to make the development acceptable and that all meet the requirements of paragraph 56 of the Framework and Regulation 122 of the CIL Regulations 2010. The obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. In addition, the evidence also clearly shows that none of the obligations would be at odds with CIL Regulation 123<sup>[470]</sup>.

### ***Conditions***

647. A schedule of 50 suggested planning conditions was agreed between the Council and the applicant, and the conditions were discussed in detail at the inquiry. Some objectors were sceptical of the reliance which could be placed on these conditions, arguing that if planning permission is granted, and the site sold to a

“big housebuilder”, then this would likely lead to both the S106 agreement and the planning conditions being renegotiated<sup>[117,190]</sup>. However, there is no firm evidence before me to suggest that any such renegotiation would be sought – but even if it was, neither the agreement nor the conditions could be varied without going through the necessary formal procedures, and any changes would need to be fully justified.

648. Notwithstanding this point, I am satisfied that the conditions set out in Appendix C to this Report all accord with the 6 tests for planning conditions set out in paragraph 55 of the Framework.

### ***Consistency with the development plan***

649. One of the matters about which the SoS particularly wished to be informed was the extent to which the proposed development is consistent with the development plan for the area. I have addressed this matter throughout my conclusions, and leaving aside RUDP Policy GB1 (which I return to in the planning balance section of this Report, below), I have found no material conflict with any relevant development plan policy.

### ***Planning balance***

650. In accordance with section 38(6) of the 2004 Act, this application has to be determined in accordance with the development plan, unless material considerations (which include the Framework), indicate otherwise.

651. A key policy in this case is RUDP Policy GB1, which presumes against new development in the Green Belt except where very special circumstances can be demonstrated. Whilst this policy is out-of-date in relation to its identified Green Belt boundaries, its thrust accords with the approach taken in the Framework<sup>[27,435]</sup>. There is no dispute that the application proposal would be inappropriate development in the Green Belt, nor is there any dispute that the proposal would have an adverse impact on the openness of the Green Belt. The Framework makes it clear that **substantial weight** should be attached to this harm, and that planning permission should not be granted except in very special circumstances.

652. There are, however, a number of factors which weigh in the proposal’s favour, as detailed below, and it is therefore necessary to assess whether or not these would clearly outweigh the harm to the Green Belt, and any other identified harm.

653. Firstly, significant support is given to the application proposal through LPCS Policy SC7, which makes it quite clear that there are exceptional circumstances that require the release of Green Belt land in order to deliver, in full, the longer-term housing and jobs growth in the District, as set out in Policies HO3 and EC3<sup>[32,33]</sup>. As this is the resolved position of the Council, set out in a recently adopted development plan, I have to give this matter **very significant weight**.

654. Accepting that it is adopted policy that the release of Green Belt land will be necessary during the LPCS plan period, it is important that such releases respect the purposes of the Green Belt as far as possible. In this case I am satisfied that the proposal would not conflict with the Green Belt purposes of checking unrestricted sprawl of large built up areas; preventing the merger of neighbouring towns; or preserving the setting of historic towns. Whilst there would be inevitable encroachment into the countryside, any impacts could be mitigated

through careful landscaping. Finally, there are limited and insufficient opportunities to recycle derelict and other urban land in the areas protected by the Green Belt, whilst providing sufficient housing development<sup>[472,473]</sup>.

655. As such, I share the Council's view that the adverse impacts on the Green Belt would be limited to those which are inevitable if the LPCS requirement for Burley-in-Wharfedale is to be met. Importantly, the proposal would provide a more durable and better-defined boundary to the Green Belt along the site's western and south-western boundaries than is currently the case<sup>[240,280,454]</sup>. Being able to achieve a significant contribution towards the LPCS's housing requirement in this way, with limited impact on Green Belt purposes, while at the same time producing a better Green Belt boundary, has to be seen as a benefit of the application proposal, to which I consider it appropriate to attach **moderate weight**.
656. It is also of note that all parties, including objectors, agree that there is no other identified site which could make such a significant contribution towards the LPCS target of 700 dwellings for Burley-in-Wharfedale<sup>[244,275,277]</sup>. On the basis of the assessment carried out by the applicant, with which the Council agrees, none of the identified SHLAA sites could reasonably provide for 500 dwellings – either alone or in combination – and no other realistic sites have been identified. Moreover, no other site has been identified to potentially deliver a new primary school. To my mind these factors should be given **significant weight** in the proposal's favour.
657. In view of the fact that the Council's housing situation was described by the SoS in 2016 as "acute" "persistent" and "chronic", and has worsened since that time, with the Council only able to demonstrate a current supply of deliverable housing land of less than 2.06 years<sup>[201,221]</sup>, I give **very substantial weight** to the provision of 500 new houses in the current proposal, which would accord with LPCS Policy HO3. I also give **very substantial weight** to the proposed delivery of 30% affordable housing on this site, for reasons set out earlier<sup>[229,408,451]</sup>.
658. Unusually in a case like this, there is agreement between the main parties, and also NE, that with the various mitigation measures proposed, the development would have no adverse impact on matters of ecological or nature conservation interest but would, instead, actually result in a net benefit for biodiversity<sup>[304,327]</sup>. I give this benefit **significant weight**. It is also relevant to note, at this point, that an appropriate assessment has shown that there would be no adverse effect from the proposed development on the integrity of any of the 4 European sites through recreational impacts, or indeed through any other impact pathway through the proposed development alone, or in combination with any other plans or projects. This means that planning permission could be granted for the proposed development in full compliance with Regulation 63 of the 2017 Regulations<sup>[321]</sup>.
659. Further benefits would arise in heritage terms as a result of the proposed incorporation of the Roman Temporary Camp into the development, as explained above. This would be a unique feature of this development, and because of this I consider that it warrants being given **very significant weight**.
660. There is a clear need for additional primary school spaces in the village, and by facilitating the delivery of a new primary school the application proposal would address this existing need, and would also satisfy the primary education demand

likely to arise from the development itself<sup>[244,358,359]</sup>. This would accord with LPCS Policy WD1 which refers to the creation of 700 new homes with a significant contribution from green belt changes, together with associated community facilities. Moreover, there is general agreement between the main parties that the intention to site the proposed school within the Roman Temporary Camp would result in a unique educational resource<sup>[350,460,471]</sup>. Again, I consider that this warrants being given **very significant weight**.

661. In traffic and transport terms, there would be some benefits from the proposed improvements to the 962 bus service, but I do acknowledge that there would be increased traffic on the local highway network, and an increased demand for parking. Having had regard to the proposed contributions towards various junction improvements, and the TRO review, my overall conclusion on this main consideration is that there would be no materially adverse impact on traffic, transport, parking and safety matters. With this fairly neutral conclusion, I do not consider that these points add any weight in support of the proposal.
662. The proposal would, however, clearly satisfy the economic and social objectives of sustainable development. Some of the matters that make up these objectives, such as the delivery of market and affordable housing have already been accounted for, above, and I do not want to double-count these benefits. But there are other areas of benefit, not specifically included above, such as the detailed economic benefits which would arise in terms of new jobs; significant amounts of GVA; a significant amount of "first occupation expenditure" and additional local expenditure; New Homes Bonus payments, Council Tax payments, and CIL payments. In my assessment these matters add **further weight** in support of the application proposal.
663. In summary, although substantial weight has to be given to the Green Belt by reason of inappropriate development and the impact on openness, it is my firm view that this would be clearly outweighed by the significant and in some regards unique benefits of the application proposal, detailed above. As such, I conclude that very special circumstances exist, which would justify this development in the Green Belt. Accordingly, the proposal would not conflict with RUDP Policy GB1, nor would it be at odds with Green Belt policy in the Framework.
664. In turn, this leads me to conclude that the proposal would also satisfy the environmental objective of sustainable development. Again, most of the components parts of the environmental objective have already been referred to previously, but other points, such as the fact that the application proposal would deliver all of the proposed housing in Flood Zone 1, thereby minimising the need to build housing in other areas of greater flood risk, have not been specifically mentioned above. I consider that this would add a **modest amount of further weight** to the application proposal, reinforcing the fact that very special circumstances exist in this case. It also means that the proposed development would not conflict with any relevant development plan policies, and that in accordance with paragraph 11(c) of the Framework, this application should be approved without delay.

### **Summary and overall conclusion**

665. In light of all the above points my assessment of the planning balance leads to the overall conclusion that very special circumstances do exist in this case, which would justify this development in the Green Belt. The proposed development

would not conflict with the LPCS or the NP, both of which have been adopted or made relatively recently, and can therefore be considered up-to-date. Nor would it conflict with any relevant saved policies in the RUDP.

666. There would be no adverse effect from the proposed development on the integrity of any of the 4 European sites through recreational impacts, or indeed through any other impact pathway through the proposed development alone, or in combination with any other plans or projects. As such, planning permission could be granted for the proposed development in full compliance with Regulation 63 of the 2017 Regulations.

667. With these points in mind, it is my overall conclusion that this application should be granted planning permission, subject to the imposition of a number of conditions, as discussed at the inquiry and set out in the attached schedule in Appendix C (which also contains the reasons why I consider these conditions are necessary), together with the submitted S106 agreement, which is necessary to make the development acceptable. For my part, I consider that none of the obligations set out in the agreement are incompatible with either Regulation 122 or Regulation 123 of the CIL Regulations 2010.

