



Department for
Communities and
Local Government

Mr M Bagshaw
Bowbridge Land Limited
Dale View, Rews Close
Combe Martin
ILFRACOMBE
Devon
EX34 0DW

Our Ref: APP/H2835/A/14/2221102

29 October 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY BOWBRIDGE LAND LTD:
LAND REAR OF 1 – 27 THORPE ROAD, OFF STATION ROAD, EARLS BARTON,
NORTHAMPTONSHIRE NN6 0PJ
APPLICATION REF: WP/2013/0398/OM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, W G Fabian BA Hons Dip Arch RIBA IHBC, who held a public local inquiry from 16 to 18 December 2014 into your appeal against the refusal of Wellingborough Council ('the Council') to grant outline planning permission for 39 dwellings and associated works, in accordance with application ref WP/2013/0398/OM, dated 2 August 2013.
2. On 15 August 2014 the 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, because the appeal involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation, allows the appeal and grants 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 after the close of the inquiry

4. On 4 June 2015 the Secretary of State wrote to the main parties who appeared at the inquiry to seek representations on:

Julian Pitt
Planning Casework Division
Department for Communities and Local Government
3rd Floor, Fry House
2 Marsham Street
London SW1P 4DF

Tel 0303 44 41630
Email: PCC@communities.gov.uk

- (a) The implications, if any, of the recent High Court decision on *Woodcock Holdings v SSCLG* [2015] EWHC 1173, and the emerging draft replacement Local Plan, if relevant;
 - (b) Whether there is a demonstrable five year supply of deliverable housing sites;
 - (c) Any other matters which the parties consider material to their case.
5. He received responses from Mr N Ozier on behalf of the Council dated 24 June and from the appellant also dated 24 June, to which several appendices were attached. These responses were recirculated for further comment under cover of emails dated 26 June and 7 July. On 21 July 2015 the Secretary of State wrote again to the Council in regard to a factual matter, namely the number of planning obligations which have been entered into on or after 6 April 2010 and which provide for the funding or provision of a project, or provide for the funding or provision of that type of infrastructure for which an obligation is being offered in relation to this appeal proposal. He received responses from the Council dated 27 July and Northamptonshire County Council dated 21 and 29 July. Earls Barton Parish Council wrote about other matters in a letter dated 23 July. The Secretary of State has taken account of all these responses in his consideration of the appeal before him. As the responses to the Secretary of State's communications of 4 June and 21 July were circulated to the main inquiry parties, he does not consider it necessary to summarise the responses here or attach them to this letter. Copies of the correspondence can be obtained upon request to the address at the bottom of the first page of this letter.

Policy considerations

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the North Northamptonshire Joint Core Strategy 2008 and saved policies in the Wellingborough Local Plan 1999, altered in 2004. The Secretary of State considers that the Core Strategy and Local Plan policies most relevant to this case are those identified at IR6 - 9.
7. Material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (The Framework), the associated planning practice guidance, the Community Infrastructure Levy (CIL) Regulations 2012 as amended and the Written Ministerial Statement on Neighbourhood Planning of 10 July 2014.
8. The Secretary of State notes that the Council and its strategic planning partners are currently preparing a new local plan for Wellingborough in two parts, the North Northamptonshire Joint Core Strategy referred to at IR10 and The Plan for the Borough of Wellingborough. However, as proposals are still in preparation and so liable to change, he considers that only limited weight can be accorded to these emerging plans.
9. An important material consideration in this case is the Earls Barton Neighbourhood Plan (EBNP). The examiner's report was considered by Wellingborough Council in September and a referendum on the Plan is being held on 29 October 2015. The referendum version of the Plan is not substantively different to the draft at the time of the appeal Inquiry regarding policies relevant to the current appeal, so the Secretary of State has not considered it necessary to refer back to the Inquiry parties on the changes recommended by the examiner

and accepted by the Council. The Plan sets out the future housing needs for the village and policy EB.G1 allocates 19.3ha of land for mixed use development including approximately 280 dwellings. This allocated site is at the north edge of Earls Barton and planning permission has now been granted. Policy EB.GD1 sets criteria that infill developments within a delineated village boundary should comply with. Policy EB.GD2 sets out criteria that must be met on any exception sites for affordable housing outside but abutting the village boundary.

Main issues

Section 38(6) Planning and Compulsory Purchase Act: Whether the proposal accords with the adopted development plan

10. For the reasons given at IR89, the Secretary of State agrees with the Inspector that the proposed development would not accord with countryside policies within the adopted development plan. However, the Secretary of State agrees with the Inspector at IR 90 to 91 that these countryside policies within the development plan are also policies for the supply of housing, and that these policies should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Housing land supply

11. The Secretary of State has carefully considered the Inspector's assessment of housing land supply issues at IR92 - 104. He has also carefully reviewed the representations on housing land supply in response to his letter of 4 June. The Council's response referred to its latest assessment published in May 2015 that indicated a supply of 5.2 years for the period 2015-2020 and, for the period 2016 - 2021, 5.8 years supply. The appellant's response challenged whether the Council could demonstrate a 5 year supply and put forward, as evidence, a report by Turner Morum dated June 2015 that updated the appellant's evidence on this matter at the Inquiry. Turner Morum's report took into account the Council's assessment of May 2015 and concluded that, as at June 2015, the Council cannot demonstrate a 5 year supply of deliverable housing sites for either of the assessed periods 2015-2020 or 2016-2021. The Secretary of State considers that a key issue is the predicted rate of delivery from two strategic urban extension sites at Wellingborough, covered at IR99 - 104. He takes the view that the assessment by Turner Morum supports and strengthens the Inspector's conclusion that the Council's trajectory figures for those sites are unrealistic (IR104). For the reasons the Inspector gives, coupled with the further information and reasoning provided by Turner Morum, he agrees with the Inspector that the Council has not demonstrated a five year supply of deliverable sites (IR105).

Sustainable development

12. The Secretary of State agrees with the Inspector's assessment of issues at IR106 - 111. The economic benefits of the proposal are not disputed except for the issue of the New Homes Bonus, on which the Secretary of State agrees with the Inspector (IR107). Were this appeal allowed, there is little reason to doubt that it could be developed speedily, as the land is available and completion within five years could be a realistic prospect. The proposal would therefore contribute to the five-year supply of housing land through the addition of 39 dwellings. In addition to market housing, 30% of the dwellings would be provided on site as affordable housing secured by planning condition (IR108).

13. In terms of the character and appearance of the countryside, the appeal site is mostly visually contained by hedge boundaries, and is not prominent other than being at the edge of the village. Furthermore, this small area of countryside at the south of the village is separated and contained from the countryside beyond it by the elevated feature of the A45 dual carriageway nearby. Like the Inspector, the Secretary of State has some sympathy with local residents' views that development in this location would jut oddly into the countryside at the end of the village. However, the Council's case has not been based on undue visual harm to the landscape. In the context of development already underway on the adjacent site to the northwest, the containment that would be provided by existing hedging, the existing closed road and the allotments opposite, the Secretary of State agrees with the Inspector that harm to the landscape is not an overriding consideration in this case (IR109).
14. In Wellingborough Borough the Core Spatial Strategy policies 1, 9 and 10 seek to focus housing development at the Sustainable Urban Extensions identified adjacent to Wellingborough and to limit residential development elsewhere. The Council sees this strategy as a fundamental aspect of the development plan. However, in the absence of a five-year supply of housing, this policy restriction on the location of residential development can attract only limited weight. In terms of the location of the appeal site and its relationship to Earls Barton, the Secretary of State agrees with the Inspector that there is little to demonstrate that the proposal would be unacceptable. There is a wide range of services and facilities in the village, including a primary school and medical services, and the proposal would make contributions via the s106 Undertaking to expanding these provisions and strengthening the public transport infrastructure (IR110).
15. All in all, for the reasons given at IR107 - 110 the Secretary of State agrees with the Inspector that the proposal would deliver sustainable development (IR111).

