Department for Communities and Local Government

Mr Michael Braithwaite
Robert Doughty Consultancy Ltd
32 High Street
Helpringham
SLEAFORD
Lincolnshire
NG34 0RA

Our ref: APP/N2535/W/16/3146208
Your ref: 606 10A

06 July 2017

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY GIN PROPERTY LTD
LAND AT RYLAND ROAD, DUNHOLME, LINCOLN, LN2 3NE
APPLICATION REF: 132726

1. I am directed by the Secretary of State to say that consideration has been given to the report of Y Wright BSc(Hons) DipTP DMS MSc MRTPI, who held a public local inquiry on 13-15 September 2016 into your client's appeal against the failure of West Lindsey District Council ("the Council") to determine your client's application for outline planning permission for a proposed residential development of up to 65 no. dwellings to include public open space, affordable housing and staff car park for St Chad's Primary School, in accordance with application ref: 132726, dated 27 February 2015.
2. On 26 September 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and outline planning permission refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to dismiss the appeal and 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.

Matters arising since the close of the inquiry

5. On 13 January 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on further information relating to the Dunholme Neighbourhood Plan (DNP) received from the Council, together with the Written Ministerial Statement (WMS) on 'Neighbourhood Planning' which was laid in Parliament on 12 December 2016. The responses received were circulated to the main parties on 16 February 2017.

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The Secretary of State then wrote to the main parties on 24 March 2017 to afford them an opportunity to comment on the publication of the Schedule of Post-Submission Main Modifications to the emerging Central Lincolnshire Local Plan (CLLP); and he wrote again on 25 April 2017 confirming the publication of the final Inspectors' Report on the CLLP.

6. Representations were received from your company on behalf of the appellants on 8 February, 20 February and 17 March 2017; from the Council on 9 February, 23 February and 28 March 2017; and from Dunholme St Chads CofE Primary School on 2 February and 7 February 2017. Copies of all the correspondence received may be obtained on written request to the address at the foot of the first page of this letter. The Secretary of State is satisfied that no further issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back.

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 CLLP, adopted on 24 April 2017, the DNP made on 23 January 2017, and the Welton-by-Lincoln Neighbourhood Plan (WNP) made on 5 September 2016. The Secretary of State considers that the development plan policies of most relevance to this case are CLLP policy LP22, DNP policy 11 and WNP policy EN4. These policies are all aimed at preventing the physical merging of settlements, preserving their separate identity, local character and historic character and protecting the open and rural character of the land between settlements.

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'); the Written Ministerial Statement on Neighbourhood Planning of December 2016; and the final report by the CLLP Examining Inspectors.

Main issues

10. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 201.

The 5 year housing land supply

11. As the final Examining Inspectors' Report into the CLLP has been published and the CLLP has been adopted since the inquiry into the appeal closed, the Secretary of State has given careful consideration to that report and to the responses received from the parties to this appeal. In particular he has taken account of the conclusion in paragraph 228 of that report that, although there is a five year housing requirement of 10,141 (2,028 dpa), there is a good prospect of an up-to-date supply of specific deliverable sites sufficient to provide 5 years' worth of housing against the requirements of the plan upon adoption. On that basis, and given the subsequent adoption of the CLLP, the Secretary of State is satisfied that there is a 5 year housing land supply across the CLLP and he gives no weight to the appeal Inspector's conclusions on the 5 year housing land supply as set out at IR219-243.

Effect on the undeveloped break between Dunholme and Welton

12. The Secretary of State has considered carefully the Inspector's assessment of the effect of the appeal scheme on the undeveloped break between the villages of Dunholme and Welton (IR202-218). He notes in particular that the appeal site forms one of only two fields on the western side of Ryland Road that separate Dunholme and Welton (IR204), and that the site forms an integral part of the undeveloped break that is seen and experienced when travelling between the two settlements and from the nearby public footpaths (IR207).

13. He also agrees with the Inspector's view (IR211) that, whilst the proposed scheme would not result in the two villages actually merging and there would continue to be a degree of visual separation because of the existing and proposed trees and hedgerows, the overall perception would be a distinct narrowing of the gap due to the loss of the vast majority of the field to development. Overall, therefore, the Secretary of State agrees with the Inspector at IR217 that the proposed development would result in significant and harmful permanent erosion of the undeveloped break. It would create an incongruous addition to the settlement, reducing the gap between the villages and increasing the perception that the villages were close to merging, and so would not accord with CLLP Policy LP22, WNP policy EN4 and DNP Policy 11. The Secretary of State gives significant weight to this consideration against the scheme.

Other Matters

14. Given that, in the light of the adoption of the CLLP, the Secretary of State is satisfied that a 5 year housing land supply has been demonstrated, he gives only moderate weight to the ability of the scheme to help to satisfy the unmet need for affordable housing (IR244). Furthermore, he agrees with the Inspector that the other social and environmental benefits to which she refers at IR245 should also be afforded moderate weight.

15. The Secretary of State also notes at IR248 that, although concerns relating to the impact on local infrastructure have been expressed by local residents, relevant infrastructure providers have not objected, albeit subject in some cases to the provision of planning obligations. Similarly, he agrees with the Inspector that the concerns considered at IR 249 could be addressed by the imposition of suitable conditions or through careful consideration of design at the detailed reserved matters stage.

Planning conditions

16. The Secretary of State has given consideration to the Inspector's analysis at IR195-199, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

17. Having had regard to the Inspector's analysis at IR185-193, the planning obligation and paragraphs 203-205 of the Framework, the Secretary of State agrees with the Inspector's conclusion at IR194. He is satisfied that the obligation complies with Regulation122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to

make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusions

18. For the reasons given above, the Secretary of State considers that the scheme is not in accordance with Policy LP22 of the CLLP, Policy EN4 of the WNP or Policy 11 of the DNP and is not in accordance with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

19. Whilst the Secretary of State notes that the appeal scheme would provide economic and social benefits through the provision of market and affordable housing, he agrees with the Inspector that the environmental harm which would be caused by breaching the undeveloped break between the settlements significantly and demonstrably outweighs these benefits.

20. Overall, the Secretary of State is satisfied that the Council can now demonstrate a 5 year housing land supply, Thus, having regard to the conflict with the development plan as a whole and taking account of paragraph 198 of the Framework, the Secretary of State concludes that insufficient weight can be given to other material considerations to indicate that permission should be granted.

Formal decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline planning permission for a proposed residential development of up to 65 no. dwellings to include public open space, affordable housing and staff car park for St Chad's Primary School, in accordance with application ref: 132726, dated 27 February 2015.

Right to challenge the decision

22. 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.

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

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Y Wright BSc (Hons) DipTP DMS MSc MRTPI

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

Date: 25 November 2016

TOWN AND COUNTRY PLANNING ACT 1990

WEST LINDSEY DISTRICT COUNCIL

APPEAL MADE BY

GIN PROPERTY LTD

Inquiry held on 13, 14 and 15 September 2016; site visit made on 15 September 2016

Ryland Road, Dunholme, Lincoln LN2 3NE

File Ref: APP/N2535/W/16/3146208

Abbreviations

5YHLS	5 year housing land supply
CLLP	Central Lincolnshire Local Plan
DNP	Dunholme Neighbourhood Plan
dpa	dwellings per annum
Framework	National Planning Policy Framework
ha	hectares
LCA	Landscape character assessment
LPA	Local planning authority
LVIA	Landscape and visual impact assessment
NP	Neighbourhood Plan
OAN	Objectively assessed need
PPG	Planning Practice Guidance
SHLAA	Strategic housing land availability assessment
SHMAA	Strategic housing market area assessment
SoCG	Statement of common ground
SoS	Secretary of State
WLLP	West Lindsey Local Plan First Review
WNP	Welton-by-Lincoln Neighbourhood Plan

File Ref: APP/N2535/W/16/3146208
Ryland Road, Dunholme, Lincoln LN2 3NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gin Property Ltd against West Lindsey District Council.
- The application Ref 132726 is dated 27 February 2015.
- The development proposed is outline planning application for proposed residential development of up to 65 no. dwellings, to include public open space, affordable housing and staff car park for St Chad's Primary School – access to be considered and not reserved for subsequent applications - resubmission of 131516.

Summary of Recommendation: The appeal be dismissed and outline planning permission for residential development of up to 65 no. dwellings, to include public open space, affordable housing and staff car park for St Chad's Primary School at Ryland Road, Dunholme, Lincoln LN2 3NE be refused.

Procedural Matters

1. Determination of the appeal was recovered by the Secretary of State by way of a direction dated 26 September 2016. The reason for this direction is that "*the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made*".

2. Mr Stuart Tym, Solicitor at West Lindsey District Council addressed the Inquiry to provide additional information regarding the Council's request for the provisions set out in the planning obligation (IQ21).

3. The application was submitted in outline with all matters except for access reserved for future determination, though an illustrative layout was also provided.

4. The description of the development as set out above is that agreed between the main parties following submission of the planning application.

5. The appeal was made on the grounds of non-determination. The Council states that had it been in a position to determine the application, it would have refused planning permission on the grounds that "*The development would take place in the narrow undeveloped break between the settlements of Dunholme and Welton. The development would be a perceptible and permanent intrusion within the gap that would lead to the perception of coalescence and significantly harm the character and setting of the two villages. This would significantly undermine the objective and principle of STRAT13 of the West Lindsey Local Plan First Review. It is concluded that this severe harm would outweigh the benefits of development, and that the development does not therefore meet the Framework presumption in favour of sustainable development.*"

6. A planning obligation in the form of a section 106 agreement between the Appellant, West Lindsey District Council and Lincolnshire County Council was submitted pursuant to section 106 of the Town and Country Planning Act 1990. I deal with its contents later in my report.

7. The Inquiry sat for 3 days on 13-15 September 2016. I carried out an unaccompanied site visit of the surrounding area before the Inquiry commenced and I conducted an accompanied site visit on 15 September 2016.

The Site and Surroundings

8. The site is located outside the development boundary but on the northern edge of the village of Dunholme, a settlement that lies north east of the city of Lincoln. The settlement has in excess of 3.500 inhabitants (2011 Census).

9. The application site is an agricultural field, not in current active use, approximately 4.5 hectares in extent. The site is more or less rectangular in shape, except for the easternmost part which wraps around 3 sides of an existing small housing development known as Cottingham Court. This consists of 5 detached dwellings on a site of former farm buildings. Ryland Road runs along the eastern boundary of the site. There is existing residential development on the eastern side of Ryland Road. These are predominantly bungalows set back from the road by around 20 metres (m). These houses and those in Cottingham Court are within the defined settlement boundary.

10. The site's southern boundary is interspersed with hedgerow planting beyond which are residential properties. To the west beyond the mature hedgerow boundary is a larger open field in agricultural use and to the north lies another agricultural field. The site is accessed via a traditional field gate in the north-eastern corner of the site. There is a wooded copse within the site located in this corner. The site is flat and except for the copse of trees within the north eastern part of the site the field itself is featureless. A telegraph line traverses the site.

11. A public footpath (Dunh/170/1) runs between 36 and 38 Ryland Road on the opposite side of Ryland Road to the site. Public footpath Dunh/169/1 runs in a broadly east-west direction approximately 150m north of the site along the northern boundary of the adjacent field. Public footpath Dunh/785/1 runs in a north-south direction around 250m to the west on the opposite side of the open agricultural field.

12. The site is around 280m south of the local shopping centre including a convenience store in Welton. There is also a cooperative store in Dunholme. The St Chads Church of England Primary School is located on the opposite side of the road from the site to the south and in close proximity to the proposed car park. The William Farr Secondary School is located to the west of the site between the 2 settlements. There are bus stops on Ryland Road just beyond the school to the south and just before the convenience store in Welton to the north.

Planning Policy

The Development Plan

13. The development plan for the area is the West Lindsey Local Plan First Review (2006) (WLLP). This designates Dunholme as a Primary Rural Settlement. All relevant policies are listed in the Statement of Common Ground (SoCG)[1]. It is agreed that the most relevant WLLP saved policies are STRAT12 and STRAT13.

[1] IQ2

14. Policy STRAT12 defines areas outside the built-up area boundaries as countryside where development will not be permitted other than in specific circumstances including for agriculture, horticulture, forestry, mineral extraction or other land use which necessarily requires a countryside location.

15. Policy STRAT13 defines undeveloped breaks between settlements and green wedges around Lincoln. It allocates the site as part of an "undeveloped break" between Dunholme and Welton. This policy does not permit development if it would detract from the open rural character of undeveloped land which provides the open breaks, maintains the physical identity or prevents the coalescence of settlements. It also states that within these areas development will be refused unless it is essential for agricultural or other countryside uses and cannot be located elsewhere. Where development is permitted it must not cause harm to the character of the area, nor detract from the historic or landscape setting of settlements. It also includes not encroaching on open spaces or green wedges that preserve links between built-up areas within the countryside.

Emerging Central Lincolnshire Local Plan

16. The Local Plan is to be replaced by the Central Lincolnshire Local Plan (CLLP) in due course. This is being produced by the Central Lincolnshire Joint Strategic Planning Committee which was set up by statute in 2009. The CLLP was submitted to the Secretary of State for examination in June 2016. The hearing sessions commenced in November 2016.

17. The site is proposed to be designated as part of a green wedge in the emerging Local Plan under Policy LP22. This policy also proposes to extend the size of this green wedge eastwards. It sets out the functions and aims of green wedges. It indicates that development will not be granted planning permission unless it can be demonstrated that it would not be contrary to or detrimental to these functions and aims and provides a number of development criteria to be met.

Neighbourhood plans

18. The Welton-by-Lincoln Neighbourhood Plan (WNP) was 'made' in July 2016. It includes Policy EN4 which defines an area of green wedge between Dunholme and Welton. This policy states that development that would detract from the purpose of the green wedge, which is to protect the open and rural character of the land and prevent coalescence of the settlements, will not be supported.

19. However it is agreed between the parties that the site and the green wedge are not situated within the WNP area.

20. The Dunholme Neighbourhood Plan (DNP) is an emerging neighbourhood plan which was formally submitted to the Council in September 2016 for its Regulation 16 consultation. It includes Policy 11 which is the same as the WNP Policy EN4, in that it defines and protects an area of green wedge between the two settlements. Both the site and green wedge lie within the DNP area.