### **Recommendation**

668. I recommend that the application be granted planning permission, subject to the conditions detailed in Appendix C.

*David Wildsmith*

INSPECTOR



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## **APPENDIX A - APPEARANCES**

### **FOR THE CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL (CBMDC):**

Mr Martin Carter of Counsel	Instructed by Parveen Akhtar, City Solicitor, CBMDC
<b>He called</b>	
Mr Alex Bartle	Senior Planning Officer, CBMDC
BA(Hons) MA MRTPI	
Mr Malcolm Joy	Senior Planning Officer, CBMDC
BSc(Hons) MRTPI	

### **FOR THE APPLICANT, CEG LAND PROMOTIONS LTD:**

Mr James Strachen QC	Instructed by Robert Moore (LLB Hons), Director, Walker Morris LLP
<b>He called</b>	
Miss Jessie Watson	Masterplanning Associate Director, Broadway Malyan
BA(Hons) MA	Landscape and Environmental Planning
Mr Brian Denney	Director, Pegasus Planning Group Limited
BA(Hons) DIPLA FLI CENV MIEMA	Managing Director – Weetwood Services Ltd
Dr Kevin Tilford	
BSc(Hons) MSc(Eng) PhD MBA CWEM CEnv FCIWEM	Managing Director – Baker Consultants Ltd
Mr Andrew Baker	Consultant – Educational Facilities Management Partnership Ltd
BSc (Hons) FCIEEM	Director, Northern Archaeological Associates Ltd
Ms Heather Knowler	Director, Bryan G Hall
BA(Hons) MA MCFI	
Mrs Mary Fraser	
BA(Hons)	
Mr Stuart C Wilkins	Planning Director, Lichfields
IEng MICE MCIHT	
Mr Christopher Darley	
BA(Hons) DipTP MRTPI	

### **INTERESTED PERSONS OPPOSING THE PROPOSALS:**

Cllr Gerry Barker	Ward Councillor, Wharfedale Ward
Cllr Jackie Whiteley	Ward Councillor, Wharfedale Ward and Burley-in-Wharfedale Parish Councillor
Cllr Dale Smith	Ward Councillor, Wharfedale Ward
Mr Ian Orton	Former Parish Clerk, on behalf of Burley-in-Wharfedale Parish Council
Mr Robert Felstead BSc Prince II	Local resident and member of the Burley Objectors Group
Mr Jeffrey McQuillan DipTP	Ditto
Mr Karl Lavery	Ditto
Mr Simon Hoare BA(Hons)	Ditto
Mr Chris Turner HND	Ditto
Mr Bernard Poulter BA(Hons)	Ditto
Mr Vincent Dobson	Local resident

**APPENDIX B - DOCUMENTS****CORE DOCUMENTS**

<b>Application Documents</b>		
1.1	Application Cover Letter	26 Sep 2016
1.2	Application Forms and Certificates	26 Sep 2016
1.3	Planning Application – Landowner Article 13 Notice Served Letters	26 Sep 2016
1.4	Site Location Plan (drawing number 101, Rev D)	26 Sep 2016
1.5	Parameters Plan (Ref 31620-301 rev. P)	Nov 2017
1.6	Vehicular Access Point Plans: a) Proposed Right Turn Ghost Island Access Arrangement Western Area of Land (Ref 13/215/TR/009 Rev A) b) Western Land Access Roundabout Option Taking Land from North of Ilkley Road (Ref 13/215/TR/008 Rev G) c) Proposed Ghost Island Junction Arrangement (Ref 13/215/TR/007 Rev C)	29 Feb 2016 25 Jan 2015 11 May 2017
1.7	Arboricultural Impact Plan A (Drg no 301A)	Oct/Nov 2017
1.8	Arboricultural Impact Plan B (Drg no 301B)	Oct/Nov 2017
1.9	Arboricultural Impact Plan C (Drg no 301C)	Oct/Nov 2017
1.10	Environmental Statement: Vol 1: Non-Technical Summary	26 Sep 2016
1.11	Environmental Statement: Vol 2: Main Technical Assessment (incorporating the following chapters): A – Introduction & Context B – The Site, Policy Context, Development Proposals and Construction Methodology C – Land Use D – Socio-Economic E – Transport F – Ecology G – Landscape and Visual Impact H – Water Environment I – Noise J – Air Quality K – Heritage (above and below ground) L – Ground Conditions M – Cumulative Impact	26 Sep 2016
1.12	Environmental Statement Vol 3: Technical Appendices (including shadow HRA)	26 Sep 2016
1.13	Planning Statement	26 Sep 2016
1.14	Design & Access Statement	26 Sep 2016
1.15	Heritage Design Brief	26 Sep 2016
1.16	Statement of Community Involvement	26 Sep 2016
1.17	S106 Heads of Terms	26 Sep 2016
1.18	Post-submission Highways Summary Note	Aug 2017
1.19	Technical note incorporating additional Ecology information	Sep 2017
1.20	A65 Frontage – Landscape Proposals	Oct/Nov 2017
1.21	Covering Letter for Supplementary Environmental Statement	Oct/Nov 2017

1.22	Supplementary Environmental Statement (including Appendices)	Oct/Nov 2017
1.23	Environmental Statement: Vol 1: Updated Non-Technical Summary	Oct/Nov 2017
1.24	Arboricultural Report	Oct/Nov 2017
1.25	Tree Removal Schedule	Oct/Nov 2017
1.26	Response to the consultation of Natural England	Oct/Nov 2017
1.27	Response to Bradford Council (Regarding the Landscape and Green Belt Buffer)	Oct/Nov 2017
1.28	Education Delivery Report	April 2018
1.29	Letter to Bradford Council (Regarding Education Delivery)	April 2018
<b>Consultee Responses</b>		
2.1	Department of Public Health	5 Oct 2016
2.2	Environmental Health	7 Oct 2016
2.3	Bradford Council (Department of Public Health: Environmental Health)	1 Nov 2016
2.4	Environmental Health	2 Jan 2018
2.5	Mrs Liz Bates (Bradford Council: Department of Public Health (Environmental Health))	19 Oct 2016
2.6	Mrs Liz Bates (Bradford Council: Department of Public Health- Environmental Health)	11 Jan 2018
2.7	Drainage Consultations- Drainage Department	7 Oct 2016
2.8	Drainage Consultations- Lead Local Flood Authority	7 Oct 2016
2.9	Yorkshire Water	21 Oct 2016
2.10	Yorkshire Water	19 Dec 2017
2.11	Historic England	13 Oct 2016
2.12	Historic England	21 Oct 2016
2.13	Historic England	14 Mar 2017
2.14	Historic England	21 Dec 2017
2.15	Rights of Way	13 Oct 2016
2.16	Bradford Council (Department of Place- Countryside and Rights of Way Service)	17 May 2017
2.17	Highways Development Control	14 Oct 2016
2.18	Highways Development Control	16 Aug 2017
2.19	Highways Development Control	18 Dec 2017
2.20	West Yorkshire Police	17 Oct 2016
2.21	West Yorkshire Police	8 Dec 2017
2.22	Environment Agency	18 Oct 2016
2.23	Environment Agency	5 Dec 2017
2.24	Mrs Nina Mewse (Bradford Council: Education)	18 Oct 2016
2.25	Mrs Nina Mewse (Bradford Council: Education)	7 Dec 2017
2.26	West Yorkshire Archaeology Advisory Service	21 Oct 2016
2.27	Burley Parish Council	26 Oct 2016
2.28	Burley Parish Council	1 Nov 2016
2.29	Burley Parish Council	14 Dec 2017
2.30	Natural England	28 Oct 2016
2.31	Natural England	15 Mar 2017
2.32	Natural England	19 Jan 2018
2.33	Bradford Council: Trees Team	7 Nov 2016
2.34	Bradford Council: Trees Team	15 Dec 2017

2.35	MR Design Consultations	14 Nov 2016
2.36	Design and Conservation Team	20 Dec 2017
2.37	Landscape Design Architect	30 Mar 2017
2.38	Bradford Council: Minerals and Waste Team	6 Dec 2016
2.39	Bradford Council: Minerals and Waste Team	19 Dec 2017
2.40	West Yorkshire Combined Authority	6 Jan 2017
2.41	Bradford Council: Department of Place- Countryside and Rights of Way Service	1 Jun 2017
2.42	Bradford Council: Department of Place- Countryside and Rights of Way Service	12 Dec 2017
2.43	Policy/Local Plan Team	4 Jul 2017
2.44	Parks & Green Spaces	6 Dec 2017
<b>Reporting and Relevant Correspondence</b>		
3.1	Report to the Regulatory and Appeals Committee	11 Jan 2018
3.2	Report to the Regulatory and Appeals Committee	14 May 2018
3.3	Regulatory and Appeals Committee Minutes	Jan 2018
3.4	Regulatory and Appeals Committee Minutes	May 2018
3.5	Core Strategy Holding Direction Letter	10 Oct 2016
3.6	Application Call-in Decision Letter from the Secretary of State	25 Jul 2018
3.7	Pre-Inquiry Meeting Note	5 Feb 2019
3.8	Bradford Core Strategy Inspector's Report	22 Aug 2016
3.9	Letter from Gavin Barwell removing Holding Direction - Bradford Core Strategy	28 Mar 2017
<b>Statements of Case</b>		
4.1	Council's Statement of Case	Not dated
4.2	Applicant's statement of Case	7 Sep 2018
<b>Statements of Common Ground</b>		
5.1	Planning Statement of Common Ground	Nov 2018
5.2	Planning Statement of Common Ground - Errata Sheet	Mar 2019
5.3	Planning Statement of Common Ground - UPDATE	Mar 2019
5.4	Highways Statement of Common Ground	Mar 2019
5.5	Highways Statement of Common Ground Addendum	Apr 2019
5.6	Habitats Regulations Assessment Statement of Common Ground	Apr 2019
<b>Relevant National and Local Planning Documents</b>		
<i>National Policy and Guidance</i>		
6.1	National Planning Policy Framework	Feb 2019
6.2	Extracts from the Planning Practice Guidance	Not dated
6.3	Manual for Streets, Departments for Transport/Communities and Local Government	Mar 2007
6.4	Manual for Streets 2, The Chartered Institution of Highways and Transportation.	Sep 2010
6.5	Extracts from Design Manual for Roads and Bridges, Highways England	1992, updated Jun 2018
6.6	Planning for Walking, The Chartered Institution of Highways and Transportation	Mar 2015