Earls Barton Neighbourhood Plan

16. As the appeal site is outside the limits for development set in the emerging EBNP and is not allocated for development, and also because the size and type of proposal does not comply with policy EB.GD2, the Secretary of State agrees with the Inspector that the proposal conflicts with the emerging EBNP (IR115). However, as there is not a 5 year supply of deliverable housing sites, the relevant policies for the supply of housing in the emerging EBNP, including the proposed village development boundary, should not be considered up to date.
17. The Secretary of State has considered paragraph 216 of the Framework and the allocation of weight which should be given to relevant policies in the emerging EBNP. As regards the first criterion in paragraph 216 concerning the stage of preparation of the emerging plan, he agrees with the Inspector that the emerging EBNP should be given significant weight in view of the advanced stage of preparation that the Plan has reached and the evident high degree of local support for it (IR116). His view that significant weight should be accorded to the emerging EBNP is reinforced by the fact that the Plan is more advanced than at the time the appeal Inspector prepared his report, as set out in paragraph 9 above. He has also had regard to the second and third criteria of paragraph 216, concerning the significance of unresolved objections and the degree of consistency of relevant policies in the emerging EBNP to policies in the Framework. The Secretary of State has given careful consideration to the EBNP Examiner's report, which notwithstanding the existence of objections to the examination version of the

EBNP, recommended that subject to some modifications the EBNP should proceed to a referendum. The Examiner's report concluded that, subject to those modifications, the EBNP meets the basic conditions in Schedule 4B paragraph 8(2) of the Town and Country Planning Act 1990 which include that neighbourhood plans must have regard to national policies and advice contained in guidance issued by the Secretary of State. Therefore, applying the paragraph 216 criteria, the conclusions in the Examiner's report and the acceptance of its recommendations by Wellingborough Council reinforce the Secretary of State's view that significant weight should be accorded to the emerging EBNP.

18. The Secretary of State agrees with the Inspector that the scale of the proposed development is sufficiently small not to be premature in terms of jeopardising future development within the EBNP, applying paragraph 216 of the Framework Annex 1 and Planning Practice Guidance on this matter (IR117).

Conditions

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions at IR81 - 82. He considers that conditions 1 - 11 as set out in Annex A of the IR and in Annex A of this letter meet the tests of paragraph 206 in the Framework and comply with the Planning Practice Guidance (IR81).

Section 106 Planning Obligations and cumulative impact of development

20. Subject to the exception noted below, the Secretary of State agrees with the Inspector's assessment at IR83 - 86 of the Section 106 Unilateral Undertaking dated 12 December 2014. With the exception of the contribution for Fire and Rescue, he agrees that the other contributions offered would be CIL compliant and accord with the tests in paragraph 204 of the Framework and can, therefore, be given weight in support of the proposal (IR86). In reaching this conclusion, the Secretary of State has given careful consideration to responses to his letter of 21 July 2015 from the Council and Northamptonshire County Council. He places limited weight on the contribution for Fire and Rescue in view of information in the County Council's response of 21 July 2015. In all other respects he considers that the Unilateral Undertaking, together with the conditions, would deal satisfactorily with the impact of the development on the infrastructure and the environment (IR86).
21. Like the Inspector, the Secretary of State recognises the significant degree of local concern that the cumulative effect on the village of existing residential development that is underway, committed or with extant planning permission would result in excessive pressures relating to congestion on the local road system and on the services infrastructure in respect of schools and medical services. The Secretary of State notes that infrastructure concerns were the chief focus of the Parish Council's representations dated 23 July 2015. However, as no party has given substantiated evidence to demonstrate any planning harm that would arise, like the Inspector, the Secretary of State is unable to give concerns about traffic and infrastructure more than moderate weight. Moreover, he agrees with the Inspector that the effects of the proposal would be reduced by the mitigations that would be achieved by the Section 106 financial contributions, and that consequently only modest weight can be applied in this regard (IR117).

Overall balance and conclusion

22. The Secretary of State has considered, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, whether the proposed development is in accordance with the development plan (which incorporates the saved local plan policies) and he agrees with the Inspector that it does not accord with the development plan. This lack of accordance with the development plan arises by reason of the development's conflict with development plan policies as a result of its location in the open countryside outside the village policy line. However, the Secretary of State further notes that the lack of a 5 year housing land supply renders these policies in the development plan out of date and therefore gives them limited weight.
23. The Secretary of State considers that the lack of a 5 year housing land supply and the contribution that the appeal proposal would make to increasing housing land supply weighs heavily in favour of the appeal. He agrees with the Inspector's conclusions at IR 106 to 111 and 118, including that the proposal would amount to sustainable development.
24. The emerging EBNP is not yet made and therefore does not carry full statutory weight. Moreover, in view of the lack of a 5 year housing land supply the relevant EBNP policies for the supply of housing cannot be considered up to date. Nevertheless the Secretary of State considers that the conflict with the emerging EBNP should be given significant weight against the appeal in view of the very advanced stage that the Plan has reached and the evident high degree of local support for it (IR116).
25. The Secretary of State has considered the very limited harm to the landscape identified by the inspector at IR 109, which is mitigated by the containment provided by existing hedging, road and allotments opposite, and finds it does not amount to significant harm. In view of the mitigations that would be achieved by the Section106 financial contributions, the Secretary of State agrees with the Inspector's conclusions at IR 117 and gives only moderate weight to the local community's concerns with regard to the cumulative impacts on traffic congestion and the services infrastructure.
26. Overall, the Secretary of State agrees with the Inspector that, even in combination, the harm identified above is insufficient to significantly and demonstrably outweigh the acknowledged benefits of this sustainable development.

Formal decision

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby allows your client's appeal and grants outline planning permission for 39 dwellings and associated works, in accordance with application ref WP/2013/0398/OM dated 2 August 2013 and subject to the conditions in Annex A.

Right to challenge the decision

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. From 26 October 2015, this must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

29. A copy of this letter has been sent to Wellingborough Borough Council. A notification e-mail or letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

JULIAN PITT

Authorised by Secretary of State to sign in that behalf

Annex A

Conditions of planning permission - application ref WP/2013/0398/OM

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place within the site boundary until a programme of archaeological work shall have been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place until a Phase 2 Environmental Risk Assessment to identify any contamination on the site has been submitted to and approved in writing by the local planning authority. If this assessment identifies any contamination it shall specify the measures to be taken to remediate the site to render it suitable for the development hereby permitted. The site shall be remediated in accordance with the approved measures before development begins. If, during the construction of development any contamination is found which has not been identified in the assessment, additional measure for the remediation of the source of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 6) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme, in accordance with the Flood Risk Assessment, dated July 2013, shall have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 7) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved.
- 8) No development shall take place until details of a scheme of sustainable transport measures (including their promotion, monitoring and review) has been submitted to and approved in writing by the local planning authority. The

scheme shall be implemented prior to occupation of the first dwelling and thereafter managed and maintained in accordance with the approved details.