Planning History

21. The appeal proposal is a resubmission of an earlier planning application (Council ref: 131516) which was refused planning permission under delegated powers in October 2014.

22. Previous to this, planning permission was granted for the erection of an agricultural field access in 2013 and was refused for the erection of a stable in 1999. An application for a single dwelling within the site was refused planning permission in 1998 and dismissed at appeal in 1999.

The Proposals

23. The application proposes residential development of up to 65 dwellings to include 25% affordable housing (up to 17 dwellings), along with associated public open space and a staff car park for St Chad's Primary School.

24. The main access would be taken from Ryland Road in the position of the existing field gate, with additional pedestrian accesses from Ryland Road adjacent to the proposed staff car park which is indicated in the south eastern corner of the site. The application form indicates that all matters of detail other than access are reserved for future determination.

25. Whilst the appellant clarified at the Inquiry that details shown on the appeal site drawing are for illustrative purposes only, areas of public open space are shown along the northern edge and existing boundary vegetation would be maintained and enhanced. In addition the indicative masterplan shows the potential for 7 lower height properties on the western part of the site and a pond adjacent to the vehicular access point. References are also made on the indicative masterplan to a noise attenuation fence to the north of No 3 Cottingham Court and the northern boundary of the proposed car park.

26. The application is supported by a range of additional studies that are listed in the SoCG. These include a design and access statement and assessments in respect of transport, ecology, arboriculture, flood risk, archaeology, landscape, noise and contamination.

27. The drawings indicate a residential development across the site with a single point of access in the position of the existing field gate. Areas of public open space are shown at the southern end and along the eastern edge. The existing boundary vegetation would be maintained and enhanced, with wildlife planted areas in the north-west and south-east corners. The affordable housing units would be distributed around the development. A new footpath link from the access point would be provided to the village centre.

Other Agreed Facts

28. The SoCG describes the site, the proposal and the policy context and sets out areas of agreement between the main parties.

29. There is agreement that Dunholme is a suitable and sustainable location for proportionate housing growth and that the site lies outside but adjacent to the defined development boundary of Dunholme within an undeveloped break between settlements (WLLP STRAT13).

30. In relation to local infrastructure requirements there is also agreement that there is a shortfall in the capacity of local schools and a contribution towards secondary education provision is required. Both parties also agree that a contribution towards primary health care provision is necessary. No further infrastructure is required that would apply to this site. The full planning obligations are discussed later in my report.

31. The parties agree that the application site covers 4.5 hectares (ha) and the application seeks permission for up to 65 dwellings and approximately 1.1 ha of open space, which would amount to 19 dwellings per hectare (dph) on the development site. The density of development is not in dispute.

32. In terms of other matters the parties agree that the appeal site is not a designated wildlife site or site of nature conservation importance. The Extended Phase 1 Ecological Appraisal and Hedgerow Survey, submitted with the planning application, has revealed little biodiversity value within the site and indicates that no significant habitat is likely to be lost or significantly impacted by the proposal. It also states there is no evidence to suggest protected species are present on the site.

33. The boundary hedgerows are to be largely retained, except where the pedestrian and vehicular access points are to be provided and reinforced within the development proposal and, therefore, their ecological value in terms of species present and the potential to provide foraging and access for wildlife will be maintained. The provision of the public open space, gardens, the watercourse and retention of hedges and trees within the scheme has the potential to enhance biodiversity interests in and around the site. There is no objection to the appeal proposals on ecological grounds.

34. The parties agree that the appeal site is within Flood Zone 1 on the Environment Agency's Flood Maps, and would therefore meet the Framework's sequential test. It is agreed that there is potential for the appeal proposal to utilise a sustainable drainage system, which can be agreed by condition. There is no objection to the appeal proposals on flood risk or drainage grounds, subject to the imposition of suitable planning conditions.

35. It is agreed that the supply of additional market housing should be given significant weight. There is also agreement that the proposal to provide 25% (up to 17 no dwellings) affordable housing would be in accordance with policy, that this should be afforded significant weight and that it would make a significant contribution to the unmet affordable housing needs in Central Lincolnshire.

36. Whilst the exact mix of house types can be determined at the reserved matters stage, it is agreed that the Appellant has demonstrated that there could be a good mix of housing achieved on the site.

37. The parties agree that the archaeological evaluation in the form of a geophysical survey does not identify any archaeological potential for this site and no further investigation would be required.

38. In relation to highway matters it is agreed that the site is accessible by public transport users, pedestrians and cyclists and that there is no objection from the Highway Authority to the appeal proposals.

39. The parties also agree that the noise attenuation measures in the form of acoustic barriers, would address previous Council concerns regarding the effect of the development on the living conditions of occupiers of neighbouring dwellings.

The Case for West Lindsey District Council

40. The summary of case now set out is based on the Council's closing submissions, with references given to relevant sources.

Five year housing land supply

41. The LPA, as part of the Central Lincolnshire Joint Planning Area is able to demonstrate a five year supply of housing land. The CLLP is at an advanced stage and much of the evidence produced to this inquiry regarding the five year supply and the methodology underpinning it will be the subject of full scrutiny by the local plan inspectors at the examination of that plan and due for adoption in early 2017.

The requirement

42. The evidence shows that the requirement for the five year period is calculated as being 7700 dwellings (1540 dwellings per annum). Once the shortfall from earlier in the plan period (2425 dwellings) and the expected shortfall for 2016/17 (427 dwellings) is added in, plus a 20% buffer, the total requirement for the next five years becomes 12,092 dwellings (2418 per annum).

43. The only challenge to this target made by the Appellant was that it had not yet been the subject of examination. Mr Braithwaite's written evidence, however, does not engage with the requisite National Planning Policy Framework (the Framework) paragraph 216 exercise before reaching the conclusion that the requirement should not be afforded weight. In any event, Mr Braithwaite adopts the Council's target within his own calculations[2].

44. Had Mr Braithwaite properly carried out the paragraph 216 exercise, he ought to have reached the view that: (1) the plan is at an advanced stage, (2) the requirement is the subject of little meaningful opposition and (3) the evidence demonstrates that the requirement figure was arrived at via a methodology which is demonstrably compliant with the PPG and Framework. As such, substantial weight may be afforded to the housing figures derived from the SHMA and used in the Council's evidence.

45. In cross examination, it was suggested to Mr Hylton that the CLLP Inspector may choose to take the higher end of the range proposed in the SHMA. Quite rightly, Mr Hylton accepted that the CLLP Inspector may do so. However, the assumptions made by the Council in calculating the requirement are not erroneous. On a number of the assumptions relating to supply criticised by the Appellant different inspectors have taken different views and there is a notable lack of consistency with both parties being able to point to Inspector's decisions which support their contention. However, the only meaningful criticism of the requirement was that it has not been adopted.

46. However, this does not create uncertainty so that this Inspector should be dissuaded from attaching weight to the requirement figure. Set against this, the Inspector has before her the full rationale provided by the Council for choosing the mid line target from the potential range provided by their consultants preparing the SHMA. In particular, page 13 of the CLLP itself sets out why a lower figure would still meet the housing requirements, a higher figure would be inappropriate and thus a mid-range figure has been justifiably chosen[3]. Moreover, the plan was written flexibly by setting aside future growth areas

[2] Mr Braithwaite's proof of evidence Appendix G
[3] CD5 - CLLP page 13, paragraphs 3.3.3 to 3.3.6

which could come forward in line with the plan should the higher job forecasts prove to be accurate.

The supply

47. The Appellant makes no criticisms of the Council's supply based on any site specific evidence. The SHLAA sites are not attacked by the Appellant. Instead, the Appellant makes a number of higher level criticisms of the Council's methodology. However, the Council sought to meet the case as it was put by the Appellant. In particular, My Hylton notes at paragraph 2.3 that his evidence was directed at meeting the criticisms levelled at the supply position by the Appellant and that should the Appellant seek to make any further or alternative criticisms, further evidence would be provided to rebut these assertions.

48. The Appellant provided no rebuttal evidence making any points as to five year supply and no site specific evidence has at any point been provided. Accordingly, the only evidence on supply available to this inquiry, aside from assertions as to methodological approach, is that provided by the Council. Each specific criticism is addressed in turn below.

49. *Applying the buffer to the backlog:* The Council's evidence sets out why this is not considered to be a requirement[4]. In particular, the Framework's requirement is to front load the supply which would come forward in any event later in the plan period. Applying a buffer to the requirement makes sense in this context but, as set out within the September 2016 HLS report, by applying the Sedgefield approach the Council is already bringing forward additional dwellings to within the five year period from later in the plan period. To apply Sedgefield and the 20% buffer to this backlog would represent an unsustainable level of front loading of the supply.

50. The Appellant's written evidence merely suggests that as some Inspectors have followed this approach then it should be taken up on this appeal. That is an insufficient basis for departing from the Council's thorough and considered methodology and the CLLP 5 year supply report[5]. In any event, even if the Appellant was correct on this point, the Council would still be able to deliver 5.02 years of supply.

51. *The shortfall before the plan period:* The Appellant raises a general query as to the extent of the shortfall prior to the current plan period[6]. As set out within the SHMA[7], it is established that it is not appropriate to seek to apply shortfalls from other plan periods. This point was unchallenged during the Inquiry.

52. *The five year period* – The Appellant criticises the Council's choice of 5 year period but this point was not challenged during the inquiry. In so far as the Appellant asserts that this imports an additional element of uncertainty, Mr Hylton has been candid in his acceptance of a shortfall for the current year and the additional time generated by this approach in fact allows the Council a longer time in which to make good that shortfall.

[4] Mr Hylton's proof of evidence paragraph 5.20 and Appendix G
[5] IQ6
[6] Mr Braithwaite's proof of evidence paragraph 5.28
[7] CD13 p.74

53. *Emerging allocations*: Again, the Appellant provides no written evidence to substantiate the point that emerging allocations should be discounted from the supply. The Appellant raises Wainhomes[8] but fails to engage with the judgment in that case wherein it was made plain that weight to be attached to emerging allocations is dependent upon the site specific evidence available. The Court in Wainhomes and St Modwen[9] is clear that there is no 'in principle' basis for not counting emerging allocations as part of a five year supply trajectory. It was only at the inquiry itself that, for the first time, the level of objections to allocations was considered.

54. Paragraph 34(iv) of Wainhomes states that an inspector is:

    a) Likely to require (not "must demand")

    b) Significant site specific evidence that the sites are:

        i) Suitably located for development[10]

        ii) Achievable with a realistic prospect of delivery in 5 years[11].

55. Appendix A[12] sets out the rationale for why sites are considered to be developable and proceeds to allocate preferred sites for the plan period. Appendix I[13] and IQ15 then provides the further gloss on this as to which sites are relied upon for the five year supply with and without objections and the nature of those objections. The Council has removed those sites that are considered not to be deliverable.

56. It must also be remembered that local plan allocations are frequently the subject of objections by competing landowners seeking to have their sites allocated in preference to others, so the mere existence of an objection, it is submitted, is insufficient to render the site "undeliverable". Indeed, that is not the approach taken in Wainhomes which makes it clear that the nature of objections is of relevance and advocates a more nuanced approach to the weight to be attached to the inclusion of such sites.

57. By contrast, there are other sites where the objections have been found to hold sway and these have been duly removed from the supply.

58. No evidence has been submitted to contradict the position set out within IQ15. Moreover, judgement as to whether this is "significant" evidence, must be made in the following context:

    a. The lack of any site specific challenge being made by the Appellant;

    b. The origin of Appendix I/IQ15 is to meet a request for such a table by the CLLP Inspector. That document was submitted over the summer and no evidence of any further requests or challenge to that document is before the inquiry;

[8] CD18 paragraph 35
[9] CD20 paragraph 20
[10] Refer to Mr Hylton's proof of evidence Appendix A LP48-54 Residential Allocations Evidence Report (April 2016)
[11] Mr Hylton's proof of evidence Appendix I and IQ15
[12] Mr Hylton's proof of evidence
[13] Mr Hylton's proof of evidence

c. An approach to taking the figures broadly is supported at Court in paragraph 35 of Wainhomes wherein it is considered that:

i) Whether sites are or are not deliverable is fact sensitive;

ii) It is unlikely on the evidence available to a s.78 inspector that it will be possible to arrive at an exact determination of the numbers of dwellings that are deliverable;

iii) Inclusion by the planning authority is some evidence that they are deliverable;

iv) Paragraph 35 then goes on to tell us what we are looking for when seeking to attribute weight to the inclusion of such sites within the trajectory.

59. It is not a binary significant evidence/ not significant evidence test, otherwise what is the point of paragraph 35 and a discussion as to weight? The only sensible interpretation of paragraph 35 is that it tells the decision-maker how to consider weight and if enough weight can attach then that supports a conclusion that the evidence is "significant" in the terminology of paragraph 34. Additionally, the Inspector, whose approach was not the reason for the appeal succeeding, approached the issue in terms of weight, discounted the weight due to the evidence or lack of but proceeding to take a broad brush approach to the figures, considered the shortfall not to be significant and considered that a five year supply could be shown.

60. In that context, the Council has evidence as to deliverability[14], it is agreed between the professional witnesses that the CLLP is at an advanced stage and the Inspector has knowledge of the nature of objections raised to the allocations (IQ15).

61. In cross examination, the main criticism appeared to be a complaint that the evidence underpinning each and every judgement for each and every site in the trajectory has not been provided. To comply with the Appellant's view here would be to impose a requirement on every LPA where the five year supply is the subject of evidence as part of an appeal to provide a simply disproportionate amount of evidence. The evidence would likely comprise objection letters, notes of site visits, evidence of correspondence with landowners, evidence of flood risk, viability reports etc. for each and every site.

62. Here, the Council provided not only the list of sites and the trajectory but each and every document which is listed in the PPG as a core output for assessing housing land availability[15]. It would be wholly unreasonable for the Council to be expected to produce site specific evidence on every site, beyond that submitted, in the context of an appeal where no particular site or sites are the subject of any challenge by the Appellant.

63. Taking a broad approach the Council can demonstrate a five year supply of sites. The sites are included within the CLLP evidence base which means that some weight may be attached to it as it constitutes the Council's reasonable attempt to comply with paragraph 47 and footnote 11 of the Framework. The particular

[14] Mr Hylton's proof of evidence Appendices A and I and IQ15
[15] Mr Hylton's proof paragraph 4.2

amount of weight to be attached can be increased here as the plan is at an advanced stage and Mr Hylton has provided evidence of the nature of the objections from which it can be seen that the Councils are alive to the nature of the objections and a commentary is provided.