6.7	Sustainable Drainage Systems - Non-Statutory Technical Standards for Sustainable Drainage Systems, Department for Environment, Food and Rural Affairs	Mar 2015
6.8	Flood Risk Assessments: Climate Change Allowances, Environment Agency Guidance	Published 9 Feb 2016, Updated 15 Feb 2019
6.9	The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3 (Second Edition), Historic England	Dec 2017
6.10	Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (NEA001)	Jul 2018
6.11	Institution of Highways and Transport Guidelines for Providing for journeys on Foot	2000
6.12	Local Transport Note 2/08 Cycle Infrastructure Design	2008
6.13	Institution of Highways and Transportation Guidelines for Planning for Public Transport in Developments	1999
6.14	Area Guidelines for Mainstream Schools – Building Bulletin 103	Jun 2014
6.15	Ministerial Statement dated 1st July 2013 – “Protecting the Green Belt”	Jul 2013
<i>Development Plan Documents</i>		
7.1	The Bradford Local Plan Core Strategy 2013-2030	18 Jul 2017
7.2	CBMDC Core Strategy Examination Inspectors Report	22 Aug 2016
7.3	Replacement Bradford Unitary Development Plan (“RUDP”)– “Saved” policies	15 Oct 2005
7.4	Burley-in-Wharfedale Neighbourhood Plan	3 May 2018
7.5	CBMDC Local Development Scheme 2014-2017	Jul 2014
7.6	CBMDC Local Development Scheme 2018-2021	Jul 2018
7.7	Examiner's Report on Burley-in-Wharfedale Neighbourhood Plan 2017 - 2030	Nov 2017
7.8	Replacement Bradford Unitary Development Plan (“RUDP”) – Shipley (North Sheet) Proposals Map	Oct 2005
7.9	Schedule of saved and deleted Replacement Unitary Development Plan (RUDP) Policies, Bradford Core Strategy	Dec 2014
<i>Emerging Development Plan Documents</i>		
8.1	Land Allocations Development Plan Document – Issues and Options	May 2016
8.2	Core Strategy Partial Review – Scoping Document	Jan 2019
8.3	CEG Response to Core Strategy Partial Review – Scoping Document	Jan 2019
8.4	Land Allocations Development Plan Document – Further Issues and Options Green Belt Review – Draft Methodology Paper	Dec 2017
<i>Supplementary Planning Documents</i>		
9.1	Landscape Character Supplementary Planning Document – Volume 8: Wharfedale	2008

9.2	Planning for Crime Prevention Supplementary Planning Document	2007
9.3	Planning Obligations Supplementary Planning Document	2007
9.4	Sustainable Design Guide	2006
9.5	Not used	-
9.6	Burley-in-Wharfedale Conservation Area Appraisal	2007
9.7	Burley-in-Wharfedale Conservation Area Assessment	2004
<i>Evidence Base Documents</i>		
10.1	Bradford Growth Assessment (Burley-in-Wharfedale Extracts)	Nov 2013
10.2	Bradford Growth Assessment – Executive Summary	Nov 2013
10.3	Habitats Regulation Assessment for the Bradford District Core Strategy (Proposed Modifications)	Nov 2015
10.4	Habitats Regulation Assessment for the City of Bradford District Core Strategy – Appropriate Assessment Report for the Publication Draft Document	Feb 2014
10.5	Sustainability Appraisal of the Bradford Core Strategy – Addendum to the SA Report	Nov 2015
10.6	Not used	-
10.7	Housing Land Supply Update (at 31st March 2018)	Dec 2018
10.8	Five Year Housing Land Statement (April 2018 – March 2023)	1 Mar 2019
10.9	Local Development Framework for Bradford Evidence Base Settlement Study Update	Oct 2011
10.10	Strategic Housing Land Availability Assessment, City of Bradford Metropolitan District Council	Oct 2011
10.11	Strategic Housing Land Availability Assessment Second Update, City of Bradford Metropolitan District Council	Jul 2015
10.12	Burley in Wharfedale: Stage 1 Road Safety Audit, Road Safety Initiatives	May 2017
10.13	West Yorkshire Local Transport Plan 2011-2026, West Yorkshire integrated Transport Authority (Metro) and the District Councils of Bradford, Kirklees, Leeds and Wakefield (with appendices)	Oct 2012
10.14	Strategic Flood Risk Assessment – Level 1, City of Bradford Metropolitan District Council	Feb 2011, Amended and Issued as a Final Draft in Feb 2014
10.15	Not used	-
10.16	Strategic Housing Market Assessment, City of Bradford Metropolitan District Council - Update	2013
10.17	Rights of Way Improvement Plan, City of Bradford Metropolitan District Council	Apr 2007
10.18	Pioneering, Confident and Connected An Economic Growth Strategy for Bradford District 2018 - 2030	2018
<b>Relevant Appeal Decisions</b>		
11.1	Hag Road Farm Appeal (APP/W4705/W/18/3201675)	29 Oct 2018
11.2	Waverley Appeal Decision (APP/W/15/3008821)	18 Apr 2016
11.3	Hedgehog Lane, Haslemere (APP/R3650/W/16/3165974)	10 Jan 2019

11.4	Sty Lane, Micklethwaite (APP/W4705/V/14/2228491)	22 Sep 2016
11.5	Land north of Asher Lane, Ruddington, Nottinghamshire (APP/P3040/W/17/3185493)	23 May 2018
11.6	Berkeley Homes and The Howard Partnership Trust, Land at Howard of Effingham School (APP/Y3615/W/16/3151098)	21 Mar 2018
11.7	Land to the east of Mere Lane, Edenthorpe, Doncaster (APP/F4410/W/17/3169288)	5 Feb 2019
11.8	Land North of Low Lane, High Leven, Ingleby, Barwick (APP/H0738/A/13/219538)	26 Sep 2013
11.9	Entech House, London Road, Woolmer Green, SG3 6GE (APP/C1950/W/17/3190821)	26 Oct 2018
11.10	Land on East Side of Green Road, Woolpit, Suffolk, IP30 9RF (APP/W3520/W/18/3194926)	28 Sep 2018
<b>Relevant Court Judgements</b>		
12.1	Palmer – R. (on the application of Palmer) v Herefordshire Council [2015] EWHC 2688 (Admin)	25 Sep 2015
12.2	Palmer - R. (on the application of Palmer) v Herefordshire Council [2016] EWCA Civ 1061	4 Nov 2016
12.3	Cheshire East Borough Council v Secretary of State for Communities and Local Government, Renew Land Developments Ltd [2016] EWHC 571 (Admin)	16 Mar 2016
12.4	R. v Rochdale Metropolitan Borough Council Ex p. Milne No.2 [2000] WL 1151364 (2000)	31 Jul 2000
12.5	The Queen on the Application of Basildon District Council V First Secretary of State V Mrs R Temple [2004] EWHC 2759 (Admin)	8 Nov 2004
12.6	Hayes v City of York Council [2017] EWHC 1374 (Admin)	9 Jun 2017
12.7	Bloor Homes v Secretary of State for CLG (1) and Hinckley and Bosworth Borough Council (2) EWHC 754 (CO/2334/2013)	19 Mar 2014
12.8	Ivan Crane and Secretary of State for Communities and Local Government and Harborough District Council [2015] EWHC 425	23 Feb 2015
12.9	Daventry District Council v Secretary of State for CLG (1) and Gladman Developments Ltd (2) EWHC 3459 (CO/3447/2015)	2 Dec 2015
12.10	Gladman Developments Ltd v Daventry District Council and Secretary of State for Communities and Local Government [2016] EWCA Civ 1146	23 Nov 2016
12.11	Forest of Dean District Council v Secretary of State for Communities and Local Government and Gladman Developments Ltd [2016] CO/978/2016	4 Oct 2016
12.12	Tesco Stores v Dundee CC [2012] UKSC 13	21 Mar 2012
<b>Miscellaneous</b>		
13.1	Harrogate District Landscape Character Assessment	Feb 2004
13.2	Street Design Guide, Leeds City Council	Aug 2009
13.3	Reported Road Casualties Great Britain: 2014 Annual Report, Department for Transport	Sep 2015
13.4	Natural England Local Nature Reserve – Sun Lane Local Nature Reserve Designation	Feb 2011