- 9) Prior to occupation of the first dwelling hereby permitted a noise barrier shall be installed to the west and south boundaries of the site. The barrier shall be at least 1.8m high close boarded timber comprising a minimum surface density of 12kg/m² or other materials of equivalent performance.
- 10) Prior to the occupation of each dwelling hereby permitted a report shall be provided to confirm that the glazing and ventilation specifications to that dwelling as detailed in section 5 of the Technical Report R5094-1 Rev 1, dated 12 June 2014, by 24Acoustics, have been complied with. The report, or reports, shall be submitted to and approved in writing by the local planning authority.
- 11) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the glossary at Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Report to the Secretary of State for Communities and Local Government

by W G Fabian BA Hons Dip Arch RIBA IHBC

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

Date: 16 February 2015

TOWN and COUNTRY PLANNING ACT 1990 (AS AMENDED)

THE BOROUGH COUNCIL OF WELLINGBOROUGH

APPEAL BY BOWBRIDGE LAND Ltd

REGARDING THE REFUSAL OF PLANNING PERMISSION

for

OUTLINE PROPOSAL FOR 39 DWELLINGS AND ASSOCIATED WORKS

at

**Land rear of 1 to 27 Thorpe Road, off Station Road, Earls Barton,
Northamptonshire NN6 0PJ**

Inquiry held on 16 , 17 & 18 December 2014

Land rear of 1 to 27 Thorpe Road, off Station Road, Earls Barton, Northamptonshire NN6 0PJ

File Ref: APP/H2835/A/14/2221102

File Ref: APP/H2835/A/14/2221102

**Land rear of 1 to 27 Thorpe Road, off Station Road, Earls Barton,
Northamptonshire NN6 0PJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Bowbridge Land Ltd against the decision of Borough Council of Wellingborough.
- The application Ref WP/2013/0398/OM, dated 2 August 2013, was refused by notice dated 29 January 2014.
- The development proposed is an outline proposal for 39 dwellings and associated works.

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

Procedural Matters

1. This appeal was recovered for decision by the Secretary of State for Communities and Local Government, by letter dated 15 August 2014. This is because the appeal involves a proposal for residential development over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority. The guidelines for 'recovering' appeals are to be found in the House of Commons Hansard Ministerial Statement of 30 June 2008 and these were amended by Ministerial Statement on 10 July 2014.
2. Both parties have confirmed that, notwithstanding the details provided in the appeal and other submitted documents, the proposal was made in outline with all matters reserved for a future application. Although at some parts of the submissions there is reference to a 20% (8 units) provision of affordable housing, the appellant has confirmed that the provision would be 30%, to be secured by a planning condition. I have considered the appeal on this basis. The layout and design drawings provided have been taken as illustrative only. The particulars of the planning obligation and the matter of its compliance or otherwise with the CIL Regulations are set out below at Conditions and Obligations.

The Site and Surroundings

3. The appeal site is a long generally flat rectangular agricultural field at the end of the furthest southward projection of Earls Barton. It is located at the lower edge of this large attractive village, within sight and sound of the A45 dual carriageway, which passes nearby to the south on a raised embankment. The countryside here is gently undulating, with wooded hillsides in the near distance to the south west. Above the site, the main part of the village is situated on a south facing slope with the other end of the village on a small plateau at the north edge.
4. The site is uncultivated. It is flanked to the south and west by agricultural fields and enclosed on these two sides by overgrown but sparse field hedges. At the east boundary is the former extension of Station Road leading towards the A45. This is now closed and gated and remains in use for agricultural access and as a public footpath. Opposite, across this road-end, is an area of allotment gardens to the east. The north long side is enclosed by a variety of fences (mostly timber panelled) backed by shrubs enclosing the adjoining rear gardens of bungalows along Thorpe Road. A residential development is underway on

adjacent fields at the western end of Thorpe Road, also accessed off Compton Way.

Planning Policy

Development plan

5. The development plan comprises the *North Northamptonshire Core Spatial Strategy, 2008, (CSS)* and the saved policies of the *Borough Council of Wellingborough Local Plan, 1999 and alteration 2004, (LP)*¹.
6. CSS policy 1 *Strengthening the Network of Settlements* aims to achieve greater self-sufficiency for North Northamptonshire as a whole and to direct development principally towards the urban core, focused on the three growth towns of Corby, Kettering and Wellingborough. It lists smaller towns that will provide secondary focal points for development within this urban core. Earls Barton is not listed amongst these. For the remaining rural area development adjoining village boundaries will only be justified where it can be clearly demonstrated that it is required in order to meet local needs for housing. Development will be focussed on villages that perform a sustainable local service centre role. Notes to the policy at 3.8 clarify that the more detailed plans prepared by individual authorities may identify Limited Local Service Centres, within which the small scale needs of a group of villages could be focused.
7. CSS policy 9 *Distribution & Location of Development* states that new building development in the open countryside outside the Sustainable Urban Extensions will be strictly controlled. Specifically in respect of housing, CSS policy 10 reiterates the focus on the three growth towns set out in policy 1 and sets indicative housing figures for the rural area of each district. It allows for only limited development in villages and restricted development in the open countryside.
8. LP policy G4 identifies Earls Barton as a 'limited development village' in which development will be allowed where this is within the village policy lines and will not, either individually or cumulatively, have an adverse impact on the size, form, character and setting of the village and its environs. The appeal site falls outside the village policy line. LP policy G6 resists development in the open countryside, unless it cannot be accommodated other than in the open countryside and it complies with criteria including that it should minimise adverse impact upon the intrinsic character of the countryside. Policy notes clarify that in recognition of the value and vulnerability of the local countryside, development is to be severely restrained. Also relevant is LP policy H4, which seeks to prevent residential development in the open countryside, unless necessary for (amongst other things) essential agricultural or forestry workers dwellings. None of the listed exceptions apply in this case.
9. LP policy H9 provides an exception for edge of village developments of solely affordable housing to meet an identified local need. The proposal would provide only 30% affordable housing and as such this policy does not apply.

¹ Mr Ozier POE appendices 2 and 3

Emerging Core Strategy

10. The process towards a *replacement Joint Core Strategy* (JCS) is underway. Consultation on the pre-submission document is expected in early 2015 and examination in public is anticipated during April – November 2015. No policies from the JCS have been referred to.

Emerging Neighbourhood Plan

11. *The Earls Barton Neighbourhood Plan*², prepared by the EBNP Project Group, supported by the EB Parish Council has been subject to consultations under Regulations 14 and 16. The Regulation 16 consultation ran until 29 August 2014. It has been submitted to the Council for independent examination. It sets out the future housing needs for the village and includes policies for determining applications on windfall sites. EBNP policy EB.G1 allocates 19.29ha of land for mixed use development, which includes up to 280 dwellings including affordable housing. This allocated site is on the plateau at the north edge of Earls Barton. Policy EB.GD1 sets criteria that infill developments within the village boundary should comply with; the appeal site is outside the village boundary defined in the EBNP.

National Policy and Guidance

12. At paragraph 7 the *National Planning Policy Framework* (the Framework) sets out that there are three dimensions to sustainable development - the economic, social and environmental roles. Paragraph 6 explains that the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development means in practice for the planning system.
13. Paragraph 14 establishes a presumption in favour of sustainable development; where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 15 states that policies in Local Plans should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.
14. The core planning principles, set out at paragraph 17, include: the need for planning to be plan-led, empowering local people; to meet identified housing needs; to recognise the intrinsic character and beauty of the countryside; and to manage patterns of growth so as to focus developments in locations which are sustainable.
15. At paragraph 49 the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. If policies are not out of date, then, according to paragraph 215, weight can be attached to each relevant policy depending on its degree of consistency with the Framework.

² Mr Ozier POE appendix 4

16. The *Planning Practice Guidance* (the Guidance) accompanies the Framework. Of particular relevance are the sections of the guidance dealing with housing and economic development needs assessments, housing and economic land availability assessment and neighbourhood planning. In respect of neighbourhood plans it confirms at paragraph 004 ID 41-004-20140306 that if successful at examination and referendum these will become part of the statutory development plan. An emerging neighbourhood plan may be a material consideration³. In accordance with paragraph 216 of the Framework the weight that may be given to relevant policies in emerging plans include such factors as: the preparation stage of the plan; the extent to which there are unresolved objections to the relevant policies; and decision makers should respect evidence of local support prior to the referendum.
17. In relation to prematurity and neighbourhood plans at paragraph 014 ID 21b-014-20140306, it refers to Annex 1 of the Framework, which sets out the circumstances when the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. These are likely but not exclusively to be limited to situation where both: a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Plan; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. Refusal of planning permission on grounds of prematurity will seldom be justified in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period.