64. Moreover, the Appellant produces no site specific evidence whatsoever and is therefore in no position to criticise the Claimant's assumptions on each site unless they can be shown to be, on their face, erroneous. No such contention was made.

65. The Appellant initially relied upon removing all emerging allocations from the trajectory but during the inquiry narrowed this challenge to removing sites with objections. However, that is an insufficient level of detail if one is seeking to make a challenge to sites with objections, Wainhomes makes it clear that the nature of those objections is of relevance. The Appellant has not engaged on this level of detail and seeks merely to suggest that all of the sites with objections should be removed from the supply. However, as set out above, when one interrogates the evidence the picture is more nuanced than that. Looking at it on that level, the Council's evidence is the only evidence before the inquiry.

66. It is therefore submitted that on the evidence, the Inspector can attach weight to emerging allocations within the CLLP.

67. *Windfalls in Lincoln*: The Appellant's criticism of the Council's reliance on windfalls in Lincoln was written prior to additional evidence submitted during the Inquiry which demonstrates a clear pattern of delivery well in excess of the assumption relied upon for the supply figure[16]. This evidence on this was not challenged by way of cross examination. In terms of paragraph 48 of the Framework there is considerable evidence as to previous supply and no evidence at all that this will not continue.

68. *Windfalls in the small/medium villages*: Mr Hylton's evidence together with the Committee's answer to the Local Plan Inspector's Question 9 explain the derivation of the windfall assumption here. It is derived from policy, however, the recent uptake in permissions within these areas is consistent with weight being given to the emerging policy as it moves towards adoption and a consequential increase in permissions in these areas. It is therefore reasonable to assume that as the policy becomes adopted and full weight can attach, dwellings in these areas will become policy compliant and permissions will continue to be granted. NPPF 48 requires regard to be had to expected future trends and be realistic, it is submitted that this is precisely what the CLLP has sought to achieve.

69. *Lapse rate:* The Council does not apply a lapse rate. However, the elements comprising the supply take no account of windfalls which fall outside either Lincoln or small and medium villages. This leaves the countryside, large villages and market towns unaccounted for. Consideration of the permissions granted on windfall sites in these areas in recent years shows an additional 8% on the supply, a comfortable margin above the Appellant's suggested 5% lapse rate.

70. It is not the case that the Council conflate the concepts of windfalls and lapse rates. Instead, the Council does not apply a lapse rate and the Inspector may

[16] Mr Hylton's proof of evidence paragraphs 6.19 and 6.20

take some comfort in adopting this position that the lack of a lapse allowance will not affect the ability of the area to produce a five year supply as not all potential sources of supply are relied upon. Indeed considering the figures for 2014/15, 13.3% of the supply came from such sites and in 2015/16 this was 16%; a substantial portion of supply for these years. The Appellant agreed during the Inquiry that windfall sites in such locations would continue to come forward.

71. So yes, not all possible theoretical ways of discounting and building in a contingency have been taken, but neither is the supply figure relied upon the highest it could be. As with all assumptions relied upon by the Council, a middle ground has been taken.

72. In summary, none of the Appellant's criticisms survive scrutiny. Accordingly the Council's evidence should be preferred and weight may properly attach to the requirement and supply position advanced by the Council.

Effect of five year supply: relevant policies

73. Having demonstrated that there is a clear five year supply, the relevant policies fall to be considered in this light. As paragraph 49 of the Framework is of no relevance to the determination of the appeal, the relevant policies are not 'out of date' for the purposes of paragraph 14 of the Framework via this mechanism.

74. It should be noted that paragraph 49 of the Framework provides the clear route to "out of date" in relation to housing policies for the purposes of paragraph 14, as opposed to consistency judged with reference to paragraph 215. The Framework's paragraph 215 on its terms goes to weight rather than "up to date". As Mr Clarkson made clear during the Inquiry there is no other definition of "up to date" provided for by the wording of the Framework. Nevertheless, case law in this area has tended towards accepting that paragraphs 211-215 of the framework provide the mechanism by which "up to date" may be judged.

75. In any event, what is clear is that "up to date" or "out of date" for the purposes of paragraph 14 needs to be judged policy by policy. The plain wording of both paragraphs 14 and 215 provides for this. As Mr Clarkson stated under cross examination, the other two paths into the second bullet point of paragraph 14 (absence and silence) are both in relation to the plan as a whole, whereas "out of date" is separated out and is stated to be a judgement based on the relevant policy or policies in question in relation to a particular development. Here, that policy is STRAT 13.

76. Therefore, the Appellant's contention that the plan is out of date due to the lack of an ability to identify land suitable for development is misconceived. Paragraph 215 requires a consideration of Policy STRAT 13 on its terms against the policies of the Framework as a whole (not ruling out paragraph 17) and paragraph 14 permits only a consideration of the policy, not the plan. Here, where the only policy of the development plan which features in the reason for refusal is STRAT 13, that policy alone must be the focus of both our paragraph 14 and 215 exercises.

77. Paragraph 211 provides that older plans are not, without more, "out of date". What remains therefore is that "up to date" is a judgement call for the decision-maker. As with any decision, there may be factors pointing in both directions but

it calls for a balanced view of whether the policy, as a whole, is up to date. No one factor should be determinative.

78. When Policy STRAT 13 is considered against the policies in the Framework as a whole it is clear that its aims are not inconsistent with it. The Appellant provides Inspector's decisions or case law to support a contention that the principles of green wedge policies are not consistent with the Framework. Indeed, as accepted by Mr Braithwaite at the Inquiry the Appellant provides no written evidence as to the paragraph 215 exercise whatsoever, as this exercise was not undertaken. This is in contrast to Mr Clarkson's careful and considered approach.

79. Whilst there is no directly relevant green wedge policy within the Framework this does not render Policy STRAT 13 inconsistent. Whilst it has been suggested by the Appellant that STRAT 13 is not a consistent policy due to its lack of balancing exercise, the Appellant's written evidence proceeds upon the basis that STRAT 13 is a permissive policy and that the development in fact accords with it[17]. There is an inconsistency in approach here within the Appellant's case. In any event, it is not a common feature of even post Framework policies to set out the three strands of sustainability within the text of every policy. This is not a proper measure of consistency.

80. Rationally, only the spatial application of STRAT 13 may be attacked. This calls therefore for a site specific consideration as to whether the aims of STRAT 13, as applied to this site, are up to date. In making that assessment reference should be made to the recently examined and made WNP Policy EN4 which seeks to protect this site as part of the undeveloped settlement break and the equivalent policy (Policy 11) within the recently submitted Dunholme NP.

81. The Welton NP, despite the plan area not encompassing the site, has a legitimate concern with its development and is underpinned by a thorough landscape assessment which properly includes the site and the site to the north, neither of which fall within the Welton parish. This was not a concern to Inspector Schofield who plainly attached significant weight to both the policy and the underpinning landscape assessment[18]. Policy EN4 remains the most up to date formal expression of policy in relation to this settlement break.

82. Policy 11 within the DNP is now on its terms and application precisely in alignment with the wording of WNP Policy EN4 which has been found by the examining Inspector and the Council to meet the basic conditions and thus be in general conformity with the local plan and the Framework. Additionally, STRAT 13 is consistent with emerging CLLP policy LP22 which is not the subject of any meaningful objections and can therefore also be afforded weight.

83. As explained by Mr Clarkson, taking the policies together, this means that:

    a) as a result of paragraph 216 of the Framework, weight may attach to the wording of Policy 11/EN4[19];
    b) STRAT 13 is consistent with these recently examined policies;
    c) STRAT 13 is consistent with LP22 which itself is in a plan at an advanced stage of preparation, subject to no meaningful objection in terms of its

[17] Mr Braithwaite's proof of evidence
[18] CD15 paras 5, 8-12

application to this site (other than by the appellant) and is demonstrably consistent with the Framework;

d) Accordingly, STRAT 13 should be considered "up to date" for the purposes of paragraph 14.

84. Thus the spatial application of STRAT 13 is also up to date. And however one looks at it, STRAT 13 may be afforded significant weight. Neither route into paragraph 14 applies; paragraph 49 does not apply due to the demonstrable five year supply and paragraph 215 does not render the policy out of date through lack of consistency.

85. In relation to Policy STRAT 12, whilst the spatial application of STRAT 12 may properly be viewed as inconsistent with the Framework and thus out of date, its purpose and intent is consistent with the Framework, paragraph 17 in particular and thus as a whole the policy could not be said to be out of date for the purposes of the Framework's paragraph 14. Thus, the appeal proposals fall to be judged on a standard planning balance.

86. However, should the Inspector prefer the Appellant's evidence on supply, it is necessary to consider the application of paragraph 49 of the Framework. STRAT 13 is accepted to be a policy for the supply of housing. Thus, the combined effect of this and any lack of five year supply would be the application of paragraph 14 and the "significantly and demonstrably outweigh" test to the determination of the application. However, what paragraphs 49 and 14 of the Framework do not do is set aside the primacy of the development plan or prescribe that any less weight should attach to "out of date" policies.

87. Despite the contrary approach being taken by Mr Braithwaite in his written evidence, he properly accepted in cross examination, that there is no automatic result of a lack of supply that mean policies attract "little weight". Weight is a matter solely for the decision maker. As such the Council contends that significant weight may be attached to STRAT 13 with or without a five year supply.

88. It is also of relevance that STRAT 13 is a policy with a specific purpose, it may have the effect of restraining housing supply and thus be a relevant policy within the meaning of paragraph 49 of the Framework but that is not its sole aim. This falls within the example given in Hopkins Homes as to a factor to be taken into account when giving weight to out of date policies. Additionally, any shortfall can be said to be short term, the Council has allocated sites in the locality for a substantial number of dwellings and the CLLP examination is imminent.

89. This accords with the approach of Inspector Lyons who considered that notwithstanding the policy was out of date in terms of its spatial application due to the lack of five year supply, it attracts significant weight as does any conflict with STRAT 13[20].

[19] While the remainder of the policies in the DNP may be afforded less weight as they, on their terms, have not been the subject of examination, policy 11 is unique in this regard as having its special application and terms recently examined.
[20] CD14

Conflict with the development plan – Policy STRAT 13

90. There has been consistent pressure on the site and the field to the north to come forward for development. All previous attempts have been successfully resisted with a succession of case officers and Inspectors considering that the settlement break is far too important to be lost, even when applying the weighted balance within paragraph 14 of the Framework in the agreed absence of a 5 year supply of housing land in 2014[21]. The loss of this site to built development would be a permanent encroachment into the gap and a permanent narrowing of the settlement break.

91. The Council explained at the Inquiry that the proper approach to STRAT 13 is to consider paragraphs 1 and 3 first. Paragraph 2 is only of relevance if the tests in either of the other paragraphs are passed. It is noted that whilst Mr Braithwaite agreed wholeheartedly with this approach in cross examination, it is not the approach applied in his written evidence. Mr Braithwaite's proof at paragraph 5.14 proceeds to apply only paragraph 2, despite it being agreed that these criteria are only of relevance once the test in paragraph 1 has been considered.

92. Paragraph 1 provides that permission will not be granted for development which detracts from the stated aims of the allocated land i.e. being undeveloped land which prevents coalescence of settlements. In order to conflict with the policy a development does not need to eclipse the stated aim, merely "detract" from it. Thus a judgement is required as to whether there is harm to the stated aim. The Appellant agreed with this approach during the Inquiry.

93. The proposal would eclipse the site's contribution to that aim and in the context of the gap as a whole, it would detract from the ability of the allocated STRAT 13 land to prevent the coalescence of Welton and Dunholme by changing the status of the land from undeveloped to that of developed and thus removing the site from sum of sites comprising the gap. The gap in this location would become entirely dependent upon the northern field.

94. The Appellant suggests that the proposal would result in no material landscape or visual harm. The Council has always maintained that STRAT 13 is not a landscape policy; it is a settlement break policy. Thus it is not true to say that if there is no landscape harm there is no conflict with STRAT 13. In any event, Ms Buckingham's landscape evidence should not be simply accepted. In particular, heavy reliance should not be placed on the landscape conclusions as they are predicated upon a situation which cannot be guaranteed as coming to fruition:

    a) The indicative masterplan shows a development of 60 houses; the permission if granted would permit an additional 5 dwellings. It has not been shown that these can be accommodated on the site and allow for the planting schemes proposed by the Appellant;

    b) The LVIA is heavily based upon the existing and extended screening of the site by vegetation. Aside from the time this would take to grow to sufficient height, the conditions proposed by the Appellant do not control this. Under the conditions as proposed, the Council would not be in a position to refuse a

[21] CD14

landscape scheme which failed to provide for the 10m high 14m thick western planting, upon which the Appellant's case is heavily reliant;

c) The same may be said for the "reduced height dwellings" shown on the masterplan to the south west corner. There is no provision for the scale and height of dwellings, this being an outline application and the reserved matters condition making no mention of this requirement. Again, it would be open to the Appellant, or any other developer inheriting the site, to submit a reserved matters application which was compliant with the conditions but failed to provide for the reduction in height. Ms Buckingham's assessment of visual impact to the rights of way has been entirely predicated on the reduction in height coupled with additional planting.

95. The Appellant agreed during the Inquiry that in terms of character, the site shares key features identified in the relevant landscape character assessment and falls within one of the most sensitive parts of the landscape[22]. The Appellant's judgements relating to the sensitivity and susceptibility of the site are surprising given this context and the agreement that impacts are to be judged with reference to receptors derived from the LCA and their presence on the site. The Appellant's view is that the character of the site is bound up in the boundary planting and this will not change. However, the Council is concerned about the loss of key landscape features as defined within the LCA i.e. loss of flat agricultural land and not loss of the features of this site per se.

96. In so far as the site currently detracts from the features of the LCA, that detraction will worsen with the appeal proposals. At present, the heavy boundary planting is at odds with the LCA and an increase in the screening and walling off of this site is at variance with the aims of the LCA to provide good integration between the open agricultural landscape and settlement edges.

97. In terms of the visual impact, Ms Buckingham's assessment of Cottingham Court being perceived as part of the settlement of Dunholme is at variance with the judgements reached by Mr Clarkson, Inspector Lyons[23] and those undertaking the DNP Landscape Assessment[24] who all describe Cottingham Court as an "enclave" with views to the break from the north and south of Cottingham Court.