13.5	A Place to Call Home, Housing and Homelessness Strategy for Bradford District 2014-2019	2014
13.6	BMDC Written Statement to Matter 3 of the Bradford Core Strategy Examination	22 Apr 2016
13.7	CEG Letter to SoS relating to shadow Habitats Regulations Assessment	7 Mar 2019
13.8	Design and Access Statements: How to write, read and use them (CABE)	2006
13.9	SuDS Guidance, West Yorkshire Combined Authority	Not dated
13.10	Local Flood Risk Management Strategy, City of Bradford MDC	Dec 2016
13.11	Not used	-
13.12	Nidderdale AONB Management Plan 2014-19	2014
13.13	Harrogate District Landscape Character Assessment, Area 18 – Wharfedale south-facing valley	Feb 2004
13.14	Building Beautiful: A collection of essays on the design, style and economics of the built environment, Policy Exchange	2019
13.15	Building More, Building Beautiful: How design and style can unlock the housing crisis, Policy Exchange	2018
13.16	Shadow Habitat Regulation Assessment (sHRA) as submitted to Secretary of State (with appendices)	Apr 2019

## PROOFS OF EVIDENCE

Applicant	
APP/CD/1	Proof of Evidence – Christopher Darley (Planning)
APP/CD/1S	Summary of Proof – Christopher Darley (Planning)
APP/CD/2	Appendix – Christopher Darley (Planning)
APP/CD/3	Response Statement - Christopher Darley ( <i>also listed as Doc 11</i> )
APP/MF/1	Proof of Evidence with Appendices – Mary Fraser (Heritage)
APP/MF/1S	Summary of Proof – Mary Fraser (Heritage)
APP/MF/3	Response Statement - Mary Fraser ( <i>also listed as Doc 9</i> )
APP/KT/1	Proof of Evidence with Appendices – Kevin Tilford (Flood Risk and Drainage)
APP/KT/1S	Summary of Proof – Kevin Tilford (Flood Risk and Drainage)
APP/KT/3	Response Statement - Kevin Tilford ( <i>also listed as Doc 6</i> )
APP/BD/1	Proof of Evidence – Brian Denney (Landscape)
APP/BD/1S	Summary of Proof - Brian Denney (Landscape)
APP/BD/2	Appendix - Brian Denney (Landscape)
APP/BD/3	Response Statement - Brian Denney ( <i>also listed as Doc 5</i> )
APP/SCW/1	Proof of Evidence – Stuart Wilkins (Highways)
APP/SCW/1S	Summary of Proof – Stuart Wilkins (Highways)
APP/SCW/2	Appendix – Stuart Wilkins (Highways)
APP/SCW/3	Response Statement - Stuart Wilkins ( <i>also listed as Doc 10</i> )
APP/JW/1	Proof of Evidence – Jessie Watson (Design)
APP/JW/1S	Summary of Proof – Jessie Watson (Design)
APP/JW/2	Appendix – Jessie Watson (Design)
APP/JW/3	Response Statement - Jessie Watson ( <i>also listed as Doc 4</i> )
APP/HK/1	Proof of Evidence – Heather Knowler (Education)
APP/HK/1S	Summary of Proof – Heather Knowler (Education)



APP/HK/2	Appendix – Heather Knowler (Education)
APP/HK/3	Response Statement Heather Knowler ( <i>also listed as Doc 8</i> )
APP/AB/1	Proof of Evidence – Andrew Baker (Ecology)
APP/AB/1S	Summary of Proof – Andrew Baker (Ecology)
APP/AB/2	Appendix – Andrew Baker (Ecology)
APP/AB/3	Response Statement – Andrew Baker ( <i>also listed as Doc 7</i> )
<b>Council</b>	
CBMDC/MJ/1	Proof of Evidence – Malcolm Joy
CBMDC/MJ/1S	Summary of Proof – Malcolm Joy
CBMDC/MJ/2	Appendix – Malcolm Joy
CBMDC/AB/1	Proof of Evidence – Alex Bartle
CBMDC/AB/1S	Summary of Proof – Alex Bartle
CBMDC/AB/2	Appendix – Alex Bartle
<b>Burley Parish Council</b>	
BPC/1	Statement – presented to the inquiry by Ian Orton
<b>Burley Objectors Group</b>	
BOG/RF/1	Statement – Robert Felstead
BOG/RF/1S	Summary Statement – Robert Felstead
BOG/RF/2	Appendices – Robert Felstead
BOG/JM/1	Statement – Jeffrey McQuillan
BOG/JM/1S	Summary Statement – Jeffrey McQuillan
BOG/JM/2	Appendices – Jeffrey McQuillan
BOG/KL/1	Statement – Karl Lavery
BOG/KL/1S	Summary Statement – Karl Lavery
BOG/KL/2	Appendices – Karl Lavery
BOG/SH/1	Statement – Simon Hoare
BOG/SH/2	Appendices – Simon Hoare
BOG/CT/1	Statement – Chris Turner
BOG/CT/1S	Summary Statement – Chris Turner
BOG/BP/1	Statement – Bernard Poulter
BOG/BP/1S	Summary Statement – Bernard Poulter
BOG/BP/2	Appendices – Bernard Poulter
BOG/SRC/1	Statement – Dr Samantha Cook [NOTE – not presented orally – treated as a written submission]

**OTHER DOCUMENTS SUBMITTED BEFORE THE INQUIRY OPENED**

OD/JW/1	Bundle of photographs and covering memo, submitted by Cllr Whiteley
OD/PB/1	Bundle of 8 written submissions from Peter Bryson, dated 16 April 2019

**DOCUMENTS SUBMITTED AT, AND DURING THE INQUIRY**

Doc 1	Opening Statement of behalf of the applicant
Doc 2	Opening Statement on behalf of the Council
Doc 3	Opening Statement on behalf of the Burley Objectors Group
Doc 4	Response Statement of Miss Watson (APP/JW/3)
Doc 5	Response Statement of Mr Denney (APP/BD/3)
Doc 6	Response Statement of Dr Tilford (APP/KT/3)
Doc 7	Response Statement of Mr Baker (APP/AB/3)

Doc 8	Response Statement of Ms Knowler (APP/HK/3)
Doc 9	Response Statement of Mrs Fraser (APP/MF/3)
Doc 10	Response Statement of Mr Wilkins (APP/SCW/3)
Doc 11	Response Statement of Mr Darley (APP/CD/3)
Doc 12	Ecology Report presented by Cllr Barker
Doc 13	2 Statements from Cllr Whiteley
Doc 14	2 Statements from Cllr Smith
Doc 15	Detailed Indicative Masterplan (Drg 30-A Rev M)
Doc 16	Written representation from Jane Alcock
Doc 17	Written representations and photographs from Teresa McDonnell, Adina Roe, Adrian Wheway, Neil Collins, Bernadette Copsey & Richard Bunce
Doc 18	Further written representations and photographs from Bernadette Copsey & Neil Collins
Doc 19	Further written representations and photographs from Richard Bunce, Lisa Llewellyn, Rachel Smith, Richard (Wharfedale Wildlife Photography), Hayley Argyle & Karl Lavery
Doc 20	Written representation and sketch from Mrs J A Fisher
Doc 21	Letter from Philip Davies MP, dated 8 May 2019, with attached correspondence from Mr & Mrs Thuringer
Doc 22	Plan of the application site, with contours, submitted by the applicant
Doc 23	Note from the Barn Owl Trust "Barn Owls and Major Roads" (extract), submitted by the applicant
Doc 24	Department for Education note "Education provision in garden communities", submitted by the applicant
Doc 25	Department for Education note "Securing developer contributions for education", submitted by the applicant
Doc 26	Coloured version of Mr Wilkins's Appendix 14
Doc 27	CIL Regulations Compliance Statement, submitted by the Council
Doc 28	Bundle of supporting documents submitted by Mr Lavery
Doc 29	Bundle of supporting documents submitted by Mr Poulter
Doc 30	2 Statements from Mr Dobson
Doc 31	Suggested site visit plans and itinerary
Doc 32	Copy of CD 1.26 "Response to the consultation of Natural England (dated 28 <sup>th</sup> October 2016) in relation to landscape and visual matters) – with A3 photographs
Doc 33	Summary Statement/speaking note from Mr Felstead
Doc 34	Response Statement from Mr Wilkins, on behalf of the applicant, concerning the X52 and X84 bus services
Doc 35	Response Statement and plan from Mr Wilkins, on behalf of the applicant, concerning a possible additional pedestrian refuge on the west side of the access to the western parcel of land
Doc 36	Response Statement from Mr Wilkins, on behalf of the applicant, concerning the operation of the A65 Bradford Road/Buckle Lane/Bingley Road traffic signal-controlled junction
Doc 37	Email correspondence from Mr Peter Bryson dated 19 and 20 May 2019
Doc 38	Response from Dr Tilford, on behalf of the applicant, to email correspondence from Mr Bryson dated 19 and 20 May 2019
Doc 39	Response Statement from Mr Coop, on behalf of the applicant, dated 21 May 2019, relating to matters raised by Mr Felstead