The Proposals

18. The proposal for 39 dwellings was made in outline with all matters including access reserved for a future application. The illustrative layout and house type details indicate a conventional housing estate, laid out around a long off-set cul-de-sac. The dwellings shown comprise a mix of all two storey traditionally styled mostly detached and semi-detached houses, with two short terraces of three. Rear gardens are shown backing onto all of the site boundaries. Access is shown taken from the end of Station Road at the gated point.

Other Agreed Facts

19. The Council confirmed prior to the inquiry that it no longer wishes to pursue reasons 3, 4 and 6 of the decision notice. These were in relation to flood risk, traffic and noise. A Statement of Common Ground⁴ in respect of highway and traffic matters signed by the appellant and by the Northamptonshire County Council Highways department was provided at the inquiry. On the basis of the submissions of both main parties on these matters, including the appellant's Flood Risk Assessment, Traffic Statement and Noise Assessment, and taking into account the responses from statutory consultees, I am satisfied that these matters no longer need be considered main issues and can be fully addressed by means of the suggested conditions and provisions of the submitted s106 Unilateral Undertaking, as referred to below.

³ The Guidance paragraph 007 ID 41-007-20140306

⁴ Inquiry document 5

20. At the inquiry the appellant provided a signed Unilateral Planning Obligation⁵, under section 106 of the Act referred to above, to secure affordable housing provision on the site and to provide financial contributions in respect of: environmental improvements; fire and rescue, health, and library services; off-site open space; pitch sports; play space; primary education; and public transport. Consequently, on the basis of the submitted undertaking, the Council also confirmed that it does not pursue reason 5 of the decision notice. I return to the matter of the compliance of the undertaking with the CIL Regulations below.
21. The draft Statement of Common Ground (SoCG) provided with the appeal submissions was not signed or updated by the parties. However, in a letter dated 12 December 2014⁶ the Council set out the following bullet points as agreed with the appellant:
- The housing requirement for the Borough is 450dpa (4,500 dwellings for the period 2011 – 2021) as set out in the *Interim Statement on Housing (Requirements in the North Northamptonshire Housing Market Area, January 2014, (IHS))*⁷ is agreed.
 - The shortfall in the period 2014 – 2019 is agreed at 857 dwellings.
 - A buffer of 20% is agreed.
 - The overall requirement in the period 2014 – 2019 would be 3,728 dwellings.
 - It is accepted that the Council do not show a 5 year (housing land) supply on the basis of the period 2014 – 2019.
 - It is agreed that based on the period 2015 – 2020, the (housing) requirement is 3,790 dwellings.
 - Earls Barton is a relatively sustainable location and its position in the hierarchy of villages is recognised.
22. A signed Statement of Common Ground⁸, appendix 27, dated 11 November 2014 (HLSSoCG) was also submitted just prior to the opening of the inquiry. This relates only to Housing Land Supply matters and sets out areas of agreement and disagreement. It confirms that with the exception of ten key sites identified within the appellant's submissions, the supply trajectory relating to the 'other' and 'small sites' is agreed. The trajectory for these ten agreed key sites is set out in it from both parties' standpoints. For the 2014-2019 period the difference would be 1,032 dwellings. In respect of the 2015 – 2020 period the difference is 1,348 dwellings; the Council's supply figure is 4,062 and the appellant's is 2,714, against the requirement plus 20% buffer of 3,790. The HLSSoCG records in the final sentence that approximately 95% of this

⁵ Inquiry document 4

⁶ Inquiry document 31 – these are the agreed points, in order, as set out in the letter, words in brackets have been inserted for clarity and I return to the sequence for establishing the housing requirement later in this report.

⁷ Mr Ozier POE appendix 5

⁸ Inquiry document 30

difference results from the differing views as to the likely delivery from two key sites; the Wellingborough North and Wellingborough East sites.

The Case for the Appellant

23. The Council's officer recommended approval in this case. Four of the Council's six reasons for refusal have been overcome by the provision of additional information and the submission of a planning obligation agreed with the Council.
24. The proposal is inevitably contrary to development plan policies, but these are policies that are highly restrictive of development in terms of its location. This issue has been thoroughly explored in previous appeal inquiries, including at Bozeat⁹ and Irchester¹⁰. In both appeals the inspector found that LP policies G4, G6 and H4 are related to the supply of housing and are out of date. Although the Council sees the CSS policies 1, 9 and 10 as seeking to control the distribution and not the supply of housing the Bozeat inspector found that in a broad interpretation and with reference to the judgement in Barwood Land¹¹ these may be regarded as policies for the supply of housing. The relevant policies are therefore out of date and do not accord with the terms of the Framework.
25. With reference to the judgement in Colman¹², assessing the conformity of development plan policies with the Framework should include analysis of whether they follow its 'cost/benefit' approach – the policies should permit any countervailing economic or similar benefits to be weighed in the scales, and as they do not, they are inconsistent with the Framework.
26. The Council¹³ has recognised that the appeal site is sustainably located for a range of facilities and Earls Barton is, after Wellingborough, one of the highest ranked settlements in the district in terms of sustainability. Contrary to the Council's submissions at the inquiry, that the appeal site is similarly situated to the Irchester site, the footways that link the appeal site to the Earls Barton facilities are lit, do not require substantial improvement and are suitable for wheelchairs and pushchairs. Further, in comparison with Irchester the appeal proposal would not affect the setting of a listed building or cause landscape or visual impact harms to the countryside or the setting of the village.

Housing land supply – housing requirement

27. The Council does not have a five-year housing land supply and its policies relevant to the supply of housing are out of date. The joint planning unit of which the Council is a part has resolved that its housing requirements in the CSS are out of date. It relies instead on a new requirement figure set out in the IHS. This aspect of the CSS policies demonstrates that they are out of date and that the presumption in favour of sustainable development set out in paragraph 14 of the Framework should apply. Inspectors in two previous appeals have found a lack of a five year housing land supply and thus paragraphs 47 and 49 of the Framework apply in this appeal.

⁹ APP/H2835/A/14/2212956 Mr Bagshaw POE appendix 11

¹⁰ APP/H2835/A/14/2215925 inquiry document 1

¹¹ South Northamptonshire Council v SoS and Barwood Land and Estates Ltd

¹² Inquiry document 24

¹³ Inquiry document 31

Housing land supply - relevant period

28. The Council has accepted that calculated on the basis of the period from 2014 – 2019 it does not have a five year housing land supply, but considers that it does in relation to the period 2015 – 2020. It has also accepted that a 20% buffer should be applied and the Sedgefield approach used. The housing requirement calculation is based on the period from 2011; the failure to provide housing land has occurred in each year since then, the total shortfall for the three years is 857 dwellings. As shown in evidence¹⁴ the projected annual housing completions have not been achieved, with persistent under delivery in the five years since 2009/10 on these projected figures also, which are substantially less than the annual housing requirement of 450 dwellings. The Council has persistently failed to provide its five year housing land supply. This is a material and continuing failure of planning policy in the area. It is not realistic to expect that the situation will be turned around in the next five years by delivery at the rate the Council anticipates on the Wellingborough North and Wellingborough East (WNorth and WEast) sites.
29. For sound planning reasons in the Bozeat appeal decision the inspector found the period 2014 – 2019 to be the appropriate one on which to assess the five year housing land supply. The Council's justification not to use that approach, set out in the Irchester appeal decision is on the basis of out-of-date guidance published by the Department for Communities and Local Government (DCLG) to support PPS3¹⁵, which is now withdrawn. The text of this guidance is not before this inquiry and the Council accepted in cross-examination that, as it has been withdrawn, it should not be relied on as a material consideration.
30. The Framework at paragraph 47 makes clear that local planning authorities must have a five year housing land supply at all points during its assessed plan period. If the Council are unable to identify this in the period 2014 – 19, which is the future period assessed in the IHS then it does not have a five year supply. As recognised in the Bozeat appeal decision, the advantage of adopting a base date from April 2014 is that the requirement figure is based on known completions rather than on the Council's projections, which it has consistently failed to deliver on.