98. In fact, paragraph 19 of CD14 shows that Inspector Lyons describes Cottingham Court as an "isolated enclave" and at paragraph 20 refers to the role of the site to the north and "*the field to the south [i.e. the appeal site] as a buffer to the northern limit of Dunholme can be readily appreciated*." Ms Buckingham is entirely at variance with the weight of professional opinion on this point. Additionally, Cottingham Court has never been treated as part of the undeveloped break under Policy STRAT13.

99. The Appellant's suggestion that the only "real" part of the gap is a distance of 80m to the north of the gap is difficult to understand. Whilst the northernmost end of Ryland Road, where there is an open view to the east and west at that point may be, in the words of Inspector Lyons "the best expression" of the gap, it does not mean that the remainder of the STRAT13 land is pointless. The reference to the 80m stretch within both neighbourhood plan landscape

[22] CD27 West Lindsey Landscape Character Assessment p.33
[23] CD14 paragraph 19
[24] Mr Clarkson's proof of evidence Appendix N page 45 4th bullet point

assessments is directly adjacent to a reference to the widest part being around 500m. This does no more than set the scene. The reports then go on to consider that "this undeveloped gap plays an important role in preventing the coalescence of the two settlements". It would be a huge and unwarranted leap to consider that the following paragraphs refer only to the 80m stretch rather than the gap as a whole. Particularly as the document is drafted with reference to a plan showing "Green gap between Dunholme and Welton" (fig 36)[25] as extending further west than the woodland and further east than Ryland Road and plainly encompasses the appeal site.

100. If the northern edge of the settlement of Dunholme is, as Ms Buckingham suggests, the northern most part of the ribbon development to the east of Ryland Road, this would, first, be contrary to the view taken by Inspector Lyons[26] and second, render all other parts of the allocated green wedge entirely redundant.

101. The Appellant relies upon the 80m gap remaining in order to say that the wedge as a whole would be "preserved". This cannot be sustained. The full extent of the green wedge in this location is accepted by the Council, those preparing the CLLP, previous Inspectors and the landscape architects responsible for the landscape assessment underpinning both neighbourhood plans as being a necessary tract of land which fulfils the aims of policies STRAT13 and LP22.

102. The value of the appeal site and the harm caused by the proposal lies in its status as either developed or undeveloped. It is entirely impossible to hide 65 dwellings and households behind a hedge, however large. For one, the formal access road with footpaths, visibility splays and lighting extends the perception of built form northwards beyond Cottingham Court. From the footpaths, only the trees at their 10 year height would provide screening of the rooftops. And these are not the only features of development, it is important to remember that 65 households moving around the site will have other impacts; children playing, car doors slamming, music being played, people mowing their lawns. All of this is perceptible, audibly if not visibly.

103. Even the presence of planting will not remove this perception of development and habitation. At this point it is noted that Ms Buckingham's opinion on whether there would be views in and out of the site was wholly inconsistent:

a) Paragraph 8.2 of the LVIA concludes that the development will "not [be] visible"
b) Paragraph 8.2 of Ms Buckingham's proof concludes that the development will "not [be] *particularly* visible" (emphasis added);
c) In re-examination Ms Buckingham stated in relation to views into the site that the development would be wholly screened and "you won't see it";
d) Also in re-examination Ms Buckingham stated, in relation to views out of the site that you would retain filtered views of the countryside beyond (when asked whether the development would retain a relationship with the countryside as recommended within the LCA);

[25] Mr Clarkson's proof of evidence appendix N page 30
[26] CD14 para 19

e) In paragraph 8.2 of Ms Buckingham's LVIA it is concluded that *"the current visual situation on Ryland Road would not change";*

f) However, in cross examination Ms Buckingham, quite properly agreed, that the frontage to Ryland Road to the north of Cottingham Court would change from an agricultural field entrance to a formal carriageway with visible lights and movement and the car park entrance to the south would also be a perceptible change.

104. Filtered views or not, the development's mere presence is harmful, whether one can see one roof top or twenty. The result is the same, an understanding to those living in the locality that this site is a developed one. Indeed, Ms Buckingham accepted in cross examination that the local residents would be aware of the undeveloped nature of the appeal site at present and be aware of the change.

105. The Appellant places heavy reliance on a large, dense planting scheme to all sides of the site to, in effect, wall off the site from visibility from public vantage points. The vegetation planned to the western boundary of the site is particularly dense being a total of 14m of vegetation up to 10-15m in height[27]. It will take in excess of 10 years for the vegetation to reach this height once planted, during which time the development would be visible and harmful to the landscape and to the purposes of STRAT 13 and LP22. A development which is only acceptable if it is behind a 10m high hedge is not acceptable in principle and it is not good planning.

106. The Appellant's contention that the development accords with policy is therefore misconceived.

Conflict – CLLP Policy LP22

107. Policy LP22 can be afforded weight, in accordance with paragraph 216 of the Framework[28]. There is conflict with Policy LP22 where development is *"contrary or detrimental to"* one of the stated aims. Of relevance for this appeal is the first stated aim, the prevention of the physical merging of settlements, preserving their separate identify and local character. As with Policy STRAT 13, in order to conflict with the policy a development does not have to obliterate the aim, merely be detrimental to it. Thus it is not necessary for actual coalescence to be caused, merely for the development to be detrimental to the site's ability to fulfil a stated policy aim.

108. It cannot be sensibly argued that erecting a large residential development on a previously undeveloped site, that site being allocated precisely because it is undeveloped, is not harmful to its allocation. The land is allocated because its undeveloped status prevents the coalescence of Welton and Dunholme. Of course it does not act alone and of course some sites within the allocation contribute more to that gap than others, but all are important and every loss must be robustly justified. Nevertheless, it cannot properly be said that the loss of part of the allocated green wedge to development is not harmful to that aim.

[27] Appellant's LVIA Appendix 10
[28] Mr Clarkson's proof of evidence paragraphs 5.22 – 5.35 (pages 29-31)

109. As set out above, when one considers the scale of that harm, it is not a landscape judgement that is called for. Instead, it is harm to the contribution which this site makes to the gap. It is in this context no answer to say that the site contributes little already. Even if that were the case, to take away the small contribution made at present would be to prevent the site from contributing at all.

Sustainability

110. It is well established that paragraph 14 of the Framework provides the answer to whether development is or is not sustainable. It provides the mechanism by which proposals are to be judged.

111. The Council provides detailed evidence both on the standard planning balance and the application of a weighted balance should paragraph 14 be applied to the appeal proposals. Even on the weighted balance, the harm arising in terms of the conflict with STRAT 13 would significantly and demonstrably outweigh the benefits of the appeal proposals.

Conclusions

112. For the reasons set out above it is submitted that the Council's approach to and assessment of harm and conflict with LP22 and STRAT 13 should be preferred to that of the Appellant. Mr Clarkson's assessment takes the correct approach to STRAT 13 as agreed in the oral evidence of Mr Braithwaite, and also, it is submitted, takes the proper approach to the assessment of that conflict. STRAT 13 is not a landscape policy and yet the Appellant seeks to rely on a landscape assessment as sufficient evidence as to whether that policy is breached or not.

113. In any event, those conclusions are predicated upon a hypothetical scenario; the Inspector has no assessment of all potential 65 dwellings, no guarantee the requisite planting would come forward or be maintained and no guarantee that the reduced height dwellings to the western end of the site would be included. Accordingly, Mr Clarkson's assessment and conclusions should be accepted and the harm adjudged to be significant.

114. By contrast, any shortfall in housing land supply is firstly, not a feature of the local scene where permission has been granted recently for a total of 850 new dwellings[29] and secondly, temporary. The CLLP is currently being examined and all efforts made to produce a robust supply. As accepted by Mr Braithwaite, if the CLLP Inspector is not content with the methodology or the supply, this is likely to be remedied as part of the examination process over the coming months. The weight to be given to any shortfall is therefore much reduced.

115. Against this background, it is notable that the Council has already approved development proposals on the less sensitive parts of STRAT 13 land (soon to be LP22) i.e. Honeyholes Lane and made concessions in relation to the spatial application of STRAT 12. The Council is not adverse to releasing land for development where it can be justified. Here, that is not the case.

[29] Mr Clarkson's proof of evidence para 8.22 (page 52)

116. For the reasons set out above, the Inspector is respectfully invited to dismiss the appeal.

The Case for Gin Property Ltd

117. The summary of case now set out is based on the Appellant's closing submissions, with references given to relevant sources.

Five year housing land supply

118. Despite having failed on numerous previous appeals to successfully assert that they have a five year housing land supply, the Council sought to contend that this had been achieved in the context of these proposals. As became evident from the cross-examination of PH that was simply not correct.

119. Firstly, although the emerging CLLP has been submitted, its examination is still to begin. As a result, all the data upon which the Council relies is still to be scrutinised, along with the policies themselves. This inevitably has consequences for the weight that can properly be accorded to the emerging plan.

120. The first figure that will need to be determined is the Council's objectively assessed need (OAN). The Council refers to its SHMA[30]. However, that document does not justify, in and of itself, the figure of 1540 dwellings per annum set out in the emerging CLLP[31]. The SHMA only identifies a range of 1432 dpa – 1780dpa. As PH conceded during cross-examination neither Turley nor Edge Analytics recommended a figure of 1540 dpa chosen by the Council. He also acknowledged that this is at the lower end of the range and it would not be correct to rule out that the local plan examining Inspectors could arrive at a different (and higher) figure consistent with the range set out in the SHMA. Certainly, that is what has been contended for by a number of objectors to the emerging plan as discussed during the Inquiry. The substance of those objections will clearly be heard during the course of the examination sessions. Hence, for the present one cannot have any particular confidence that the requirement will not increase.

121. Secondly, in respect of its supply the Council's case is fundamentally flawed. So much became evident during the course of the evidence of PH.

<u>The arithmetic</u>

122. The best that the Council can put its case is that it has a 5.26 year housing land supply[32]. If the correct assessment (and ignoring any other assumptions which are dealt with in these submissions) on the application of the buffer applies it achieves only a 5.02 year housing land supply[33]. As PH accepted this is "marginal" and the Council is to be judged on whether its evidence is "robust" in accordance with the PPG[34]. It is noted that the Council agrees that the appropriate approach is to apply the Sedgefield method of calculation. However the Appellant contends that the Council is a long way short of having a

[30] CD13
[31] CD5 paragraph 3.3.3
[32] Mr Hylton's amended summary proof
[33] IQ8
[34] see for instance PPG 3-031

demonstrable supply of specific deliverable sites together with the requisite buffer.

Buffer

123. Fortunately, it is agreed without further debate that it is appropriate to apply a 20% buffer given the Council's record of persistent failure to deliver housing in accordance with its identified requirement. However, the Council appeared to seek to persist with the contention that the 20% buffer should not be applied to its existing shortfall. That is at variance with the appeal decisions in Chard[35] and Davenham[36].

124. Chard - At paragraph 42 the Inspector stated:

> "*The Council suggests that the 20% buffer should not be applied to the backlog as this would result in additional housing. That is incorrect. All it would do is bring forward housing provision from later in the plan period to allow the backlog to be dealt with effectively in the first five years. The buffer affects the supply side; it does not alter the requirement*."

125. Davenham - At paragraphs 19 and 20 the Inspector address this argument and some of the contrary decision letters put in by the LPA:

> *19. "The only matter of disagreement regarding the housing requirement is whether the agreed 20% buffer should be applied to the base 5 year requirement as the Council considers or to the base 5 year requirement plus the mutually agreed shortfall as the appellants consider. In all three 2015 appeal decisions in the Borough cited in evidence the former approach was adopted but this may be because the Council's method was not challenged by the appellants in those cases.*
> *20. As evidenced at the Inquiry other recent appeal decisions by both Inspectors and the Secretary of State have been inconsistent on this point and there is no specific mention of it in the NPPF or Planning Practice Guidance (PPG). But there is recent guidance by the Planning Advisory Service that the preferred approach is to apply the buffer to both the requirement and the shortfall which represents all the need that exists2. It seems to me that this is the logical way of addressing the issue because the shortfall is part of the requirement that has not yet been delivered and so there is no 'double-counting'. This is also the methodology used by the LP Pt1 Examining Inspector3. For these reasons I favour the appellants' methodology and the 5 year housing requirement is therefore 7,603 dwellings."*

126. Mr Hylton sought to rely upon other decisions neither of which made reference to the updated guidance by the planning advisory service nor had sought to grapple with the logical conclusions of the Inspectors in Chard and Davenham (and doubtless numerous other instances). It is apparent that those Inspectors did grapple with other decisions (and the alternative approach that they

[35] Appeals APP/R3325/A/13/2209680 and APP/R3325/A/13/2203867 - Mr Braithwaite's proof of evidence Appendix C p28
[36] Appeal APP/A0665/W/15/3005148 - Mr Braithwaite's proof of evidence Appendix C p153

appeared to advocate) and deliberately rejected that approach in favour of that contended for by the appellant.

127. The reason for favouring that approach is, with respect, blindingly obvious. It does not lead to double counting and does not increase the requirement. The requirement remains the same. It is simply that the supply, which ought already to have been delivered but which has not been delivered (the shortfall) should also form part of the buffer figure to be brought forward.

The Supply

128. The Council is dependent for its five-year housing land supply on a large number of allocations in the emerging CLLP: 5,201 dwellings[37]. PH accepted that a number of these were subject to objection and which had simply not been resolved at this stage (1913 dwellings). That would be the job of the forthcoming examination process.

129. Mr Hylton provided further revised update tables dealing with both tables 3 and 4 of Council's land supply report September 2016 (IQ15). The latter table identified that, in respect of those sites (1) proposed for allocation (2) not benefiting from planning permission (3) subject to objection and (4) counted by the Council in respect of its five-year housing land supply provision amounts to some 1913 dwellings[38]. This is important as the Council has sought to rely upon all of the draft local plan allocation sites in supporting its five-year housing land supply.

130. It is important to bear in mind the judgment of Stuart-Smith J in the Wainhomes decision[39] at paragraphs 34 and 35, which was the subject of careful and detailed questioning at the inquiry.