Doc 40	Online correspondence from Mr Peter Cartwright, received by the Planning Inspectorate on 14 May 2019
Doc 41	Email correspondence from Mr Simon Hoare dated 19 May 2019
Doc 42	Response from Ms Knowler, on behalf of the applicant, to email correspondence from Mr Hoare dated 19 May 2019
Doc 43	Letter from Sirius Geotechnical to Dr Tilford, dated 21 May 2019, relating to matters raised in evidence by Mr Lavery
Doc 44	Further Response Statement by Mr Baker, on behalf of the applicant, on Ecology and Habitats Regulations Assessment to the submission of Cllr Barker on 17 May 2019
Doc 45	List of Planning Conditions agreed between the Council and the applicant
Doc 46	Information Note and appendices dealing with the S106 Agreement – Affordable Housing Cascade Mechanism
Doc 47	Summary of the Draft S106 Agreement Planning Obligations
Doc 48	Signed and executed S106 Agreement
Doc 49	Erratum to statement made by Mr Felstead on 21 May 2019 (see Doc 33)
Doc 50	Closing Submissions on behalf of the Burley Objectors Group
Doc 51	Closing Submissions on behalf of the Council
Doc 52	Email correspondence from Mr Richard Askham, dated 21 May 2019
Doc 53	Further Response Statement by Mr Darley, on behalf of the applicant, to matters raised in the email from Mr Askham dated 21 May 2019
Doc 54	Email correspondence from Mr Peter Wilkinson, dated 21 May 2019
Doc 55	Email correspondence, with attachments, from Ms Jacqueline Thompson, dated 22 May 2019
Doc 56	Further Response Statement by Dr Tilford, on behalf of the applicant, to matters raised in the email from Mr Peter Wilkinson, dated 21 May 2019
Doc 57	Further Response Statement by Dr Tilford, on behalf of the applicant, to matters raised in the email from Ms Jacqueline Thompson, dated 22 May 2019
Doc 58	Further Response Statement from Mr Wilkins, on behalf of the applicant, concerning bus stops for the No 962 service close to Burley Railway Station
Doc 59	Further Response Statement from Mr Wilkins, on behalf of the applicant, concerning the X52 timetable alternative routeing in school term and non-term times
Doc 60	Closing Submissions on behalf of the applicant

### **APPENDIX C - CONDITIONS TO BE IMPOSED IF PLANNING PERMISSION IS GRANTED (50 in total)**

1. Application for approval of the reserved matters for the first Phase of the development shall be made to the local planning authority not later than 3 years from the date of this permission. Application for approval of the reserved matters for all other Phases shall be made not later than 5 years from the date of this permission. For the purposes of this permission all references to a "Phase" or "Phase of development" shall be interpreted as being a reference to a Phase as defined on the phasing plan approved or subsequently updated pursuant to this condition.

**Reason:** *To accord with the requirements of Section 92 of the Town and Country Planning Act, 1990 (as amended).*

2. The development shall be begun not later than whichever is the later of the following dates:- the expiration of 2 years from the date of approval of the last reserved matters application for the first Phase or before the expiration of 5 years from the date of this permission.

**Reason:** *To accord with the requirements of Section 92 of the Town and Country Planning Act, 1990 (as amended).*

3. Before any development in each Phase is begun plans showing the:
- a) appearance;
  - b) landscaping;
  - c) layout, including pedestrian access into and within the site, and vehicular access within the site; and
  - d) scale

for that Phase must be submitted to and approved in writing by the local planning authority. Development shall thereafter be implemented in accordance with the approved plans.

**Reason:** *To accord with Article 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.*

4. The development shall be carried out in broad accordance with the following plans:
- Drawing number 31620-301-P showing the Parameters Plan and received on the 30th November 2017;
  - Drawing number 31620 Rev A showing the Arboricultural Impact Plan A and received on the 6th December 2017;
  - Drawing number 31620 Rev A showing the Arboricultural Impact Plan B and received on the 6th December 2017;
  - Drawing number 31620 Rev A showing the Arboricultural Impact Plan C and received on the 6th December 2017;
  - Drawing number 13-215-TR-007-C showing The Proposed Ghost Island Junction Arrangement and received on the 30th November 2017;
  - Drawing number 13-215-TR-008-G showing the Western Access Roundabout Option – Taking Land from North of Ilkley Road and received on the 30th November 2017; and,
  - Drawing number 13-215-TR-009-A showing the Proposed Right Turn Ghost Island Arrangement (Western Area of Land) and received on the 30th November 2017.

**Reason:** *For the avoidance of doubt and to provide certainty.*

5. Prior to, or at the time of, submission of the first reserved matters application, a Development Framework Plan shall be submitted to and approved in writing by the local planning authority. The Development Framework Plan shall broadly accord with the plans listed in condition 4, and illustrate the following site-wide principles:
- a) Provision of a new Green Belt buffer along the site's western and southern boundary in broad accordance with the "New Green Belt buffer" demarked on the Parameters Plan (drawing ref number 31620-301-P), and pursuant to condition 44;
  - b) Provision of key green corridors and retained trees and hedgerows pursuant to condition 44;

- c) Provision for site-wide opportunities for recreation and open space, consistent with the Recreation and Open Space Strategy pursuant to Condition 35;
- d) Provision of key pedestrian access points and routes within the site, with signage as appropriate, to include:
  - A new footpath along the southern boundary of the site; and
  - A new off-road bridleway connecting Public Bridleways No. 39 and 92 (to the north of the site towards the River Wharfe and beyond) and No. 45 (to the south of the site);
- e) A hierarchy of street typologies, pursuant to condition 44;
- f) Key site townscape and streetscape features, including the identification of primary and secondary frontages and the continuity of the character of Main Street pursuant to condition 44;
- g) Incorporation of heritage features consistent with the approach to delivery of the earthwork enclosure pursuant to condition 11; and
- h) Provision of key surface drainage infrastructure, consistent with the Surface and Foul Water Drainage Strategy pursuant to Condition 19.

Thereafter development of subsequent Phases shall broadly accord with the approved Development Framework Plan. Each subsequent reserved matters application submitted pursuant to Condition 3 shall be accompanied by an updated Development Framework Plan which illustrates the development of previous Phases (approved or developed) and sets out any proposed changes from the Development Framework Plan previously approved pursuant to this Condition.

**Reason:** *To ensure that the development consistently achieves high quality design across the site in accordance with paragraphs 124, 126 and 127 of the National Planning Policy Framework and policies SC9, DS1, DS2, DS3 and DS4 in the Local Plan for Bradford.*

6. No advance infrastructure and enabling works (including but not limited to any works of demolition and/or works of a temporary nature, such as, temporary hard and/or soft landscaping or temporary vehicular routes, site remediation, archaeological investigation, earthworks and/or re-profiling of site levels) within a Phase ("Advance Infrastructure and Enabling Works") shall commence until details of the proposed Advance Infrastructure and Enabling Works have been submitted to and approved in writing by the local planning authority.

The Advance Infrastructure and Enabling Works shall be carried out in accordance with those approved details. For the avoidance of doubt, any Advance Infrastructure and Enabling Works may be undertaken prior to the submission or approval of reserved matters applications and without compliance with pre-commencement conditions 19, 20, 24, 27, 28, 29, 36, 40 and 50.

**Reason:** *To safeguard highways safety and amenity during early development activities and to accord with Policies SC9, DS1, and, DS3 of the Local Plan for Bradford.*

7. The residential development shall accommodate no more than 500 dwellings (Use Class C3).

**Reason:** *For the avoidance of doubt and to ensure no ambiguity in the decision notice over the amount of development that has been approved.*

8. As part of, or prior to, the submission of the application for reserved matters for the first Phase of development, a phasing plan setting out the proposed phasing of construction of the development across the whole site shall be submitted to and approved in writing by the local planning authority. The phasing plan shall include a programme for the layout out of the access roads into the site. Thereafter each reserved matters application for a Phase submitted pursuant to Condition 3 shall be accompanied by an updated phasing plan. The updated phasing plan shall set out any proposed changes from the phasing plan previously approved pursuant to this Condition. The development shall be carried out in accordance with the phasing plan as approved and updated or required by other conditions of this permission.

**Reason:** *To ensure the satisfactory delivery of elements of the proposed development and to accord with Policies SC9, DS1, DS2, DS3 and DS4 of the Local Plan for Bradford.*

9. Within areas outside the area identified on the Parameters Plan (drawing number 31620-301-P -P) as an "Area to come forward in accordance with the Heritage Design Brief", no development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, shall take place until a Written Scheme of Archaeological Investigation (WSI) has been submitted to and approved in writing by the local planning authority for that Phase. The WSI shall set out a staged programme of archaeological investigation and reporting across that Phase that is proportionate in scale to the identified potential for unrecorded archaeological remains (areas of highest potential being Areas 1, 5, 10 and 14 in Figure 4 of Appendix K3 of the Environmental Statement (ref 50335/JG/JCx), GSB Survey Report No. G1606, February 2016 where these fall outside the area identified on the Parameters Plan (drawing number 31620-301-P) as an "Area to come forward in accordance with the Heritage Design Brief").

Development, including Advanced Infrastructure and Enabling Works, shall be carried out in accordance with the WSI as approved and updated.

**Reason:** *To ensure preservation of archaeological remains and knowledge appropriate to significance to accord with Policy EN3 of the Local Plan for Bradford.*

10. No development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, incorporating land within the area identified on the Parameters Plan (drawing number 31620-301-P) as an "Area to come forward in accordance with the Heritage Design Brief", shall take place until a Written Scheme of Archaeological Investigation (WSI) for this area has been submitted to and approved in writing by the local planning authority. The WSI shall set out a programme for detailed investigation of this area and its immediate surroundings, against a defined research strategy and will include provision for local community participation.

Development, including Advanced Infrastructure and Enabling Works within the area identified on the Parameters Plan (drawing number 31620-301-P) as an "Area to come forward in accordance with the Heritage Design Brief", shall be carried out in accordance with the WSI as approved and updated.