Housing land supply – delivery timetable

31. There is little that materially alters the scepticism of the two inspectors in the Irchester and Bozeat appeals as to delivery from the two strategic sites (WNorth and WEast).
32. For the WNorth site the acquisition of substantial areas of land still needs to be completed and this is mostly tied to completion of the revised s106 planning obligation with the Council. The previous obligation was entered into in the context of the 2010 outline planning permission for 3,000 dwellings; this was extended in December 2012 for a further two years – to December 2014. In November 2014 planning permission was granted for the initial infrastructure phase 1a. No development has taken place on the WNorth site since the 2010 permission. There has been no reserved matters application in respect of any of

¹⁴ Mr Bagshaw's POE page 21 table 3

¹⁵ Planning Policy Statement 3

the housing on the site to date. Mr Best (for Northants LLP) confirmed that the reserved matters application for those will be submitted in early 2015.

33. The Council has now formally resolved to dispose of the portion of the WNorth site that it owns, subject to the completion of the s106 obligation. There is nothing before this inquiry to demonstrate what matters are outstanding or how close to completion the obligation is. It has been acknowledged to be a complex document by Mr Best and there is only his assurance that negotiations will be completed in the near future. Although he suggested that negotiations had been delegated to the Council's officers, evidence of delegation is not available.
34. Although it was confirmed at the inquiry that Barratt/David Wilson Homes (one house-builder) is interested, there are no contracts in place with any house-builders to acquire and develop any part of the site. The trajectory provided by Mr Best for the WNorth site is based on three house-builders delivering dwellings during 2016. The situation is that acquisition is not complete; the s106 obligation is not resolved; and the service works necessary prior to letting acquisition/development contracts for any of the site land parcels have not been contracted. The delivery trajectory for this site is optimistic and unreliable. It does not demonstrate a robust deliverable supply of housing.
35. For the WEast site previous predictions of progress have slipped. Neither the construction of route 9 nor the route 4 bridge continuation to Irthlingborough Road began in September 2014 as planned. Only three outlets are now anticipated on the site in lieu of four or five. There has been no marketing of the site to other house-builders; that will commence in early 2015. The planning obligation for this site is expected to be in place by Easter 2015, but there is no evidence to demonstrate this.
36. Bovis Homes has applied for but has still to secure Large Site Infrastructure Project funding, if funding is not achieved from public sources then Mr Lougher confirmed at the inquiry that, if necessary, loan funding for around half the £20million budget would be available within the company for the shortfall. Bovis Homes expect to contract with Network Rail for construction of the route 4 bridge so as to meet the development programme. However, a contract has not yet been let and there is no clear assurance as to when it will be. The bridge is needed to cross the railway, a river and floodplain as well as the road. The need to coordinate a construction period for the works over the main railway line may delay completion of the work and prevent development of all except 300 dwellings on the WEast site. This would delay the projected delivery on the site.
37. There are numerous steps that are needed to achieve delivery in addition to the bridge works. These include making the reserved matters applications, discharging conditions and letting the contract for other site infrastructure works, which are all necessary before commencement of the housing development on the WEast site. The Council's delivery dates cannot be relied on.

Housing land supply – delivery rate

38. Mr Lougher confirmed the evidence on rate of sales per outlet provided by the Council. This justifies the appellant's view that each outlet could achieve up to

50dpa after the start up years. The appellant's witness Mr Turner also gave evidence at the Irchester inquiry. His scepticism as to the predicted rate of delivery was shared by the inspector, albeit that the inspector considered the appellant's forecasts beyond 2017 may be too pessimistic. However, there has been little tangible progress since early October 2014 when that appeal was heard. Comparisons provided with areas that have more favourable market circumstances, such as Camborne, show that there would be limitations on the speed at which both of these two major sites could be developed, irrespective of the number of outlets. The appellant's view is that a maximum predicted delivery of 500 – 600dpa in the later years for the two sites is sensible and not pessimistic.

Neighbourhood Plan

39. The emerging EBNP is a material consideration in this appeal. However, this is not a justification in itself for refusal unless the guidance on prematurity set out in the Guidance at paragraph 014 ID 21b-014-20140306 applies; it does not. At this inquiry Mr Wilson, the project manager for the EBNP, did not suggest that the development is so substantial that it would undermine the plan making process. The emerging EBNP allocates a site for 280 dwellings whereas the appeal proposal is for only 39; as such it would not pre-determine decisions as to scale, location or phasing of the new developments that are central to the emerging EBNP. The objection appears to be on the basis of its potential cumulative effect taken with other undetermined proposals. Previous planning permissions granted at appeal, for Earls Barton, including the one off Thorpe Road/Compton Way were known about when the EBNP allocation was being drawn up.
40. A date for the examination of the EBNP is not known yet; it is likely to be some time during 2015. Matters that will be subject to the examination include: whether the basic conditions are met; the consequence of the lack of any reference in it to, or explicit consideration of, the Guidance; and the lack of an up to date Local Plan to guide housing requirement and the distribution of housing over the forthcoming 20 year plan period. Resulting from this last factor there is no certainty that the 280 dwelling allocation made in the EBNP will be consistent with the requirement in the draft Local Plan, which could be subject to change. Notably, the EBNP states that it is derived through reference to the CSS housing targets to 2021 and the Earls Barton Housing Needs Survey conducted in September 2012. The figures in the CSS have been formally acknowledged to be out of date.
41. For these reasons the emerging EBNP has some way to go before it can be adopted and cannot attract decisive weight in this appeal. With reference to the appeal decision for Rolleston on Dove¹⁶ the neighbourhood plan examination had already been held and the proposal was for a substantially larger development than in this appeal.

Sustainable development

42. The appeal proposal would contribute to the supply of general market housing and help to reduce the shortfall. It would also assist with meeting the acute

¹⁶ Inquiry document 18

need for affordable housing in the district. This social benefit would accord with the social dimension of sustainable development. The economic benefits of the proposal would arise from economic growth in the construction and building supply industry as well as from longer term economic activity in Earls Barton and the district, generated by the future occupants in terms of retail and other spending. It would also attract funding from the Government's New Homes Bonus, which is a material consideration in itself.

43. The site is available and could be developed quickly to contribute to the five year housing land supply. The Council has acknowledged that the site does not amount to use of the best and most versatile agricultural land. The illustrative proposal would make efficient use of the land. No landscape character or visual impact objections have been raised by the Council. As such the proposal amounts to sustainable development with clear economic and social benefits in accordance with the Framework.
44. The objections raised by the Council are based on policies which are out of date in the context of the lack of a five-year housing land supply. There are no adverse impacts that would significantly and demonstrably outweigh the identified benefits of the proposal; the presumption in favour of sustainable development set out in paragraph 14 of the Framework should apply. The appeal should be allowed.

The Case for the Borough Council of Wellingborough

45. The appeal proposal would result in housing development outside the Earls Barton village boundary, in open countryside where development plan policies seek to restrict new development.
46. The proposal would, thus, conflict with LP policies G4, G6, H4 and H9 and CSS policies 1, 9 and 10, which confirm the status of Earls Barton in terms of its housing position within the settlement hierarchy. Policy notes to LP policy G6 state that locating [development] in close association with the town rather than elsewhere in the open countryside will be beneficial in reducing both overall travel needs and widespread impact upon the countryside in general. This aim to direct growth to the most sustainable location is in line with the Framework. The LP policies have been saved, they are compliant with paragraphs 15 and 17 of the Framework and although adopted prior to 2004 are consistent with the Framework; they carry material weight.
47. In terms of paragraphs 14 and 49 of the Framework advises that the housing supply policies of the development plan should be considered out of date if there is no five-year housing land supply. The Council's position is that there is a five-year supply and the development plan policies are accordingly not out of date. The justification for this is set out below.