131. Mr Hylton accepted in cross examination that he has not seen the site-specific evidence (it is apparently the role of the individual districts) and is simply unable to provide the inquiry with any significant site-specific evidence to justify a conclusion that 100% of all those sites offer suitable locations and are achievable with a realistic prospect that they will be delivered within five years. That is important in the context of the careful language used in Wainhomes. It is therefore not possible to endorse or give weight to this aspect of the Council's claimed supply.

132. Nor could Mr Hylton say that the exercise that any of those districts had carried out in submitting the suggested delivery from those sites had contemplated the required tests set out in Wainhomes. In short, there was no evidence before the inquiry to justify whether the quantum of development from each (and all) of those sites is deliverable within the identified five-year period. It is respectfully submitted that in the absence of that evidence it must be assumed, for present purposes that the quantum of development cannot form part of the Council's supply.

[37] Mr Hylton's summary proof with updated figures
[38] This comes from adding the figures for those sites shown in column five of the table. This exceeds the figure of 1850 referred to in the last line of the update table.
[39] CD18

133. As Mr Hylton accepted, the onus is upon the Council to robustly and transparently demonstrate a deliverable five-year housing land supply. In this respect it clearly has not done so. In the context of IQ8 1913 dwellings must be omitted from the Council's purported supply of 12,712 dwellings.

134. In respect of the use of a lapse rate, Mr Hylton accepted that this was a conventional and well-recognised approach to dealing with sites which may have planning permission but which do not ultimately come forward or do not provide the number of units originally anticipated. This same approach was recognised in, amongst other decisions, the Pulley Lane Droitwich decision[40]. Paragraph 14 of the Secretary of State's decision letter endorses the Inspector's conclusions set out in paragraph IR8.55 that:

> *"Plainly, a 10% lapse rate should be applied to the Council's supply. This approach is supported by the 'Housing Land Availability' paper by Roger Tym and Partners. The approach was accepted by the Inspectors at Moreton in Marsh, Marston Green, Honeybourne and Tetbury. A 10% lapse rate was affirmed in the High Court decision at Tetbury. Given the previous shortfalls of delivery within this LPA, a 10% lapse rate is entirely reasonable and should be applied here in order to ensure a robust 5-year supply figure".*

135. The sole justification for the Council not doing so is set out in IQ8, that the Council considers that its "*windfall allowance is very conservative when considered against actual delivery from small sites and other sources of windfall*". That contention is erroneous on a number of bases. Firstly, there is no warrant for offsetting one category of allowance (lapse rate) against another (windfall). It is not an approach countenanced in any guidance and clearly was not the approach adopted at Pulley Lane Droitwich (see the discussion of this in IR8.53). PH could not point to any instance where the Secretary of State or his Inspectors had adopted such an approach. It is simply to conflate two very different assessments. Each component must be considered separately, particularly as there is no quantified relation between lapse rate and windfall allowance.

136. Further, for the reasons given below the Council's assessment of windfalls is itself deficient and unreliable. Mr Hylton identified that properly assessed the quantum of units attributable to applying a 10% lapse rate in this case would be 680 dwellings (in fact 676, on the Council's adjusted figures) with planning permission and 520 dwellings on allocation sites. These too should both be deducted from the Council's claimed supply.

137. In respect of windfalls paragraph 48 of the Framework is quite clear that "*Local planning authorities may make an allowance for windfall sites in the five-year supply <u>if they have compelling evidence that such sites have consistently become available in the local area</u> and will continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, <u>historic windfall delivery rates</u> and expected future trends, and should not include residential gardens*." (emphasis added).

138. The Council's claimed supply relies upon 112 dwellings per year between years two and five for sites in small and medium villages simply as an annualised projection from the Council's own projection. That amounts to 448 dwellings for

[40] Mr Braithwaite's proof of evidence Appendix C p214/392.

which there is no evidence, let alone compelling evidence, that any such number of units have consistently become available in the local area. This also should be omitted from the Council's claimed supply.

139. At best the Council claims a 5.26 year supply being 12,712 dwellings against a claimed five-year requirement of 12,092 (a difference of 620 dwellings). As identified elsewhere the Appellant considers that the requirement by properly applying the 20% buffer is 12,662 dwellings (a difference of 50 dwellings).

140. Applying the figures identified above the following figures should be added to arrive at the correct figure to deduct the Council's claimed supply: 1913 + 676 + 520 + 448 = 3557.

141. One must then deduct that figure of 3557 from the Council's claimed supply of 12,712 and consider that supply against either a five-year requirement (with buffer) of 12,662 (appellant's case) or 12,092 (Council's case). On any basis and acknowledging the caution attributable to excessive mathematical exactitude the Council has substantially less than a four years supply of housing.

142. Even if the Inspector were minded to allow any discount on any of those components, upon any realistic basis (and given the marginal nature of even the Council's claimed supply) it is clear that the Council does not have anything approaching a demonstrable five-year housing land supply. On that basis it is clear that paragraph 49 of the Framework applies.

143. That is in addition to the Council's policies in respect of the supply of housing being out of date because, as the Council acknowledged, it is necessary for the Council to identify and release sites outside its existing development plan in order to meet any five-year housing land supply requirement. On that basis the Council's policies relevant to the determination of this matter, including policies STRAT 12 and 13 are self-evidently out of date. It should be noted that this consideration arises in context of the Government's a policy requirement to substantially boost supply of housing.

Development plan policy

144. As identified elsewhere in the submissions only Policy STRAT 13 is cited by the Council as representing a conflict with the development plan justifying refusal of consent. With respect, this policy is inconsistent with the Framework in that it contains no balancing aspect of social economic and environmental factors in accordance with judgement in Colman[41]. Further, correctly interpreting policy means that one must look at the words which are there and not words which one might wish to be there by means of a device such as "implying" their inclusion, as RC sought to try and do.

145. It was suggested that there was no such balancing exercise in Policy LP22 of the emerging CLLP. With respect that does not avail RC or the Council. The Council promotes policy LP1 which applies a presumption in favour of sustainable development as contained in the Framework. That incorporates the cost benefit balancing exercise in the consideration of development proposals. That is wholly

[41] Mr Clarkson's proof of evidence Appendix P

different to the position which subsists under the extant plan and the consideration of the application of Policy STRAT 13.

146. Indeed, even Mr Clarkson accepted that the last part of STRAT 13 is clearly at variance with the Framework. It should be recalled that in respect of the Council's Planning Officer report for the Honeyholes Lane development[42] the inconsistency with the Framework of that policy (and diminished weight that ought to be attributed to it thereby) was freely acknowledged by the officer and the Council.

147. That said, for the reasons given by Mr Braithwaite there is accord with that policy in that the proposed development will not detract from the open rural character of undeveloped land forming the break, the physical identity of the settlements is maintained and the coalescence of the settlements Dunholme and Welton will not occur.

148. It should also be noted that Mr Clarkson considered that the proposed development does not conflict with any of the policies contained in the Framework (which are contained in paragraphs 18 – 219). As a result it must logically follow that the proposal should properly be seen to accord with the Framework.

Welton and Dunholme Neighbourhood Plans

149. Curiously Mr Clarkson sought to place some reliance on the WNP by reason of it having been passed at referendum with an 85% approval on a 24% turnout. The particular reason for this curiosity is the extra territorial pretensions of the document to deal with development outside its own neighbourhood plan area. Although not apparently identified for his attention, the NP examiner appears not to have recognised that the policy went beyond that which the NP was entitled to do. Be that as it may Mr Clarkson suggested it still remained a material consideration although it is not part of development plan that includes determining this application.

150. With respect, it is simply unclear how a development plan document drafted in one authority's area can represent a lawful material consideration for the determination of planning applications in another area. That is simply not excused by reference to the draft form of the DNP. That NP will doubtless be the subject of representations and objections which will need to be considered by the examiner of that NP in due course.

151. The further curiosity is that the WNP and the draft DNP have both sought to extend eastwards the area of the green wedge. That goes beyond the extant West Lindsey local plan and insofar as the emerging development plan (the CLLP) also seeks to extend the green wedge, this is at variance with its own green wedge evidence report[43].

Landscape Character

[42] Mr Clarkson's proof of evidence Appendix G pages 9, 10 and 18
[43] CD31 and Mr Clarkson's proof of evidence Appendix L pages 55 to 57

152. Only the Appellant produced an LVIA in respect of the site and the locality. Mr Clarkson made clear during the Inquiry that the Council had commissioned no LVIA of its own and he did not seek to contradict its methodology or its conclusions which he summarised at his proof (paragraph 8.6):

> "*The LVIA concludes the site itself to be of low sensitivity in landscape terms and the surrounding locality to be of medium sensitivity. The magnitude of impact on the landscape character of the site itself will be medium. Assessed alongside the low sensitivity of the site itself, it concludes this will result in a minor adverse effect at a site specific level. For the wider area, it considers that the magnitude of impact from the development on the local landscape character will be low. Assessed alongside the medium sensitivity, this will result in a neutral effect."*

153. He also concurred with the assessment in both the Dunholme and Welton village character assessments[44] that "*much of the land along Ryland Road which forms part of the green gap is of a nondescript character, with no obvious function or value, other than that of ensuring separation between the two settlements."*

154. Mr Clarkson also agreed that the value of the site in landscape terms is limited[45]. As a result it would not constitute a valued landscape within the terms of paragraph 109 of the Framework.

155. Despite these straightforward concessions Miss Hall in cross examination of Ms Buckingham sought to challenge the findings comprising the LVIA which her own witness Mr Clarkson accepted. Whilst doubtless an exercise of forensic interest, with respect, it does not materially advance the understanding of the principles of this case save to reinforce the conclusions which Ms Buckingham had already set out in her own evidence namely:

a) the site is of low landscape value;

b) the locality is of medium landscape value;

c) other than its surrounding boundary vegetation (which will remain post development and, indeed will be reinforced[46]) the site makes no particular contribution to local landscape character. The site is enclosed by substantial existing vegetation on all four sides. From any public viewpoint the ability to perceive any development is extremely limited[47]. The only additional viewpoint suggested by Mr Clarkson was at the proposed site access on Ryland Road. As Ms Buckingham explained there will be very little if any view into the site due to existing and proposed vegetation and the proposed location of development well into the site behind Cottingham Court;

d) the site has a low susceptibility for residential development and hence has a high capacity to accept residential development.

[44] Mr Clarkson's proof of evidence Appendices N and O
[45] Mr Clarkson's proof of evidence paragraph 8.8
[46] Indeed the reinforcement of landscape planting of hedgerows and trees together with habitat creation is specifically encouraged in the "principles for landscape management" in the West Lindsey landscape character assessment, LVIA Appendices pages 37 and 38 of 64
[47] LVIA pp21 24 for viewpoint plan and photographs

156. In short, the proposed development of the site does not give rise to any material landscape harm. Indeed, there are, if anything opportunities for landscape enhancement of the sort specifically identified in the West Lindsey LCA as referred to in the LVIA[48] and for that matter biodiversity enhancement opportunities presented by the proposed development of site.

Coalescence

157. The Council allege that if the development were to go ahead it would give rise to a perception of coalescence between the two settlements. With respect, the Council's case places an unwarranted reliance upon a selective reading of observations made by Inspectors in respect of previous decisions on land to the north of the appeal site and adjacent to the village of Welton[49]. As will be evident both the plans and the evidence given here was for a very different parcel of land to that comprising the appeal site. As a result, how these two areas of land perform both in landscape terms and in informing any perception of coalescence between the two settlements are materially different:

a) The site to the north is at a location where the perception of the break between settlements *"is located at a critical point immediately adjoining the built-up area of Welton"* (CD14 paragraph 17).

b) CD14 paragraph 18 goes on *"the critical factor is the absence of the developed frontage to Ryland Road. It is particularly important that the undeveloped frontage is here reflected by the small field on the east side of Ryland Road. Two fields are not entirely opposite one another, so that the extent of the space they offer does not coincide. But the absence of built development both sides of the road and the ability to perceive the open land beyond provides a critical clear break between the two villages".*

c) The appeal site is located opposite the ribbon development on the east side of Ryland Road that extends well north of the proposed site entrance and behind the development at Cottingham Court on the west side of Ryland Road.

d) That site was open (CD14 paragraphs 17 and 18) the appeal site is not: it is enclosed.

e) CD14 paragraph 19 notes "*Further to the south, the northern edge of Dunholme has been allowed over time to extend outwards into the gap, with a ribbon of residential development on the east side of the road and the more isolated enclave at Cottingham Court on the west side. There remains a clear perception of being outside the village core, but the setting is more difficult to appreciate, despite glimpsed views of fields to the east and the impression of open land to the west. <u>The appeal site and the field opposite provide a better expression of the gap from Ryland Road</u>"* (emphasis added). With respect that must be right. That is consistent with the identified break in the Dunholme[50] and Welton[51] village character assessments, both attest to the approximate 100 m undeveloped stretch providing "*a critical break between the two settlements and clearly communicates to the road-user that they*

[48] LVIA Appendices p 37 and 38
[49] CD14 and CD15

have left one distinct settlement and are approaching another, different settlement. Without this break in development, the distinction between where Welton ends and where Dunholme begins would be lost".

f) That, with respect is the point. That same use of language "critical" is evident in paragraphs 17 and 18 of the 2014 appeal decision as is the use of the term "crucially" in paragraph 27[52]. Even this would not in fact have constituted coalescence though it was considered *"there would be the beginnings of coalescence of the two villages".* That is a description that clearly cannot apply to the appeal proposals.

158. Mr Clarkson in essence accepted that his objection was one of planning policy principle. That itself was somewhat surprising given the terms of the 2014 Inspector decisions on the land to the north of the appeal site where the Inspector concluded that although the policy objective of protecting the gap remains an important element of the current development plan the policy is out of date in its spatial application[53].

159. That was the same conclusion formed by the Council's own officers and members in granting permission for the Honeyholes Lane development[54] which did not conclude that that development is contrary to the Council's development plan and to the extent that development plan policies such as STRAT 12 and 13 were relevant they were inconsistent with the Framework with consequent diminished weight[55]. Further, *"development in a green wedge/settlement break is not necessarily unsustainable and each case must be considered on its own merits".* With respect, that must be correct.