**Reason:** *To ensure preservation of archaeological remains and knowledge appropriate to significance to accord with Policy EN3 of the Local Plan for Bradford.*

11. The area identified on the Parameters Plan (ref 301 rev P) as an "Area to come forward in accordance with the Heritage Design Brief" shall be brought forward in broad accordance with Sections 7 - 10 of the Roman Temporary Camp Heritage

Design Brief (November 2017), or an updated design brief incorporating the findings of the archaeological investigation pursuant to condition 10 to be approved in writing by the local planning authority. All buildings developed in the area identified on the Parameters Plan (drawing number 31620-301-P) as an "Area to come forward in accordance with the Heritage Design Brief" shall be in accordance with the approved design brief.

**Reason:** *To ensure the long-term preservation of the earthwork enclosure as an integral part of the development and to ensure that this area is developed in a way that maximises the significance of this heritage feature and reflects historic associations with the enclosure whilst still responding appropriately to local character to accord with Policy EN3 of the Local Plan for Bradford.*

12. Prior to the first occupation of dwellings within the area identified on the Parameters Plan (drawing number 31620-301-P) as an "Area to come forward in accordance with the Heritage Design Brief", a strategy for use of this area as an educational resource shall be submitted to the local planning authority. Where applicable, following the archaeological investigation pursuant to condition 10, this should include details of:
- a) Teaching materials, to include Roman and other relevant artefacts (or facsimiles) and worksheets as appropriate;
  - b) A series of interpretation panels that will be installed in the vicinity of the education facility, around the enclosure perimeter, and at strategic points on the footpath network;
  - c) A programme of activities designed to facilitate direct engagement of the school pupils with the site and its environs; and
  - d) A programme of wider local community engagement;
  - e) Development within the area identified on the Parameters Plan (drawing number 31620-301-P) as an "Area to come forward in accordance with the Heritage Design Brief" shall be in accordance with the approved education resource strategy.

**Reason:** *To maximise the exposure of the Roman Temporary Camp as an educational resource and to accord with Policy EN3 of the Local Plan for Bradford.*

13. No development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, shall take place until a Construction Emission Management Plan (CEmMP) for minimising the emission of dust, and other emissions to air, from both the site operations and associated transport movements for that Phase has been submitted to, and approved in writing by, the local planning authority. The CEmMP shall be prepared with due regard to the guidance set out in the London Best Practice Guidance on the Control of Dust and Emissions from Construction and Demolition and as a minimum it shall contain the emission mitigation measures set out in sections J6.4 to J6.51 of Chapter J of the Environmental Statement (ref 50335/JG/JCx). All development of the Phase shall be undertaken in accordance with the approved CEmMP.

**Reason:** *To protect amenity and health of the local population.*

14. Prior to first occupation of each dwelling with one or more dedicated vehicle parking spaces, that dwelling shall be provided with access to a fully operational 3 pin socket on a dedicated circuit, capable of providing a "trickle" charge to an electric vehicle. All Electric Vehicle Charging Points shall be provided either within garage space or via outdoor, weatherproof sockets within easy access of the off-road parking areas. All Electric Vehicle Charging Points shall be clearly marked with their

purpose and their purpose drawn to the attention of new residents in the travel planning advice contained within the residents' welcome pack as part of the detailed Travel Plan pursuant to condition 40.

**Reason:** *To facilitate the uptake and use of low emission vehicles by future occupants and reduce the emissions impact of traffic arising from the development in line with the Council's Low Emission Strategy and the National Planning Policy Framework.*

15. Prior to first occupation of each dwelling with non-dedicated parking, that dwelling shall be provided with Electric Vehicle Charging Points at a rate of no less than 1 per 10 communal parking spaces. This minimum requirement shall comprise access to a fully operational 3 pin socket capable of providing a "trickle" charge to an electric vehicle. All communal Electric Vehicle Charging Points shall be clearly marked with their purpose and drawn to the attention of new residents in the travel planning advice contained within the residents' welcome pack as part of the detailed Travel Plan pursuant to condition 40. The travel planning advice must include arrangements for accessing and using the communal Electric Vehicle Charging Points.

**Reason:** *To facilitate the uptake and use of low emission vehicles by future occupants and reduce the emission impact of traffic arising from the development in line with the Council's Low Emission Strategy and the National Planning Policy Framework.*

16. All other types of development (other than housing) at the site shall provide Electric Vehicle charging facilities in accordance with the requirements of the City of Bradford MDC Low Emission Strategy (August 2013). This shall include parking at the proposed education facility. Where provided, all Electric Vehicle charging facilities shall be fully operational prior to first occupation or use and its purpose fully explained within the relevant travel planning advice as part of the detailed Travel Plan pursuant to condition 40 and/or condition 41.

**Reason:** *To facilitate the uptake and use of low emission vehicles by future users of the school and reduce the emission impact of traffic arising from the development in line with the Council's Low Emission Strategy and the National Planning Policy Framework.*

17. No residential or education building shall be erected outside of the flood zone 1 as set out in Figure 4 of the Flood Risk Assessment, September 2016 (Ref: 3213/FRA/Final/v1.0).

**Reason:** *To reduce the risk of flooding to the proposed development and future occupants and to accord with Policy EN7 of the Local Plan for Bradford.*

18. No permanent building or other obstruction including landscape features shall be located over or within the following:-
- a) 5 metres either side of the centre line of the 825mm sewer i.e. a protected strip width of 10 metres; and
  - b) 4 metres either side of the centre lines of each of the 375 and 305mm sewers and the 125mm rising main i.e. protected strip widths of 8 metres per sewer/rising main;

that traverse the site (as set out on Figure 3 – Public Sewers Network of the Drainage Assessment, September 2016 (Ref: 3213/DA/Final/v1.0) (Appendix H2 of the Environmental Statement (ref 50335/JG/JCx)). If the required stand-off



distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the local planning authority that the diversion or closure has been agreed with the relevant statutory undertaker and implemented to the satisfaction of the local planning authority prior to commencing development within the stand-off distance.

**Reason:** *In order to allow sufficient access for maintenance and repair work to the public sewer at all times and to accord with Policy EN7 of the Local Plan for Bradford.*

19. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, no development of the first Phase shall commence until a surface water and foul drainage strategy for the whole site has been submitted to and approved in writing by the local planning authority. Thereafter, subsequent Phases shall proceed in broad accordance with the approved strategy, and be accompanied by an updated surface water and foul drainage strategy which sets out any proposed changes from the site-wide surface water and foul drainage strategy approved pursuant to this Condition.

**Reason:** *To ensure a comprehensive approach to site-wide foul and surface water drainage and to accord with Policy EN7 of the Local Plan for Bradford.*

20. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, no development of a Phase shall commence until a detailed scheme of the proposed means of surface water drainage for that Phase, including 2 levels of water quality treatment, have been submitted to and approved in writing by the local planning authority. Thereafter the development of that Phase shall proceed in accordance with the approved scheme for that Phase.

**Reason:** *To ensure that the site is properly drained and that surface water is appropriately discharged and to accord with Policy EN7 of the Local Plan for Bradford.*

21. The development hereby approved shall be carried out in accordance with the mitigation measures presented within Section 7 of the approved Flood Risk Assessment report (document ref: 3213/FRA/FINAL/v1.0/20Sept2016) (Appendix H1 of the Environmental Statement (ref 50335/JG/JCx)).

**Reason:** *To reduce the risk of flooding to the proposed development and future occupants and to accord with Policy EN7 of the Local Plan for Bradford.*

22. The submission of an application for approval of reserved matters for a Phase shall be accompanied by details of an assessment of the pre- and post-development fluvial flows from the unnamed watercourses that cross the site in a 1 in 100 annual probability event. The assessment shall include an allowance for climate change, and of groundwater levels, to assess the impact of the development and to third-party land and shall confirm the detailed mitigation measures pursuant to condition 21. Thereafter the development of that Phase shall be carried out in accordance with the detailed mitigation measures.

**Reason:** *To ensure that the development can be properly drained and to prevent the increased risk of flooding and to accord with Policy EN7 of the Local Plan for Bradford.*

23. No development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, shall take place until a Water Construction Environmental Management Plan (CEMP - Water) for avoiding, minimising and mitigating any

adverse effects on the water environment for that Phase has been submitted to and approved in writing by the local planning authority. The CEMP - Water shall be prepared in accordance with the mitigation measures set out in sections H6.2 to H6.11 of the Environmental Statement (ref 50335/JG/SP). All development of the Phase shall be undertaken in accordance with the approved CEMP - Water.

**Reason:** *To prevent the increased risk of flooding to the proposed development and future occupants and to accord with Policy EN7 of the Local Plan for Bradford.*

24. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, no development of a Phase shall take place until a surface water drainage maintenance and management strategy for that Phase has been submitted to, and agreed in writing by, the local planning authority. Thereafter the surface water drainage serving the Phase shall be managed in accordance with the agreed Surface Water Drainage Maintenance and Management strategy.

**Reason:** *To ensure that the development can be properly drained and to prevent the increased risk of flooding and to accord with Policy EN7 of the Local Plan for Bradford.*

25. The maximum pass forward of flow of surface water from the development shall be no greater than the peak flow rates set out in Table 4 of the Drainage Assessment report (document ref: 3213/DA/FINAL/v1.0/20Sept2016) (Appendix H2 of the Environmental Statement (ref 50335/JG/JCx)).