Housing land supply – housing requirement

48. The housing requirement figures set out in the CSS were taken from the now revoked Regional Plan for the East Midlands. The basis for these does not comply with the approach to calculating the housing requirement now set out in the Framework, which at paragraph 47 requires Councils to identify and meet the full objectively assessed need (OAN) for housing in their area. As such the housing requirement figures set out in CSS policies 1, 7 and 10 are considered out of date.

49. The housing needs for the North Northamptonshire Housing Market Area are updated in the emerging JCS by the IHS prepared by the North Northamptonshire Joint Committee for the four Councils (Corby, East Northamptonshire, Kettering and Wellingborough). This is based on the 2011 DCLG projections, demographic forecasts and identified local needs; this follows the Guidance at paragraph 3-030-20140306 for the approach to establishing the OAN. The IHS records an OAN of 4,500 dwellings for the Wellingborough district for the ten year period from 2011-2021. The IHS and the figures in it have been accepted in recent inspectors' and Secretary of State decisions in the four Councils' areas as the most up-to-date evidence base and OAN on which to base the assessment of housing land supply.
50. Net housing completions for each year since 2011/12 have been 122, 116 and 258, with 423 projected for 2014/15. On the basis, therefore, of an annual housing need of 450 dwellings (derived from 4,500 over ten years) the shortfall is 857 dwellings. The Council acknowledges a persistent under-delivery of housing and accepts that according to paragraph 47 of the Framework a 20% buffer should be applied to the housing land supply so that there is sufficient flexibility to ensure that the housing need plus shortfall can be met. The Council also accepts that in calculating the requirement the Sedgefield approach should be used, to include the shortfall in full with the housing requirement for the first five years. The Council considers that this should be assessed for the period April 2015 – April 2020 and this leads to an overall requirement for the first five years of 3,790 dwellings.

Housing land supply - relevant period

51. The Council's calculations are based on the period 2015 – 20, commencing after the date of this inquiry, as opposed to the period 2014 – 19, commencing before it; were the earlier period relied on the requirement would be 3,728. The later period is taken for the same reason recorded in the Irchester appeal decision, issued in November 2014. This is that the Council has 'traditionally' calculated housing supply from the following April, based on advice provided by DCLG in 2008 and 2009. With reference to the Cotswold HCJ¹⁷, previous appeal decisions are relevant when it is necessary to reach a view on such matters. Accordingly, the Council points to two sets of two appeal decisions in two different local authority areas where in both opposing views have been reached on this matter.
52. In Cambridge both cases related to sites in Waterbeach¹⁸. Two different base dates were accepted – in one case the parties had agreed on the later period and the inspector did not demur, in the other the same inspector found the earlier base date the most appropriate one; he found on the basis of evidence put to him that as the earlier period was based on known completions it was the most up-to-date figure and anything else would be conjecture.
53. In Wellingborough, the inspector in the Bozeat appeal decision preferred the earlier of the two periods, because that inquiry took place in July 2014, closer to the beginning of the April 2014 period than the April 2015 period – as such the inspector's decision was time sensitive and the context is different for this

¹⁷ Mr Bagshaw POE appendix 19

¹⁸ APP/W0530/A/13/2207961 Mr Bagshaw appendix 12

appeal which takes place much closer to the end of the 2014 period, with the decision likely during early 2015. Moreover, the full text of the DCLG advice was not provided to the Bozeat inspector; it was in the Irchester inquiry, which took place in September – October 2014. On the basis of the full submitted text of the DCLG guidance and although this guidance had already been withdrawn, the Irchester inspector found that it reflects the contemporary advice in the Framework at paragraph 47 and he accepted the later period.

Housing land supply – timetable and delivery rate

54. The *Borough Council of Wellingborough Five Year Supply of Deliverable Housing*, June 2014¹⁹ set out the Council's supply trajectory. This has been revised²⁰ and subsequently further revised to update the Council's position. The Council's most recent supply position is set out in the HLSSoCG²¹. The Council's overall supply calculation for the period 2015-2020 is 4,062 (5.36 years).
55. Of the large sites over which the parties disagree in terms of the level of delivery in the five year period, two (WNorth and WEast) account for some 95% of the difference. It is agreed that both sites will deliver dwellings within the next five years; the disagreement between the parties amounts to the start date and the rate of delivery on each of the sites.
56. The inspectors for the Bozeat and Irchester appeals were both unconvinced by the Council's predictions regarding the likely start dates for these sites. Their scepticism related to the timing of the provision of essential infrastructure, finance, land owner agreements and s106 contributions.
57. However, since those inquiries time has moved on and evidence presented to this inquiry by both Mr Best of Northants LLP and Mr Lougher of Bovis Homes, is that the WNorth and WEast sites can and will be delivered as predicted. Their evidence has been thoroughly cross examined and investigated and should be treated with much greater weight than these previous decisions.
58. Mr Best's evidence²² is that Northants LLP own 51% of the WNorth site land, freehold, and has agreements in place for acquisition of all of the remaining land necessary for the scheme. Outline planning permission was granted in 2010 and a unilateral undertaking put in place for 3,000 homes with employment land, 2 primary schools and local centres. A restructured undertaking is currently being finalised with the Borough and County Councils and is anticipated to be in place by early 2015. Reserved matters approvals were granted in November 2014 for the initial infrastructure and landscaping works to service around 820 dwellings. Reserved matters applications are being progressed for another 210 dwellings. Preparation for the tender exercise for the approved infrastructure works has started and commencement of the works is programmed for the first quarter of 2015. A marketing exercise is being prepared for serviced site parcels for the 820 dwellings and will be launched by CBRE to house builders in the first quarter of 2015.

¹⁹ Mr Ozier POE appendix 9

²⁰ Mr Ozier POE appendix 17

²¹ Inquiry document 31

²² Inquiry document 33

59. Mr Lougher's evidence²³ is that Bovis Homes own 27% of the WEast site and have had the remaining land required for delivery under option since 2004, the land owners include British Steel Pension Fund, Cambridge University and Northamptonshire County Council. Outline planning consent (and a s106 Agreement) dates from 2008 which is for 3,100 homes plus employment land, schools and local centres. As the result of an independent viability assessment carried out in July 2014, the scheme will be modified slightly with regard to the housing numbers and delivery of the road infrastructure. This does not affect the early phase of infrastructure provision or delivery of the first serviced residential land parcels. The railway bridge²⁴ is on the new distributor road (route 4). Bovis Homes have contracted with Network Rail Infrastructure Projects for the procurement and detailed design of both the bridge and the road. The necessary internal approvals are in place to instruct the construction phase so as to enable works to start on site in April 2015 with completion planned for the second quarter of 2016.
60. For WEast construction access to Area 14 will be from Route 4 and to Areas 15 and 16 from the existing Irthlingborough Road. Together these three site areas can accommodate around 550 dwellings. A reserved matters application has been submitted for Area 16 and house building is intended to commence in the third quarter of 2015. Areas 14 and 15 will be marketed to house builders in the second quarter of 2015, with site possession and access available in the final quarter 2015 and first quarter of 2016, to enable house builders to obtain reserved matters consent before possession. It is planned that three house builders will have commenced building by first quarter 2016. First completions on Area 16 are planned in the second quarter of 2016. Further serviced residential parcels will become available adjacent to Wellingborough Station once Route 4 is completed in second quarter 2016. The electrification of the Midlands mainline between Bedford and Corby is scheduled for completion by the end of 2017, reducing the journey time from Wellingborough to London to around 50 minutes. Bovis Homes' market research suggests good demand for quality housing within reach of the station.
61. In terms of the rate of supply from these two sites both inspectors accepted the Council's case and found the appellant's predictions unduly pessimistic; suppressed supply might influence the rate of take up, the sites are large enough to accommodate five outlets in the later part of the period so as to expand the number of units provided and the electrification of the main railway line to London will make Wellingborough a desirable commuter location. The majority of the difference in estimates relates to this later part of the five year period, such that these considerations are critical. For the earlier part of the period, the difference between the parties amounts to 400 dwellings and as the Council's supply figure is 272 greater than the requirement, the net 128 difference is only marginal.
62. Thus overall the Council has demonstrated the basis for its 5 year housing land supply. In this context the housing policies of the development plan attract full weight and the appeal proposal would be contrary to it.