160. It might also be noted that the Council's Green Wedge and Settlement Breaks Review[56] stated that there is "*a clear visual break when travelling along Rylands Road from Dunholme to Welton and a sense of travelling through open countryside on leaving Dunholme before entering Welton. Both settlements are clearly visible within the settlement break, due to the closeness of the settlements to one another and relatively flat topography. There are no buildings within the break, however there are some temporary metal hoardings along Rylands Road which have a negative impact on the open character of break"*.

161. Ultimately, this will be a matter for the Inspector's assessment on site. However, in light of the clear assessment provided by Ms Buckingham, it is submitted that the development of the appeal site for housing will not give rise to the perception of coalescence of the two settlements.

[50] Mr Clarkson's proof of evidence Appendix N paragraphs 3.31 and 5, bullet point 4, p45
[51] CD30 paragraph 3.17
[52] CD14
[53] CD14 paragraphs 36 and 49
[54] Mr Clarkson's proof of evidence Appendix G
[55] Mr Clarkson's Appendix G pp 9, 10 and 18.
[56] CD31 page 56, paragraph 6.8

Sustainability

162. The Council contend that the paragraph 14 presumption in the Framework is not engaged. That is incorrect. It is the golden thread running through both plan making and decision-making. It is clear that STRAT 13, the only policy cited by the Council with which the development is said to be in conflict, is out of date, is inconsistent with the Framework and arises in circumstances where the extant development plan is unable to state where residential development should take place.

163. In addition, STRAT13 is plainly acknowledged by Mr Hylton to be a policy relevant to the supply of housing. In circumstances where the Council does not have a demonstrable five-year housing land supply the paragraph 14 presumption is again engaged.

164. That which constitutes sustainable development requires a consideration of all 3 strands of sustainable development: economic, social and environmental simultaneously. That does not of course mean that all 3 will need to be equally satisfied given the disparate and at time perhaps conflicting aspects for the consideration of such development. That, fundamentally, is a matter of planning judgement for the decision maker.

165. It is to be noted here that even the council accepts that Dunholme is a generally sustainable location for residential development. Given the acknowledged accord of the proposal with the policies contained in paragraphs 18 to 219 of the Framework by Mr Clarkson during the Inquiry, it is submitted that having carried out an appropriate balance this is a development which the Inspector may properly consider is sustainable.

Section 106 Obligation

166. This has now been agreed and forms a requisite feature in the consideration of the planning balance. The proposed development meets all of the identified and justified requirements including those relating to health and education. For the reasons explored during the course of the Inquiry those relating to primary education cannot extend beyond making the car park area within the development site available to the St Chads primary school. To go beyond that is not considered to be compliant with the CIL regulations, the position with which all of the principal parties are agreed.

Other Matters

167. Fire and rescue service representation is agreed between the LPA and the appellant that these matters can be dealt with by a separate code, namely the building regulations. None of the objections represent a reasonable principle to withhold permission. If the Inspector is unconvinced that the matter could, if need be, be satisfactorily dealt with by the imposition of an appropriate condition.

Planning Balance

168. As identified by Mr Braithwaite in his proof and Appendix B there are a range of economic and social benefits arising both provision of market and affordable

housing and the economic impacts that arise from it. Beyond that there are also environmental benefits in the provision of open space and the potential for enhanced biodiversity.

169. Further, Mr Clarkson accepted in the Inquiry that even if the Council did have a five-year housing land supply if the Inspector were to conclude that the proposed development represented sustainable development than the presence of five-year supply (however unjustified that proposition may be) would not be a bar to the Inspector granting planning permission. So much was the view of Inspectors at appeals at Davenham, Drakes Broughton, Mickleton and Ashby de la Zouch where in each case a five-year housing land supply existed[57].

Conclusions

170. In light of the foregoing it is submitted that the development represents sustainable development benefitting from the presumption in favour of sustainable development and that planning permission ought to be granted and the appeal upheld.

Points raised by interested persons/parties at the Inquiry

171. **Mr Gary Waite** is the Fire Safety Inspector for the Lincolnshire Fire and Rescue Service. He submitted a letter[58] to the Inquiry stating that there was an objection to the proposal on the grounds of inadequate water for firefighting purposes and inadequate access. It is requested that fire hydrants are installed as part of the development and that access to buildings meets the building regulations requirements.

172. **Mrs Angela Hopson** is a local resident and governor of St Chad's Church of England Primary School and the provision of the car park for the school within the appeal site would be a positive benefit ad was supported. However the school is almost at capacity and needs further funding to expand to provide more places. This could be achieved by purchasing the neighbouring land. The DNP refers to the school as providing an important community service. However there is concern about the loss of the pre-school within the school site. Any additional funding to assist the school would therefore be appreciated. The planning obligations for this development should therefore contain contributions towards primary education rather than secondary. There should also be a contribution towards early years provision.

173. **Mrs Annette Lumb** represents NHS England and put the case forward for the healthcare contribution in the S106 agreement to be amended so that the funding could be used towards a mental health consulting room at the Lincoln Primary Care Hub. In line with the national healthcare strategy there is now a proposal, for reasons of effectiveness, to provide an extended range of primary care facilities at central hubs rather than at local doctors' surgeries.

174. Due to unprecedented demand for mental health services, a significant number of future occupants of the development will use the hub's facilities, increasing the

[57] Mr Braithwaite's proof of evidence Appendix C
[58] IQ12

existing demand. These facilities will not be provided directly at the local doctors' surgeries in Dunholme or Welton. Considers that this facility would be directly linked to the development and would be necessary for healthcare provision in the area.

175. **Mr Rex Gregson** is a Councillor for Dunholme Parish Council and is part of the team producing the DNP. There is considerable local support for the green wedge. There are already a number of sites for around 329 dwellings within Dunholme that have not yet been built.

176. Mr Gregson queried the meaning of the term 'sustainability' and whether the village of Dunholme is sustainable as facilities including the school and doctors surgery are at full stretch. This is already the case without further dwellings. The local amenities have not been planned to cope with the increase in the number of dwellings. There is no public house and whilst there is a coo-operative store, this has led to the closure of the village shop within which was the post office. There is an outreach post office at the parish church but this is not open daily. Residents now need to go to Welton or further afield for some services and facilities.

177. The zig zag area on the highway outside the school is fairly lengthy but there is no restriction on parking along the rest of Ryland Road. There is concern that the proposed access to the development site will bring traffic in to conflict with parked cars on Ryland Road. The proposed car parking area for the school within the appeal site will not help the traffic and parking problems.

Written Representations

178. The Council's Planning Committee report dated 26 August 2015, summarises the consultation responses and third party representations that were received during its consideration of the application. In summary these include the following points:

179. Cllr S England (ward member) – the development will only serve to increase the burden on a totally inadequate infrastructure of Dunholme and severely impact on neighbouring Welton.

180. Dunholme Parish Council – object to the proposal for reasons of flooding, school traffic congestion on Ryland Road, the access is on a bend and is only for agricultural purposes, the car park access would be dangerous, there would be too many houses for the size of the site, the reduction in the historical green belt between Dunholme and Welton, there are pylons on the site, there would be a strain on village infrastructure, the site is within 20m of a pond and beck and the main road junctions (A15 and A46) are already dangerous.

181. Welton Parish Council – There are already permissions for 787 new homes in Dunholme (324) and Welton (463) with the potential for a further 2,500 people using the infrastructure in Welton which is already stretched to capacity. Dunholme is dependent on Welton for most of its infrastructure including the doctor's surgery, dentist and shopping. New development will have a major impact on these facilities. Problems of traffic flow and parking are already a problem and new development will escalate this. There are serious concerns

about the A46 and A15 junctions. Drainage systems and sewers are at full capacity and flooding is a common occurrence on Ryland Road. The site is not within easy walking distance of amenities, though it is on a bus route.

182. Statutory consultees raised no objections on matters including highways, drainage, archaeology, policing and wildlife.

183. Local residents objected to the planning application for a number of reasons, some of which have already been summarised above. Additional points raised about the proposal are:

- Road infrastructure will not cope and increase in traffic will result in highway safety concerns
- School car park is not necessary and would provide dangerous access
- Cumulative impact with Honeyholes Lane developments
- Will be too close to Cottingham Court houses which will be overlooked
- Proposed pond will be a health hazard and affect the stability and health of nearby trees
- Visibility splay crosses third party land
- Site becomes waterlogged
- Noise from traffic and no details about the acoustic barriers
- It will be visible from Dunholme Close

184. Following the submission of the appeal, no further written representations were received.

Planning Obligations

185. I assess the submitted planning obligation (IQ21) against the tests set out at paragraph 204 of the Framework.

186. The Agreement offers 25% affordable housing in accordance with the Council's affordable housing policy and sets out the terms of selection and priority for the occupiers of these homes. It also offers funding for secondary education and the provision of on-site public open space.

187. A healthcare contribution of £425 per dwelling is offered which would be used as funding towards a mental health consulting room at the Lincoln Primary Care Hub. It was explained to me at the Inquiry that in line with the national healthcare strategy there is now a proposal, for reasons of effectiveness, to provide an extended range of primary care facilities at central hubs rather than at local doctors' surgeries.

188. It was put to me at the Inquiry that due to unprecedented demand for mental health services, a significant number of future occupants of the development would be likely to use the hub's facilities, increasing the existing demand. As these facilities would not be provided directly at the local doctors' surgeries in Dunholme or Welton, I consider this contribution is reasonably related in scale and kind to the development and is necessary in planning terms.

189. The Council's Compliance Statement (IQ5) explains what the development plan policy context is for requiring such contributions, and gives a justification for

that being offered, except for the proposed healthcare contribution which was amended and discussed during the Inquiry.

190. Overall these are matters which are directly related to the development being proposed and are necessary to make the development acceptable in planning terms. Based on the justification provided I consider the sums proposed appear to be fairly and reasonably related in scale and kind to the development. It is also clear what the offered contributions would be used for.

191. The agreement also offers the provision of a car park for the sole use of St Chad's Church of England Primary School. As discussed during the Inquiry I recognise that the school has limited capacity to expand on-site and that this provision would enable more efficient use of the school site. I note that this car park provision is included within the description of the development and is shown on the illustrative layout plan.

192. However notwithstanding this, whilst I recognise that the local St Chad's Church of England Primary School is at capacity [31, 175], the evidence before me from the local education authority indicates that there are spaces available at other schools within the locality. As such there is no requirement for the development to contribute to primary education. I therefore do not consider that the provision of the car park is necessary for the development to be acceptable in planning terms. As such it does not meet the required tests and therefore cannot be taken into account.

193. It was also put to me at the Inquiry that there should be a contribution towards early years provision, but I have no substantive evidence that this is required and the education authority does not request this.

194. Overall I consider that it is appropriate to take the planning obligation into account in the determination of this scheme.

Conditions

195. A list of suggested conditions was agreed between the Council and the Appellant and included within the SoCG. They were discussed at the Inquiry. I have considered them in light of the advice given in the Planning Practice Guidance (PPG). As such I am satisfied that the conditions set out in Appendix A meet the tests within the PPG. Those conditions would be necessary in order to achieve an acceptable development, were the Secretary of State to consider the principle of the development to be acceptable.

196. Conditions 1, 2 and 3 are standard conditions for outline planning permissions. Condition 4 requiring a landscape management plan and biodiversity enhancement scheme is necessary in the interests of character and appearance, biodiversity and sustainability. Condition 5 would secure a Construction Management Plan in the interests of the living conditions of nearby residents and the protection of trees and hedgerows.

197. Conditions 6 and 7 require details of surface water drainage to be submitted in the interests of managing risks of flooding and pollution. Conditions 8, 9 and 10 relate to ground investigations and contamination and are necessary to safeguard

human health and the water environment. Condition 11 requiring a tree constraints plan is needed in the interests of character and appearance.

198. Condition 12 would secure a travel plan in the interests of environmental sustainability. Condition 13 requires the access to be constructed in accordance with the plans, reflecting advice in the PPG and in the interests of highway safety. Condition 14 is necessary for the avoidance of doubt and in the interests of proper planning, to define the plan with which the scheme would accord in relation to access. Condition 15 would secure safe pedestrian access to and from Ryland Road. Condition 16 which seeks the provision of an acoustic fence is necessary to protect the living conditions of neighbouring residents from noise.

199. As regards the Lincolnshire Fire and Rescue suggestion that the developer provide fire hydrants within the development and adequate building access for fire fighting [171] I do not consider this is necessary as a condition at this outline stage, as the form part of detailed layout discussions at the reserved matters stage and the latter can be dealt with through building regulations.

Inspector's Conclusions

200. My main issues, findings and conclusions are set out below. They are based on both written and oral evidence along with what I saw during the accompanied and unaccompanied visits that I made to the site and surrounding area. The numbers in small font square brackets [ ] refer to earlier paragraphs in this report.

201. I consider the main issue to be whether the proposal would amount to a sustainable form of development in accordance with local and national policy. In order to arrive at a recommendation in this regard, the main considerations I have set out before arriving at a planning balance are:-

- The effect of the development on the undeveloped break between the villages of Dunholme and Welton; and
- Whether the area has a 5 year supply of housing land.

Effect on the undeveloped break

202. There is no dispute that the appeal site is located outside, but adjacent to the settlement boundary of Dunholme, as defined by WLLP Policy STRAT12 and within the undeveloped break between Dunholme and Welton as defined in WLLP Policy STRAT13 [20, 29].

203. Whilst I recognise that Policy STRAT13 has the effect of restraining housing supply, its main aim and objective is to prevent the merger of the two villages and retain their separate identities [15, 88]. This principle is in accordance with paragraphs 154 and 157 of the Framework. It has been suggested by the Appellant that STRAT 13 is not a consistent policy due to its lack of balancing exercise. However there is no national requirement for each policy to set out the three strands of sustainability.

204. I note that the majority of the undeveloped break in this location has been a well-established and long standing feature within the locality. As the appeal site forms one of only two fields on the western side of Ryland Road, that separate

Dunholme and Welton, it makes an important contribution to this undeveloped land.

205. I note that the illustrative masterplan indicates that the proposed open space would be located on the northern part of the site and the proposed houses would not extend further north than the existing Cottingham Court properties on Ryland Road. Cottingham Court, whilst within the settlement boundary, is distinctly separate from existing housing development to the south and appears as an isolated small group of buildings surrounded by undeveloped land.