**Reason:** *To ensure that the site is properly drained and in order to prevent overloading and to accord with Policy EN7 of the Local Plan for Bradford.*

26. No piped discharge of surface water from the development of a Phase shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water for that Phase have been completed in accordance with details submitted to and approved in writing by the local planning authority. Surface water from vehicle parking and hard-standing areas within that Phase shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage within that Phase shall not be passed through any interceptor.

**Reason:** *To ensure that the site is properly drained and in order to prevent overloading and surface water is not discharged to the foul sewer network and to accord with Policy EN7 of the Local Plan for Bradford.*

27. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, no development of a Phase shall take place until details of the proposed means of disposal of foul water drainage for that Phase have been submitted to and approved in writing by the local planning authority. No buildings within that Phase shall be occupied or brought into use prior to completion of the approved foul drainage works.

**Reason:** *To ensure that no foul water discharges take place until proper and timely provision has been made for their disposal and to accord with Policy EN7 of the Local Plan for Bradford.*

28. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, prior to development commencing on any relevant Phase of development, a supplementary detailed site investigation and risk assessment methodology to assess the nature and extent of potential localised areas of made ground as identified on the Site Features Plan (Ref: C6793/02) contained in

Appendix A of Appendix L1 of the Environmental Statement, and the Site Features Plan (Ref: C6793A/02) contained in Appendix A of Appendix L2 of the Environmental Statement (ref 50335/JG/JCx), for that Phase shall be submitted to and approved in writing by the local planning authority. The supplementary detailed site investigation and risk assessment for that Phase shall be undertaken in accordance with the approved methodology.

**Reason:** *To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to accord with Policy EN8 of the Local Plan for Bradford.*

29. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, where necessary, prior to development of a Phase commencing, a detailed remediation strategy for that Phase, informed by the outcome of the detailed site investigation pursuant to condition 28 and which removes unacceptable risks to all identified receptors from contamination for that Phase, shall be submitted to and approved in writing by the local planning authority. The remediation strategy shall include proposals for verification of remedial works. Where necessary, the strategy shall include proposals for phasing of works and verification. Thereafter development of that Phase shall be undertaken in accordance with the agreed remediation.

**Reason:** *To ensure that the site is remediated appropriately for its intended use and to accord with Policy EN8 of the Local Plan for Bradford.*

30. A remediation verification report for each Phase of development, including quality control of soil materials and clean cover systems where necessary, prepared in accordance with the approved detailed remediation strategy approved pursuant to condition 29, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of that Phase of the development.

**Reason:** *To ensure that the site is remediated appropriately for its intended use and to accord with Policy EN8 of the Local Plan for Bradford.*

31. If, during the course of development of a Phase, contamination not previously identified is found to be present in that Phase, no further works shall be undertaken in the relevant area of that Phase and the contamination shall be reported to the local planning authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the relevant area of that Phase, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme submitted to and approved in writing by the local planning authority.

**Reason:** *To ensure that the site is remediated appropriately for its intended use and to accord with Policy EN8 of the Local Plan for Bradford.*

32. For each Phase of development involving the importation of materials, prior to materials being brought to site a methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils in that Phase shall be submitted to and approved in writing by the local planning authority. Thereafter development of that Phase shall be undertaken in accordance with the approved methodology.

**Reason:** *To ensure that all materials brought to the site are acceptable, to ensure that contamination/pollution is not brought into the development site and to accord with Policy EN8 of the Local Plan for Bradford.*

33. Construction work shall only be carried out between the hours of 0730 and 1800 on Mondays to Fridays, 0730 and 1300 on Saturdays and at no time on Sundays, Bank or Public Holidays, unless specifically agreed otherwise in writing by the local planning authority.

**Reason:** *To protect the amenity of the occupants of nearby dwellings and to accord with policies SC9, DS1, DS2, DS3, DS4, and, DS5 of the Local Plan for Bradford.*

34. No dwellings within 55m of the kerb of the A65 Ilkley Road shall be occupied until a scheme of sound insulation works for the relevant Phase has been installed. Such scheme of works shall be first submitted to and approved in writing by the local planning authority and shall:

- a) Be based on the findings of approved Noise Assessment report ref 15/0652/R1, September 2016 (Paragraph 5.4.1) (Appendix I1 of the Environmental Statement (ref 50335/JG/JCx)).
- b) Be capable of achieving the following noise levels:
  - Bedrooms: LAeq (8 hour) - 30dB - (2300 to 0700 hours);
  - Living Rooms & Bedrooms: LAeq (16 hour) - 35dB (0700 to 2300 hours);
  - Other Habitable Rooms: LAeq (16 hour) - 40dB (0700 to 2300 hours);
  - External Amenity Areas (rear gardens): LAeq (16 hour) - 55dB (0700 to 2300 hours).
- c) Where the above internal noise levels cannot be achieved with windows partially open, include a system of alternative acoustically treated ventilation to all habitable rooms.

Such works shall thereafter be retained.

**Reason:** *In the interests of residential amenity and to accord with Policies SC9, DS1, DS2, DS3, DS4, and, DS5 of the Local Plan for Bradford.*

35. As part of, or prior to, the first application for reserved matters, a site-wide recreation and open space strategy for the entire site shall be submitted to and agreed in writing by the local planning authority. The strategy should be in broad accordance with the areas of open space identified on the approved Parameters Plan (drawing number 31620-301-P) and also be in broad accordance with Section 3 of the Recreation Mitigation Strategy contained at Appendix 2 of the Shadow Habitat Regulations Assessment (Ref 383 HRA Draft 009 AB.docx) and the Development Framework Plan pursuant to condition 5. Thereafter subsequent Phases shall proceed in broad accordance with the approved strategy, and each reserved matters application submitted pursuant to Condition 3 shall be accompanied by an updated recreation and open space strategy which sets out any proposed changes from recreation and open space strategy previously approved pursuant to this Condition.

**Reason:** *To ensure adequate provision of public open space to meet the needs of future occupiers of the development and to accord with Policies SC9, DS1, and, DS3 of the Local Plan for Bradford.*

36. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, no development within a Phase shall commence until the local planning

authority has approved in writing the details of, and arrangements for, the setting out of on-site public open space as part of that Phase of the development. The on-site public open space shall broadly accord with the site-wide recreation and open space strategy pursuant to condition 35, and shall include the following matters in respect of the Phase:

- a) The delineation and siting of the proposed public open space;
- b) The type and nature of the facilities to be provided within the public open space including, where relevant, children's play provision;
- c) The arrangements to ensure that the public open space is laid out and completed during the course of the development; and
- d) The arrangements for the future maintenance of public open space.

The open space for that Phase shall be completed in accordance with the approved details and arrangements for that Phase.

**Reason:** *To ensure adequate provision of public open space to meet the needs of future occupiers of the development and to accord with Policies SC9, DS1, and, DS3 of the Local Plan for Bradford.*

37. Before any part of any Phase of the development is brought into use, the relevant proposed means of vehicular and pedestrian access hereby approved as part of that Phase shall be laid out, hard surfaced and drained in broad accordance with the approved plans listed in Condition 4 and completed to a constructional specification approved in writing by the local planning authority.

**Reason:** *To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with Policy TR1 of the Local Plan for Bradford.*

38. Notwithstanding the provision of Class A, Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation, prior to the commencement of each Phase of development, including Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, a plan specifying arrangements for the management of the construction site for that Phase shall be submitted to and approved in writing by the local planning authority. The construction plan for that Phase shall include the following details as appropriate:

- a) full details of the contractor's temporary means of access to the site;
- b) hours of delivery of materials;
- c) location of site management offices and/or sales office;
- d) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;
- e) car parking areas for construction workers, sales staff and customers;
- f) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas and the construction depths of these accesses, their levels and gradients;
- g) temporary warning and direction signing on the approaches to the site

The construction plan details as approved shall be implemented before the development of that Phase is begun and shall be kept in place, operated and adhered to at all times until the development of that Phase is completed. In addition, no vehicles involved in the construction of the development of that Phase shall enter or leave the site of the development of that Phase except via the temporary means of access within the approved construction plan for that Phase.

**Reason:** *To ensure the provision of proper site construction facilities in the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies TR1, TR3, DS4, and, DS5 of the Local Plan for Bradford.*

39. The developer shall prevent any mud, dirt or debris being carried on to the adjoining highway as a result of the site construction works. No development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, shall take place until details of such preventative measures have been submitted to and approved in writing by the local planning authority and the measures so approved shall be implemented and remain in place for the duration of construction works on that Phase.

**Reason:** *In the interests of highway safety and to accord with policies DS4, and, DS5 of the Local Plan for Bradford.*

40. Save for any Advance Infrastructure and Enabling Works approved pursuant to Condition 6, prior to the commencement of any Phase of residential development, a detailed Travel Plan for that Phase which is in broad accordance with the Bryan G Hall Framework Travel Plan dated September 2016 (Ref: 13-215-005.03) (Appendix E2 of the Environmental Statement (ref 50335/JG/JCx)), and finalises the travel plan measures to be put in place for that Phase shall be submitted to and approved in writing by the local planning authority. The detailed Travel Plan for that Phase shall include reference to Travel Plan measures to be set out within the residents' welcome packs. The detailed Travel Plan for that Phase shall thereafter be carried out and operated as approved.