²³ Inquiry Document 30

²⁴ See Bozeat decision paragraph 13

Sustainable development

63. Even if the inspector were to disagree with the Council's submission on housing land supply, it is necessary to assess whether the proposal would amount to sustainable development in accordance with paragraph 14 of the Framework. Based again on the assessment in the Irchester appeal decision, the Council draws parallels with the current appeal case; Irchester and Earls Barton are similar in size and have a similar designation in the emerging development plan. The appeal site is at a similar distance from the services and facilities within Earls Barton compared with the Irchester case. Pedestrian and cycle links from the site to such services would also be similar. The CSS distribution strategy for housing in the borough is not just a policy for the supply of housing; it is a fundamental aspect of the development plan, which seeks to focus housing on Wellingborough. The proposal is in direct conflict with this strategy and cannot be a sustainable form of development.

Neighbourhood Plan

64. Finally, the neighbourhood plan has been produced by the local community in accordance with the statutory process and is an expression of their preferences for the nature, form and amount of development in their local area, in response to one of the Government's key policies for land use planning – Localism. The EBNP has been through a thorough Regulation 14 consultation process, which embraced statutory bodies and all relevant local people. It has now been submitted to the Council for examination by an independent person. In the recent Devizes SoS appeal decision²⁵ the SoS attached significant weight to the emerging neighbourhood plan, which was less well advanced than the EBNP. A similar degree of weight should be attached in this case.
65. In the recent Staffordshire SoS appeal decision²⁶ a substantial shortfall in the 5 year housing land supply was found and the proposal was found to be sustainable, the NP had been rejected by the independent examiner as requiring modification and the proposal was not found to be in direct conflict with it; these factors were all more favourable to allowing the development than in this appeal case, but the proposal was dismissed for reasons that included the weight of support and engagement from the local community in the neighbourhood plan process and the undermining effect that granting planning permission would have on it.
66. The appeal should be dismissed.

Interested parties (based on oral submissions to the inquiry and written statements²⁷)

67. Local residents have raised concerns related to the sustainability of the site, the lack of pre-application consultation (good practice advocated in the Framework) and that the site does not conform to a plan-led approach and is not part of a managed sustained growth. Other issues raised include the type of dwellings illustrated in the submissions; three and four bedroom houses, not one and two bedroom which are needed in the village. The appeal site is outside the village boundary with green space including allotments on three sides. It would be an

²⁵ APP/Y3940/A13/2206963 inquiry document 2

²⁶ APP/B3410/A/13/2209697 inquiry document 18

²⁷ Inquiry documents 6, 7, 8, 9 and 10

- odd area of housing jutting into the countryside at the south of the village. The site access would be off an area, the Lane (the disused southern section of Station Road) that has been used for several decades for recreation by local people including children. The loss of this traffic free space would harm the local community.
68. Following the Localism Act in 2011 the Earls Barton Parish Council commenced work on the EBNP to plan for the future growth of the village. Prior to this the proposed level of growth for Earls Barton and other rural villages in the Borough was modest as the CSS directs growth principally towards the urban core of North Northamptonshire. The housing requirement for Earls Barton for the plan period to 2031 is robust and credible. The evidence base for how it was derived is set out in the EBNP report *Determining a Housing Target*²⁸. The Council's *Interim Report: Rural Housing Targets for Wellingborough's Principal Villages*²⁹ was followed, which forms part of the evidence base for the emerging JCS. The minimum housing target established in the EBNP is 250 dwellings, well in excess of previous requirements.
69. The first core planning principle set out in the Framework is that planning should 'be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.'
70. The residents of Earls Barton have worked for the past two years to produce a Neighbourhood Plan, written by local people, with supporting evidence gathered from local people, in a continuous consultation with local people. This is a genuine plan-led approach setting out a positive vision for growth for Earls Barton. The housing needs for Earls Barton have been objectively assessed as part of this process, with support from the Borough Council. The EBNP project group looked actively for sites for development and the 88% response to the preferred options consultation demonstrates local people's preference for a comprehensively planned village extension at the north of the village.
71. The Save Earls Barton Group endorses the work of the EBNP team, it accepts that no further development is not an option and that there is a need for additional housing especially at the lower end of the market, so that family members can find accommodation. Through the EBNP the community has already accepted more housing development than is required for the next 20 years. The group asks that the community's choice as to where new housing should be located is respected.
72. Resulting from the EBNP allocation, outline planning permission has been granted for a development of 280 houses at the north of the village, focussed around the Grange. Reserved matters applications are in progress and there is an anticipated start on site in early 2015. The development will include substantial recreation provision and sports pitches as well as changing facilities.

²⁸ Inquiry Document 13

²⁹ Inquiry Document 14

There will be additional employment land and allotments as part of the development.

73. The EBNP has been drawn up in cooperation with Wellingborough Borough Council throughout the process, to ensure its conformity to the Local Plan and Core Spatial Strategy. The Council's recent planning decisions for Earls Barton have followed the EBNP, rejecting all applications outside the village except the site allocated in it.
74. The second core planning principle is that planning should 'not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives'. The objectives of the EBNP look at far more than scrutiny; it creates a positive vision for growth. A requirement for around 250 dwellings was identified in 2011; this has been exceeded by more than 100 additional houses. The site adjacent to the appeal site is under construction with 65 houses, also outside the limits for the village, well on the way to completion. There is an additional site on the High Street also under way and another off Churchill Road. Work is being carried to progress the development of the 280 dwelling site to the North of Earls Barton allocated in the EBNP. Overall there have been close to 400 dwellings approved since 2011, a 17% increase in the existing housing stock in the village. There is a genuine push for growth in the area.
75. In the context of the overall number of recent approvals in the village, other concerns relate to the potential strain on infrastructure in the village, including on schools and medical services which are at or near capacity.
76. There are two primary schools in the centre of the village and neither has further land for expansion. In the light of the projected growth of the village, options for school expansion have been looked at by the education authority but no conclusions published. The schools would both need to expand from 2.5 form to 3 form entry. There may need to be further amalgamation of year groups and larger class sizes. The County Council has discounted the option of moving the school to another location in the village on cost grounds. Even taking into account a reduction in pupils accepted from outside the village, new pupils from the village would have to seek places at other schools away from the village. This would lead to unsustainable travel patterns and a loss of community cohesion.
77. There is another site close-by on the other side of Station Road, closer to the village centre, but also outside the village policy line, which is also subject to an appeal recovered by the Secretary for State³⁰. People fear that if both appeals are allowed and in combination with the development already underway off Compton Way/Thorpe Road, there would be 189 dwellings built in this small southern part of the village in a few years, all effectively off one cul-de-sac. The cumulative effect, in the context of very little off street parking in the surrounding residential streets, would produce further misery from construction traffic in the short term and in the longer term local traffic congestion. This could endanger local children walking to school on Station Road and degrade the quality of life for residents of this part of the village.

³⁰ APP/H2835/A/14/2213617 outline application for up to 85 dwellings. The decision has not been issued at the time of making this report.