206. Whilst the existing hedgerow and tree boundary along Ryland Road limits views of the site, those that are glimpsed through the vegetation and gaps reinforce the view that Cottingham Court is an 'enclave' surrounded by countryside [97, 98]. The proposal would clearly close the existing undeveloped break between these properties and the northern edge of Dunholme and extend development behind them to the west. This would result in a permanent reduction and narrowing of the undeveloped break [90,92].

207. As regards landscape impact, based on the available evidence I have no reason to disagree with the conclusions of the Appellant's LVIA. However whilst I accept that the landscape value of the site may be limited, I agree with the Council that Policy STRAT13 is not a landscape policy [94]. The pertinent point is that the site forms an integral part of the undeveloped break that is seen and experienced when travelling between the two settlements and from the nearby public footpaths. Furthermore whilst there are properties on the eastern side of Ryland Road extending towards Welton, their significant set back from the highway, together with the glimpses of fields beyond, contribute to the more open character of the gap between the settlements, rather than the more densely built up area to the south.

208. I note that the undeveloped break has been successfully retained through the dismissal of previous planning applications and appeals. In this regard, I refer to recent Inspectors findings and conclusions relating to the dismissal of residential development on the field to the north of the site. Whilst I must consider this appeal on its own merits, I nevertheless consider that the consistent approach to Policy STRAT13 in protecting the gap in this location as evidenced by the recent appeal decisions is a material consideration.

209. I accept that previous Inspectors have referred to the field to the north of the appeal site as forming a critical undeveloped gap along Ryland Road, in conjunction with the field to the east. However I do not consider that this necessarily lessens the importance of the appeal site as part of the settlement break. I concur with the previous Inspectors that the appeal site and the field to the north together form a buffer to the northern limit of Dunholme, particularly when viewed from the adjacent public footpaths. As I saw for myself on my site visits and notwithstanding the existing boundary hedgerows and trees, there are views across the adjacent large arable field from footpath 785 of the undeveloped nature of the appeal site. The existing fields give a clear definition of the extent of each village and the overall defined gap [98-101].

210. Due to the existing and proposed landscaping, views of the development would be likely to be filtered. Nevertheless, and as accepted within the LVIA there would be some degree of visibility, particularly of roof tops, from the adjacent footpaths, before the landscaping reached maturity which would be in excess of

10 years. Furthermore whilst the majority of the development would be set back from Ryland Road behind Cottingham Court properties, discernible changes including the access road, street lighting and some properties would still be visible from the highway [102, 103].

211. Whilst the proposed scheme would not result in the two villages actually merging and there would still be a degree of separation between the villages in this location, the overall perception would be a distinct narrowing of the gap due to the loss of the vast majority of the field to development. I acknowledge that there would continue to be a degree of visual separation because of the existing and proposed trees and hedgerows. However, notwithstanding this it is clear that the Council and the local community consider that the proposed development would unacceptably erode the sense of separation between Dunholme and Welton and compromise the integrity of the undeveloped break. It is this perception of separation which underlies the purpose of LP Policy STRAT 13, emerging CLLP Policy LP22 and emerging DNP Policy 11.

212. Whilst I note that the Council has more recently permitted development within the undeveloped break along Honeyholes Lane to the south west of the appeal site, I note that the break in this location is wider and arguably less sensitive than that located along Ryland Road [115]. In addition this site is proposed to be allocated within the CLLP, unlike the appeal site.

213. Emerging CLLP Policy LP22 and emerging DNP Policy 11 propose to continue to protect the appeal site as a green wedge. In this regard I note that the appeal site is not one of the locations where it is proposed to extend the settlement boundary to accommodate developments and site allocations within the plans. The site would remain outside the settlement boundary with the intention that it would be subject to the restrictive provisions of the above emerging policies.

214. Given that the CLLP is currently at examination and the DNP has yet to be examined, full weight cannot be afforded to their contents. However both plans are at advanced stages and CLLP Policy LP22 and DNP Policy 11 would both be consistent with the Framework. Whilst I recognise that outstanding objections to these policies will require consideration during their respective examinations, these do not appear to be substantial in nature. I therefore consider that these policies, due to their level of advancement and general consistency with the evidence should attract considerable weight in this appeal in line with paragraph 216 of the Framework.

215. Whilst concerns have been raised about the extension of the undeveloped break eastwards to form the proposed green wedge, as set out in the emerging CLLP and WNP, this extended area does not affect the appeal site. Nor does it take away from the review[59] conclusions about the existing gap and the fact that this has been part of a long established and well-recognised local strategic policy shaping the area and establishing where it is not appropriate to build. I consider the extension of the gap is a matter for the CLLP and DNP examinations and is not a determining factor in this case.

216. As regards the WNP, whilst this is a ‘made’ neighbourhood plan, the appeal site lies outside its designated area and therefore it does not form part of the development plan for this appeal, a matter that is agreed between the main

[59] CD31

parties. I recognise that the WNP contains Policy EN4 which seeks to preserve the settlement break between the villages of Welton as a green wedge, but this tract of land is outside the WNP area boundary. I therefore do not agree with the Council's view that this policy is a material consideration in this appeal case and I accord it no weight. Nevertheless this matter does not outweigh my concerns on this main issue.

217. Consequently I conclude that the development would result in significant and harmful erosion of the undeveloped break which would be of a permanent effect. The resultant incongruous addition to the settlement would intrude in to the undeveloped break, reducing the gap between the villages and increase the perception that the villages were close to merging. Consequently the proposal would not accord with WLLP Policies STRAT12 and STRAT13, or emerging policies CLLP Policy LP22 and DNP Policy 11.

218. The weight to be accorded to these policies is considered within the overall planning balance which is discussed later in this report. First I need to consider whether the Council is able to demonstrate a 5 year housing land supply.

Five year housing land supply (5YHLS)

Housing Requirement [42-46, 118-120]

219. The emerging CLLP identifies a housing requirement for 36,950 dwellings between 2012 and 2036 (1540 dpa). As such the basic 5YHLS requirement is 7700 dwellings. This is based on evidence in the SHMA. However I note that the SHMA does not specify a specific housing requirement but instead provides a range[60]. I also note that the CLLP is currently at examination and therefore may be subject to change. On this point the Council acknowledges that the final housing requirement will be determined as part of the local plan process [45]. As such, it is not the role of a Section 78 Inquiry to examine what the full objectively assessed housing need should be.

220. Until such time as the CLLP objectively assessed housing need and housing requirement figures have been tested at examination and carried forward in to an adopted local plan, it would be reasonable to accept, in this instance, that the housing requirement for Central Lincolnshire is an average of 1540 dwellings per annum. To accept a lower or higher figure would imply acceptance of a particular housing strategy which is still to be determined through the CLLP examination. It would not be sufficiently justified for a decision in this appeal to pre-empt the outcome of the CLLP examination on this matter. I acknowledge the Appellant's concerns about using the 1540 pa figure, but I also note that this has been used by the Appellant in their calculations.

221. Furthermore the Council has assessed the implications of the DCLG 2014-based household projections for the OAN and housing requirement for the emerging CLLP and compared it to the 2012 figures[61]. Whilst the analysis results in some differences at the district level, overall there is no material change to the OAN and the housing requirement within the Central Lincolnshire area as a whole.

[60] CD13
[61] IQ3

222. Taking the above into account I consider that the housing requirement of 1540 dwellings pa should be taken as the basis for assessing the 5YHLS.

Shortfall [42]

223. The shortfall of 2425 dwellings in delivery since 1 April 2012 over the four years to 31 March 2016 when compared against the requirement of 6160 dwellings (1540 x 4) is agreed between the main parties. I also note that there would be an additional shortfall in 2016/17 estimated by the Council to be around 427 dwellings. Whilst I recognise this is an estimate, no substantive evidence is before me to the contrary. As these figures are taken from the Council's latest 5YHLS Report I consider them to be a sound basis for analysis.

224. The PPG sets out the aim for a local authority to deal with any undersupply or shortfall within the first five years of the plan period where possible, which is the Sedgefield approach. I recognise that the Council has used this method in its assessment, though it does provide an alternative assessment using the Liverpool method of spreading the shortfall across the plan period[62]. I consider the Sedgefield approach is justified in this instance.

Buffer and its application [49-50, 123-127]

225. It is agreed between the parties that, due to persistent under delivery, a 20% buffer should be applied. As I have no persuasive evidence to the contrary, I do not take a different view.

226. However there is disagreement over whether the buffer should be applied just to the basic housing requirement or to the basic requirement and the shortfall. I note that the Council advocates the application of the buffer to the basic requirement only, as otherwise it would represent an unsustainable level of front loading of the supply [49].

227. Notwithstanding the Council's evidence [49-50], applying the buffer to the shortfall would not result in double-counting. It would simply bring forward further housing from later in the plan period [124]. This would accord with the preferred approach set out in recent guidance produced by the Planning Advisory Service, as recognised in the Inspector's decision for the Davenham case [125]. Whilst the Framework and PPG do not specifically suggest that the buffer should also apply to the shortfall, this shortfall already forms part of the overall housing requirement. Under the Sedgefield approach it also forms part of the 5-year housing requirement. The application of the buffer against the housing requirement, which includes the shortfall, is therefore justified and appropriate and accords with paragraph 47 of the Framework.

228. Furthermore I have no substantive evidence before me to support the Council's claim that bringing forward this further housing would be unsustainable.

229. Taking the above factors into account I consider that for the purposes of this appeal, the 5-year housing requirement for 2017 to 2022 comprises the basic requirement of 7700 dwellings, the shortfall of 2425 dwellings for 2012-2016, the estimated shortfall for 2016/17 of 427 and the 20% buffer of 2110. This provides a total requirement of around 12,662 dwellings (2532 dpa).

[62] IQ8

Supply [53-72, 128-142]

230. Paragraph 47 of the Framework sets out the requirement for local planning authorities to identify and update annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements. The assessment as to whether a site can be considered deliverable is set out in footnote 11 to paragraph 47 of the Framework. This states that *'sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.'* The PPG also provides further guidance on the factors to be considered when assessing deliverability.

231. The Council's housing land supply position[63] provides a 5YHLS of 12,712 dwellings. When compared to the requirement of around 12,662 dwellings this equates to a surplus of 50 dwellings and 5.02 years housing land supply (12,712 supply/2532 requirement per annum).

232. Whilst around 53% of this supply is from sites with planning permission (6763 dwellings), about 41% is from proposed allocated sites within the emerging CLLP (5201 dwellings) and approximately 6% from windfall sites (748 dwellings).

233. It is clear from my reading of paragraph 47 and associated footnote 11 of the Framework, that it is the responsibility of local planning authorities to provide sufficiently robust evidence on housing land supply to demonstrate that sites are deliverable. Whilst I recognise that such evidence must be proportionate to the task, footnote 11 of paragraph 47 indicates that to be deliverable, sites should be available now, offer a suitable location for development now and be achievable with a realistic prospect of being delivered within the 5 year period.

234. The evidence shows that a number of the proposed allocated sites within the 5YHLS have outstanding objections. Whilst there is disagreement over the exact amount of dwellings these sites would contribute to the 5YHLS the Council's calculated figure of around 1831 dwellings is significant.

235. In accordance with the judgement set out in Wainhomes I accept that inclusion of these sites by the Council is some evidence that they are deliverable. I also recognise that other sites with objections have been removed from the 5YHLS. However the objection and status information provided by the Council for each of these allocated sites does not include clear details as to the number, nature and severity of the objections. It also does not provide definitive evidence as to whether there is any developer interest. As such I consider the information provided is limited, resulting in a level of uncertainty over their allocation and deliverability.

236. Taking these matters into account, together with the fact that the sites and any objections are be considered through the CLLP examination process and therefore are likely to change, I am not satisfied that all of these sites will come forward within the 5YHLS period.

237. As regards windfalls, the Framework clearly indicates that such an allowance within the 5YHLS is acceptable and their inclusion can be justified if there is "*compelling evidence that such sites have consistently become available in the*

[63] IQ6

local area and will continue to provide a reliable source of supply". However this should be based on historic delivery rates [137].

238. Whilst evidence has been provided on past windfall delivery within Lincoln [67], no such evidence is before me regarding small and medium villages. Whilst the Council suggests a windfall supply of 448 dwellings over 4 years for these settlements, this appears to be based on policy and no substantive historic delivery evidence has been provided to support the figure [68, 138]. As no compelling evidence has been provided, theses windfall figures do not accord with the Framework. Furthermore it has not been demonstrated to me that this housing supply would be deliverable in the future. Consequently I give limited weight to windfall figures for small and medium villages.

239. I note the Council's reference to other potential windfall sites within other parts of the plan area coming forward for development, not included in the housing land supply [68]. However no evidence has been provided to support this or that such sites will continue to come forward and I therefore also give this limited weight.

240. The Council accepts that it has persistently under delivered housing. The lack of a lapse rate is therefore surprising. Whilst the Council suggests that the supply does not rely on all potential sources [70], evidence to support the claim that these other sources will continue to come forward is not provided. As such, based on the available evidence, a 10% lapse rate would appear to be entirely reasonable in this instance, to ensure robustness in the housing land supply figure [134].

Conclusions on 5YHLS

241. I conclude that the Council has not presented sufficient evidence to this Inquiry to demonstrate that it has a 5YHLS. My conclusions regarding the delivery of the large number of sites that are currently unallocated, do not have planning permission and have unresolved objections, leave me with serious concerns that a five year supply of deliverable housing sites is currently not available. This is further enhanced by the Council's reliance on windfalls and the lack of a lapse rate.

242. Based on the evidence that is before me it is not possible to determine what the precise figure would be for the housing land supply. No definitive figure was provided by the Appellant at the Inquiry. However the 5.02 year supply is marginal and only provides a surplus of 50 dwellings. Clearly taking in to account reductions for some of the allocated sites and windfall sites and including a lapse rate would result in a housing land supply of less than 4 years. Even if the land supply was only reduced by one of these elements it would still result in an overall supply which would be below 5 years.

243. Accordingly I consider that the Council, for the purposes of this Inquiry, is unable to demonstrate a 5 year supply of deliverable housing site. My conclusions are based on the evidence before me and do not seek to prejudge the outcome of the CLLP examination process. In accordance with paragraph 49 of the Framework I therefore conclude that policies for the supply of housing are out-of-date and paragraph 14 of the Framework is engaged. This is considered further as part of the overall planning balance below.