**Reason:** *To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy WD1 of the Local Plan for Bradford.*

41. Within 6 months of the occupation of the school, a detailed School Travel Plan which is in broad accordance with the Bryan G Hall Framework Travel Plan dated September 2016 (Ref: 13-215-005.03) (Appendix E2 of the Environmental Statement (ref 50335/JG/JCx)), and finalises the travel plan measures to be put in place for the school shall be submitted to and approved in writing by the local planning authority. The School Detailed Travel Plan shall thereafter be carried out and operated as approved.

**Reason:** *To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion and demand for on street parking in the locality, in the interests of pedestrian and highway safety and to accord with Policy WD1 of the Local Plan for Bradford.*

42. No development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, shall take place, nor shall any materials or machinery be brought on to the site, nor any works carried out to any trees that are to be retained in that Phase, until tree protection fencing and other tree protection measures for that Phase, are installed in strict accordance with an arboricultural method statement or tree protection plan to BS5837:2012 which has been approved in writing by the local planning authority. Such measures shall include arrangements for the supervision and monitoring of those approved measures by a suitably qualified and pre-appointed tree specialist, at regular and frequent intervals throughout the duration of the development of that Phase. The

development of that Phase shall not begin until the local planning authority has inspected and given its written approval confirming that the agreed tree protection measures for that Phase are in place in accordance with the submitted details.

**Reason:** *To ensure that trees are adequately protected prior to development activity beginning on the site which would otherwise harm trees to the detriment of visual amenity and to accord with Policy EN5 of the Bradford Local Plan Core Strategy.*

43. The tree protection measures for each Phase of development approved pursuant to condition 42 shall remain in place, and shall not be moved, removed or altered for the duration of the development of that Phase without the written consent of the local planning authority. There shall also be no excavations, engineering or landscaping work, service runs, or installations, and no materials shall be stored within any construction exclusion zones or tree protection areas of that Phase without the written consent of the local planning authority.

**Reason:** *To ensure that trees are adequately protected during development activity on the site which would otherwise harm trees to the detriment of visual amenity. To accord with Policy EN5 of the Bradford Local Plan Core Strategy.*

44. The development hereby permitted shall be carried out in broad accordance with the Parameter Plan (drawing ref number 31620-301-P) and the principles set out in the Strategic Site Design Principles (p71-76), Incorporating Heritage Features (p79-80), Street Typology (p81-82), Green Infrastructure, Landscape and Play Strategy (p83-86), Creating Characterful Streets & Spaces (p87-104), and Design Parameters (p111-112) in the Design and Access Statement dated September 2016.

**Reason:** *To ensure that the development achieves high quality design and is in accordance with paragraphs 124, 126 and 127 of the National Planning Policy Framework and policies SC9, DS1, DS2, DS3 and DS4 in the Local Plan for Bradford.*

45. As part of the submission of the first reserved matters application, the applicant shall submit a report setting out progress with the timescales and mechanism for delivery of an education facility on the site. The submitted report shall specifically set out a timetable for all required actions and shall detail and assign individual responsibilities for the applicant/s and any other relevant party involved in the school delivery process. Updates of this report (including the continual setting of the required timetable and assignment of delivery responsibilities) shall be provided as part of subsequent reserved matters applications for a Phase of development, until the point of delivery of the education facility.

**Reason:** *To ensure the delivery of the school and to accord with Policies P1, SC1 and SC5 of the Local Plan for Bradford.*

46. No development of a Phase, including Advanced Infrastructure and Enabling Works pursuant to Condition 6, shall take place until a construction environmental management plan (CEMP - Biodiversity) for that Phase has been submitted to and approved in writing by the local planning authority. The CEMP – Biodiversity for that Phase shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones" around features to be retained (e.g. mature trees, grasslands, hedgerows).

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of site clearance works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP - Biodiversity for that Phase shall be adhered to and implemented throughout the construction period for that Phase strictly in accordance with the approved details.

**Reason:** *To ensure that retained habitats and features such as mature trees and orchids are protected during the construction.*

47. No development of a Phase shall take place until an Ecological Design Strategy (EDS) for the implementation of the relevant mitigation and recommendations as set out in Chapter F of the Environmental Statement (ref 50335/JG/JCx) for that Phase has been submitted to and approved in writing by the local planning authority. The EDS for that Phase shall include the following:
- a) Purpose and conservation objectives of the EDS including delivery of new habitats to include grasslands, ponds and hedgerows and tree belts.
  - b) Review of site ecological potential and constraints.
  - c) Detailed design(s) and/or works and/or working methods to achieve stated objectives.
  - d) Type and source of materials to be used where appropriate, eg native species of local provenance.
  - e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
  - f) Persons responsible for implementing the works.
  - g) Details of aftercare.
  - h) Details for disposal of any wastes arising from the works.
  - i) A lighting strategy to create "dark" corridors through the site suitable for commuting bats.

The approved EDS shall be implemented in accordance with the approved details.

**Reason:** *To ensure that a satisfactory level of ecological mitigation is secured and biodiversity gains within the development site are realised, to ensure that sufficient provision is made for dog walkers within the site to divert recreation pressure away from the South Pennine Moors SAC/SPA.*

48. Prior to the first occupation of any dwelling of a Phase of the development, a landscape and ecological management plan (LEMP) for that Phase shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP for that Phase shall include the following:
- a) Description and evaluation of features within the development site to be managed.
  - b) Ecological trends and constraints on site that might influence management.



- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring of green infrastructure and remedial measures.
- i) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

The approved plan will be implemented in accordance with the approved details.

**Reason:** *To ensure that management of landscape design and biodiversity gains within the development site is secured in the long term.*

49. Prior to the first occupation of each dwelling, that dwelling shall be provided with a residents' pack containing information about the conservation value of the South Pennine Moors SPA/SAC and SSSI; Sun Lane Local Nature Reserve; and clear signposting to the recreational opportunities (including dog walking) within the development site and how these relate to the wider public rights of way and access network. Within 6 months of the occupation of the final dwelling, the applicant will submit full details of compliance with this condition. The details shall include a copy of the residents' pack, a list of all dwellings notified, and the date on which the pack was provided.

**Reason:** *To assist (in combination with other measures) in the mitigation of potential recreational impacts upon the South Pennine Moors SPA/SAC.*

50. Save for any Advanced Infrastructure and Enabling Works approved pursuant to Condition 6, no development of a Phase shall commence until details of the bus stop infrastructure for the whole site have been submitted to and approved in writing by the local planning authority. The bus stop infrastructure within that Phase shall be implemented in accordance with a timetable to be submitted to and approved in writing by the local planning authority. Thereafter subsequent Phases which contain bus stop infrastructure shall be implemented in accordance with the approved details, and accompanied by updated details of bus stop infrastructure which sets out any proposed changes from the previously approved bus stop infrastructure for the whole site.

**Reason:** *To promote sustainable travel options, minimise reliance on the private car and reduce traffic congestion to accord with Policy WD1 of the Local Plan for Bradford.*

**APPENDIX D - LIST OF ABBREVIATIONS**

ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
CA	Conservation Area
CBMDC	the City of Bradford Metropolitan District Council
CD	Core Document
CIL	Community Infrastructure Levy
DAS	Design and Access Statement
DEFRA	Department for Environment, Food and Rural Affairs
DFP	Development Framework Plan
DfT	Department for Transport
Doc	Document
DPD	Development Plan Document
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
FE	Form of entry
FRA	Flood Risk Assessment
FTE	Full Time Equivalent
FTP	Framework Travel Plan
GVA	Gross Value Added
ha	hectare
HE	Historic England
HGV	heavy goods vehicle
HLS	Housing Land Supply
HRA	Habitats Regulations Assessment
IGS	Ilkley Grammar School
km	kilometre
LCT	Landscape Character Type
LDF	Local Development Framework
LDS	Local Development Scheme
LEMP	Landscape and Ecological Management Plan
LLFA	Lead Local Flood Authority
LNR	Local Nature Reserve
LPCS	the Bradford Local Plan Core Strategy 2013-2030
LVIA	Landscape and Visual Impact Assessment
m	metre
NE	Natural England
NP	Neighbourhood Plan
NPPF	the National Planning Policy Framework
PAA	Primary Admission Area
Para	Paragraph
PFRA	Preliminary Flood Risk Assessment
PIM	Pre-Inquiry Meeting
PPG	Planning Practice Guidance
PAA	Priority Admission Area
PRoW	Public Right of Way
PSDP	Primary School Delivery Partnership
RUDP	Replacement Unitary Development Plan

S106	Section 106
SAC	Special Area of Conservation
SHLAA	Strategic Housing Land Availability Assessment
sHRA	Shadow Habitats Regulations Assessment
SoCG	Statement of Common Ground
SoS	Secretary of State for Housing, Communities and Local Government
SPA	Special Protection Area
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
TA	Transport Assessment
TEMPRO	Trip End Model Presentation Program
the 1990 Act	the Town and Country Planning Act 1990
the 2004 Act	the Planning and Compulsory Purchase Act 2004
the 2017 Regulations	the Conservation of Habitats and Species Regulations 2017
the Applicant	CEG Land Promotions Ltd
the Council	the City of Bradford Metropolitan District Council
the Framework	the National Planning Policy Framework
the Habitat Regulations	the Conservation of Habitats and Species Regulations 2017
the Objectors Group	The Burley Objectors Group
the Site	the application site
WYCA	West Yorkshire Combined Authority
WYJS	West Yorkshire Joint Services



# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.