Other matters

244. The proposal would provide up to 65 dwellings comprising of market housing and 40% affordable housing which would contribute towards the shortfall in housing within the district, particularly the unmet need for affordable housing, and overall boost the supply of housing. It was agreed between the main parties that these would be significant benefits [35]. Consequently I accord them significant weight. The delivery of housing would provide construction work and bring value to the local economy [168].

245. It is also claimed that the proposed scheme would include other social and environmental benefits including the provision of around 1.1 ha of public open space with increased public access to the adjacent open field to the west; the potential for enhanced biodiversity; the maintenance of trees and hedgerows; and increased planting/landscaping [168]. Overall, I give these matters moderate weight.

246. Whilst the provision of funding through the New Homes Bonus is referred to by the Appellant[64] this cannot be guaranteed and therefore carries no weight.

247. I have also considered the matters raised by interested persons/parties either at the Inquiry or through written submissions which have not already been addressed in my Report [175-183].

248. The highway concerns relating to increased traffic, the new vehicular access, car parking and pedestrian safety on the roads close to the appeal site, expressed by local residents, are not supported by the Council or Highway Authority. In addition whilst I note the concerns raised about the impact on local infrastructure, the Council and relevant infrastructure providers have not objected to the proposals, subject, in some respects, to the provision of planning obligations. Having considered the supporting documentation and evidence before me and taking into account my observations on site I have no reason to disagree with these conclusions.

249. Furthermore concerns about the pond, trees, noise and overlooking could be addressed by the imposition of suitable conditions or through careful consideration of design and layout at the detailed reserved matters stage. As I find no material harm on these matters they carry limited weight.

The Planning Balance

250. I have concluded that the Council cannot, in this instance, demonstrate a 5 year supply of deliverable housing sites and the relevant development plan policies are out-of-date. It therefore falls on the application of paragraph 14 of the Framework to determine whether the appeal proposal is sustainable development in this context. This indicates that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

251. I acknowledge that the proposal would provide significant economic and social benefits through the provision of market and affordable housing. The gains in housing delivery would contribute to both the current shortfall and the unmet need for affordable housing. The development would provide employment

[64] Mr Braithwaite's proof of evidence Appendix B

through construction and it would bring value to the local economy. The housing would be in a sustainable location and there would be good access to local facilities and services.

252. The scheme would also provide education and primary care health planning obligations. However these would be required to mitigate the impact of the development on local services and would not in themselves be additional benefits. As such and taking in to account the other relevant provisions proposed I consider the planning obligations only have limited weight.

253. In environmental terms, despite the lack of significance in terms of the site's landscape value, the loss of this land is of concern due to its location within an undeveloped break. Whilst the development would not result in the villages of Dunholme and Welton physically joining together, the erosion of this small gap along Ryland Road would have the effect of increasing the perception of the settlements being to merge. This would be experienced along the highway and from adjacent public footpaths. Whilst some environmental improvements are proposed as benefits to the scheme, to which I accord some moderate weight, I conclude overall that there would be environmental harm.

254. I have concluded that the proposal would be contrary to LP Policy STRAT12 as the site is outside the settlement boundary and located within open countryside. It was agreed at the Inquiry that this is a policy for the supply of housing. As such this policy is out-of-date. As the Council agrees that housing growth is not achievable within these defined boundaries I concur with the view that Policy STRAT12 should have reduced weight.

255. By contrast, STRAT13 is not simply a policy which restrains development as it seeks to retain a sense of separation between settlements and maintain individual village identities. Accordingly whilst I accept that the spatial element of this policy is out-of-date, the purpose of the policy is still consistent with the Framework. I have concluded in this respect that the appeal proposal would result in the significant and harmful erosion of the undeveloped break which would be of a permanent effect.

256. In the same way the development would conflict with the purposes of the proposed green wedge as set out in emerging Policy LP22 of the CLLP. Whilst this plan has yet to be adopted, it is currently at examination and is therefore at an advanced stage and carries significant weight.

257. Furthermore the appeal proposal would be contrary to Policy 11 of the emerging DNP which designates the site as part of a green wedge. Whilst this plan is also yet to be examined, it has been formally submitted to the Council and is therefore at a fairly advanced stage. Policy 11 has been prepared in line with Policy LP22 of the emerging CLLP. It is a clear core planning principle of the Framework that planning should be genuinely plan led, empowering local people to shape their locality through the production of local and neighbourhood plans which set out clear and positive visions for their area. This policy also carries significant weight.

258. Overall I consider that the environmental harm identified significantly and demonstrably outweighs the benefits. I conclude overall that the proposal would not be compliant with the development pan and Framework when considered as a whole and therefore cannot be considered sustainable development.

Recommendation

259. I recommend that the appeal be dismissed.

260. In the event that this recommendation is not accepted, and planning permission is granted, I recommend that the conditions at Annex A be imposed.

Y Wright

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Stephanie Hall, Barrister at Francis Taylor Building Chambers
Instructed by Lincolnshire Legal Services

She called:

Mr Philip Hylton BA(Hons) MSc MRTPI	Planning Officer, Central Lincolnshire Local Plan Team
Mr Russell Clarkson BA(Hons) Dip TP MRTPI	Principal Development Management Officer, West Lindsey District Council

FOR THE APPELLANT:

Mr Peter Goatley, Barrister at No5 Chambers
Instructed by Robert Doughty of Robert Doughty Consultancy Limited

He called:

Miss Wendy Buckingham BA(Hons) MPhil CMLI MIEMA	Landscape Consultant, Robert Doughty Consultancy Limited
Mr Michael Braithwaite BA(Hons) Cert UED MRTPI	Planning Consultant, Robert Doughty Consultancy Limited

INTERESTED PARTIES:

Mrs Angela Hopson	Local resident and governor of St Chad's Church of England Primary School
Mr Gary Waite	Fire Safety Inspector, Lincolnshire Fire and Rescue Service
Mr Rex Gregson	Councillor, Dunholme Parish Council
Mrs Annette Lumb	NHS England

DOCUMENTS SUBMITTED AT THE INQUIRY:

IQ1	List of appellant witnesses
IQ2	Agreed Statement of Common Ground
IQ3	CLLP Examination – Initial questions from the Inspectors (26 July 2016) and the Committee's response to those questions (15 August 2016)
IQ4	CLLP Examination Inspectors' initial question 11 response (addendum)
IQ5	Additional statement of West Lindsey District Council in respect of CIL regulation compliance of a s106 agreement
IQ6	CLLP Central Lincolnshire Five Year Land Support Report 1 April 2017 to 31 March 2022 (September 2016)
IQ7	Appeal decision APP/R2520/W/16/3150595
IQ8	Council's 5 year land supply update note
IQ9	Appendix 1 – list of sites included in the Council's five year housing land supply
IQ10	Appellant's opening statement
IQ11	Council's opening statement
IQ12	Lincolnshire Fire and Rescue letter dated 13 September 2016
IQ13	Dunholme Neighbourhood Development Plan Submission Version September 2016
IQ14	Council's revised table 3 from the CLLP Central Lincolnshire Five Year Land Support Report 1 April 2017 to 31 March 2022 (IQ6)
IQ15	Council table indicating the relationship between the interim 5 year land supply update (IQ8) and the September 2016 5 year land supply report (IQ6)
IQ16	Letter from Head teacher of the Dunholme St Chad's Church of England Primary School
IQ17	Email correspondence dated 31 August 2016 regarding Dunholme St Chad's Church of England Primary School
IQ18	Letter dated 2 September 2016 from Lincolnshire County Council Director of Children's Services regarding s106 funding
IQ19	Council's closing submissions
IQ20	Appellant's closing submissions
IQ21	Section 106 Agreement

CORE DOCUMENTS:

CD1	National Planning Policy Framework
CD2	Extracts from Planning Practice Guidance
CD3	Excerpts from West Lindsey Local Plan First Review, 2006
CD4	Saved policies and Government Direction letter, June 2009

CD5	Proposed submission Central Lincolnshire Local Plan, April 2016
CD6	Central Lincolnshire Local Development Scheme, June 2015
CD7	Regulation 22(3) Notice of submission of CLLP
CD8	Proposed submission consultation: Report on key issues raised, June 2016
CD9	Welton-by-Lincoln Neighbourhood Plan 2015-2035, July 2016
CD10	Welton-by-Lincoln Neighbourhood Plan Examiners Report, June 2016
CD11	Draft Dunholme Neighbourhood Plan Consultation Document, June 2016
CD12	Central Lincolnshire Five Year Land Supply Report (Republished 3 May 2016) – superseded at the Inquiry by IQ6, 8, 9, 14 and 15
CD13	Strategic Housing Market assessment, July 2015
CD14	Appeal decision APP/N2535/A/13/2207053 Land west of Ryland Road Dunholme, June 2014
CD15	Appeal decisions APP/N2535/W/16/3145353 Land adjacent to Dunholme Close, Welton, June 2016 and APP/N2535/W/16/3145351 Land south of Dunholme Close Welton, June 2016
CD16	R (Hampton Bishop PC) v Herefordshire Council [2014] EWCA Civ 878
CD17	Richborough Estates v Cheshire East Council [2016] EBWCA Civ 168
CD18	Wainhomes (South West) Holdings Ltd v SSCLG [2013] EWHC 597 (Admin)
CD19	Kings Lynn BC v SSCLG [2015] EWHC 2464
CD20	St Modwen Developments Ltd v SSCLG & East Riding [2016] EWHC 968 (Admin)
CD21	St Albans v Hunston Properties Limited and the SSCLG [2013] EWCA Civ 1610
CD22	Planning application forms
CD23	Drawing 606-10-A-MP01 revision C – Masterplan
CD24	Landscape and Visual Impact Assessment (606 10 LVIa/wb/FV), November 2015
CD25	Report to Planning Committee 26 August 2015
CD26	Minutes of the 26 August 2015 Planning Committee
CD27	West Lindsey District Council, 1999, The West Lindsey Landscape Character assessment (extracts only: Introduction pages 1-12 and the Lincoln Fringe Landscape Character Type
CD28	Natural England 2013 National Character Area Profile 45, Northern Lincolnshire Edge with Coversands

CD29	The East Midlands Regional Landscape Character Assessment April 2010, Landscape Character Type 4a, Unwooded Vales
CD30	Welton-by-Lincoln Landscape Character Assessment January 2016
CD31	Central Lincolnshire Green Wedge and Settlement Breaks Review, Updated April 2016, Welton to Dunholme extract pages 55-57
CD32	Countryside Agency and Scottish National Heritage 2000, Landscape Character Assessment: Guidance for England and Scotland
CD33	Landscape Institute 2011, Photography and Photomontage in Landscape and Visual Impact Assessment, Advice Note 01/11
CD34	Landscape Institute and Institute for Environmental Management and Assessment 2013: Guidance for Landscape and Visual Impact Assessment Third Edition

SUGGESTED PLANNING CONDITIONS APPENDIX A

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission.

2. No development shall take place in each phase of the development until plans and particulars of the layout, scale and appearance of the buildings to be erected, and the landscaping of the site (hereinafter called "the reserved matters"), have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with those details.

3. The development hereby permitted shall be begun before the expiration of one year from the date of approval of the last of the reserved matters to be approved, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

4. The details to be submitted in accordance with Condition No 2 above shall include a Landscape Management Plan setting out management responsibilities and maintenance schedules for all landscaped areas inclusive of trees, hedges, ditches, and balancing ponds; a Biodiversity Enhancement Scheme setting out measures for habitat creation and management; including the provision of bat roosts and bird boxes. The approved details shall be implemented on site prior to the completion of each phase of the development.

5. No dwelling shall be commenced until a construction management plan has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
   (i) the routeing and management of construction traffic;
   (ii) the parking of vehicles of site operatives and visitors;
   (iii) loading and unloading of plant and materials;
   (iv) storage of plant and materials used in constructing the development;
   (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
   (vi) wheel cleaning facilities;
   (vii) measures to control the emission of dust and dirt during construction;
   (viii) details of noise reduction measures;
   (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works;
   (x) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
   (xi) measures for tree and hedgerow protection;
   (xii) a Construction Environmental Management Plan (CEMP) to ensure the protection of any habitats and protected species.

6. All construction shall be in accordance with the approved Management Plan required by this condition.

7. No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:
   a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
   b) Provide attenuation details and discharge rates which shall be restricted to 13 litres per second;
   c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
   d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

   The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

8. Prior to the commencement of development, a report detailing further ground investigations into Trial Pit 1 as identified in the Phase I & II Ground Investigation Report, shall be submitted to and agreed in writing with, the Local planning authority. The report shall include details for remediation if required. Development shall thereafter proceed in accordance with the agreed details.

9. No dwelling hereby permitted shall be occupied unless the necessary remedial works to the culvert under Ryland Road leading to Dunholme Beck, identified in section 6.10 of the Flood Risk Assessment has been carried out. The surface water system should not be connected to the culvert unless written confirmation that the culvert is fully functional has been submitted to the local planning authority.

10. Notwithstanding the details submitted, no development hereby permitted shall take place until a report detailing ground investigations into the Spoil Heaps and Bunds, as identified at appendix D (Topographical Survey) to the Flood Risk Assessment, has been submitted to and agreed in writing with, the Local Planning Authority. The report shall include details for remediation if required. Development shall thereafter proceed in accordance with the agreed details.

11. If during the course of development, contamination not previously identified is found to be present on the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.

12. No development hereby permitted shall commence until a tree constraints plan has been submitted to, and agreed in writing with, the Local Planning Authority. The final site layout should accord with the findings of the agreed Tree Constraints Plan.

13. No dwelling hereby approved shall be occupied until a residential travel plan has been implemented the details of which shall have been previously submitted to and approved in writing by the local planning authority.

14. Access shall be provided in accordance with drawing 130920-02 rev.A at appendix C of the Transport Statement.

15. No dwelling hereby permitted shall be occupied unless a 2 metre wide frontage footway, connecting to the existing footway within Ryland Road, has been provided.

16. The school car park shall not be brought into use, unless details of the pedestrian link, including visibility splays and the provision of an uncontrolled pedestrian cross over point (with tactile surfacing) have been submitted to and agreed in writing with the Local Planning Authority, and implemented in accordance with the approved details.

17. No dwelling hereby permitted shall be occupied unless details of the acoustic fence as recommended at section 5.0 of the Noise Impact Assessment, have been submitted to and agreed in writing with the Local Planning Authority and thereafter been fully implemented in accordance with the agreed details.

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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.