78. The Neighbourhood Plan team considers it would not be equitable for further housing, over and above that identified and justified by the EBNP to be granted planning permission in the village. This would run counter to the existing and emerging Core Strategy policies for the distribution of development and would raise significant issues of sustainability and the capacity of the village to sustain additional housing.
79. The proposal would be contrary to the EBNP; in the recent SoS appeal decision at Devizes, the neighbourhood plan had reached the stage of submission to the Council, but had not been through the Regulation 16 consultation as this one has. In the context of the lack of a five year supply of housing land there, the SoS gave the neighbourhood plan considerable weight in his decision. This one should attract the same degree of weight.
80. It is the view of local people that the cumulative level of growth that would result from this appeal proposal, with the others already allowed and others awaiting decision, would be unsustainable for Earls Barton. The EBNP supports growth in the village but not on the appeal site. The appeal should be dismissed.

Conditions

81. The Council's lists of suggested conditions³¹ were discussed and amendments agreed by the main parties at the inquiry. Should the Secretary of State be minded to grant planning permission, the Schedule of Conditions appended to this Report at Annex A comprises those conditions that I consider should be imposed, in the event that the appeal is allowed. The conditions comply with the Planning Practice Guidance.
82. As the application was made in outline further details of reserved matters are necessary, within the standard time limits. As the application is clearly submitted in respect of 39 dwellings, any permission would be in these terms and in respect of the red line site boundary; the Council's suggested condition tying these aspects is therefore unnecessary. In view of the site location, provisions to investigate for possible archaeological findings, land contamination and remediation and to mitigate traffic noise are necessary. To ensure the sustainable management of surface water drainage a scheme for its provision in accordance with the Flood Risk Assessment is reasonable. A requirement for a scheme of sustainable transport measures to reduce reliance on private cars is reasonable, in accordance with Government aims. To ensure the long term maintenance of landscaping a management scheme is necessary. A condition to secure the provision of 30% affordable housing in accordance with development plan policy and Government aims is necessary.

Obligation

83. The applicants have provided a Unilateral Undertaking dated 12 December 2014 made under section 106 of the Town and Country Planning Act 1990 relating to the proposal. The undertaking lists financial obligations as follows:
 - i) Environmental Improvements. An aggregate sum to be paid to the Borough Council for funding environmental improvements in and around

³¹ Inquiry document 19

- Earls Barton, calculated on the basis of: £108.00 index linked per 1 bed dwelling; £144.00 index linked per 2 bed dwelling; £213.00 index linked per 3 bed dwelling; £271.00 index linked per 4 bed dwelling; and £303.00 index linked per 5+ bed dwelling.
- ii) Fire and Rescue. The sum of £3,588 index linked to be paid to the County Council for carrying out improvements to these services in the vicinity of the site.
 - iii) Health contribution. The sum of £24,453 to be paid to the Borough Council for onward payment to NHS England and to be used for improvements to GP facilities in the vicinity of the site.
 - iv) Library contribution. The sum of £9,367 index linked to be paid to the County Council for improvements to Earls Barton library.
 - v) Off site open space. An aggregate sum to be paid to the Borough Council for funding open space in and around Earls Barton, calculated on the basis of: £141.00 index linked per 1 bed dwelling; £188.00 index linked per 2 bed dwelling; £278.00 index linked per 3 bed dwelling; £353.00 index linked per 4 bed dwelling; and £396.00 index linked per 5+ bed dwelling.
 - vi) Pitch sports. An aggregate sum to be paid to the Borough Council for funding the provision or enhancement of pitch sports in and around Earls Barton, calculated on the basis of: £759.00 index linked per 1 bed dwelling; £1012.00 index linked per 2 bed dwelling; £1495.00 index linked per 3 bed dwelling; £1897.00 index linked per 4 bed dwelling; and £2127.00 index linked per 5+ bed dwelling.
 - vii) Play space. An aggregate sum to be paid to the Borough Council for funding the provision or enhancement of play space in and around Earls Barton, calculated on the basis of: £197.00 index linked per 1 bed dwelling; £262.00 index linked per 2 bed dwelling; £387.00 index linked per 3 bed dwelling; £492.00 index linked per 4 bed dwelling; and £551.00 index linked per 5+ bed dwelling.
 - viii) Primary education. The sum of £179,667 index linked to be paid to the County Council for providing improved education facilities at Earls Barton Infant School and Earls Barton Junior School.
 - ix) Public transport. The sum of £90,000 index linked to be paid to the County Council for providing a new or extended bus service to provide a peak time route between the Brackmills and Park Farm employment areas via Dowthorpe and Station Road and for construction of 2 new bus stops and shelters on Station Road, Earls Barton.
84. The Schedule in the undertaking sets out arrangements for staged payments of these contributions, related to the number of open market dwellings occupied.
85. I must consider the Unilateral Undertaking against the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL) and the Framework.

The Council has provided a Supplementary Statement of CIL Compliance³² which addresses these tests and provides the justification for each of the sums set out above, with the relevant policy background and details of how and where the sums would be expended. Copies of the policies and guidance documents referred to are provided.

86. The local community has made representations at the inquiry that local services, particularly the primary school and health centre, are being put under pressure by new residential development in and around Earls Barton. Concerns about traffic congestion would also be assisted by the contribution to better local public transport provision. The provisions relate to contributions to improve services and infrastructure to meet needs that would be generated by the proposed development and are thus related directly to it. All the sums listed would be spent on local services. Nothing has been brought to my attention to cause me to doubt that any of the other service contributions sought are necessary. The obligations in the undertaking meet the tests of being necessary, directly related to the development and fairly and reasonable related to it. It can, therefore, be given weight in support of the proposal. Together with the conditions, they would deal satisfactorily with the impact of the development on the infrastructure and the environment.

Inspector's Conclusions

[the numbers in square brackets in this section reference previous paragraphs in the report]

87. In the light of all I have heard, the main issues differ a little from those given at the opening of the Inquiry. They are:
- i) The extent to which the proposal would be consistent with the development plan for the borough;
 - ii) whether there is a five year supply of housing land in the borough;
 - iii) whether the proposal would deliver sustainable development; and
 - iv) whether the proposed development would conflict with the emerging Earls Barton Neighbourhood Plan and, if so, whether such conflict would significantly and demonstrably outweigh any benefits of the proposal.

Development plan

88. Planning proposals should be considered against the Development Plan, unless material considerations indicate otherwise.
89. The appeal site lies outside the village policy line for Earls Barton established by LP policy G4 and as such would be development within the open countryside. Thus, in development plan terms, the proposal would not accord with policies G4, G6 and H4 by reason of its location in the open countryside outside the village policy line. [3, 8]
90. With regard to the Framework, paragraph 14, where the relevant development plan policies are out-of-date, permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the

³² Inquiry document 20

Framework taken as a whole. As set out above, the development plan has reached the end of the plan period, but relevant policies have been saved. These countryside policies seek to protect the countryside from development in recognition of its value and vulnerability. This aim is broadly consistent with one of the core planning principles established in the Framework, recognising the intrinsic character and beauty of the countryside. [8, 13, 14]

91. Nevertheless, with regard to paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Thus whether or not the Council can demonstrate a five-year supply is crucial in this appeal; it determines whether these countryside policies may be considered up to date. [15]

Housing Land Supply – the requirement

92. The Council has abandoned as out-of-date the housing requirement figures set out in the CSS as these were taken from the now revoked Regional Plan for the East Midlands. Those in the emerging JCS are set out in the IHS, based on 2011 DCLG projections, demographic forecasts and identified local needs and this follows the Guidance on establishing the objectively assessed need. I note that in recent appeal decisions in this district other inspectors have accepted this approach to establishing the housing requirement and in the absence of any objection by the appellant, or any persuasive arguments to the contrary I see no reason to differ. [48, 49]
93. On this basis, the parties are in agreement over a number of the parameters that go to establishing whether or not there is a five-year housing land supply: the housing need for the Wellingborough district should be taken to be the objectively assessed housing need for 4,500 dwellings (450dpa) for the ten year period 2011 – 2021 as set out in the IHS; the shortfall for the period 2014 – 2019 is 857 dwellings; so that the five-year housing need including shortfall is for 3,107 dwellings (450 x 5 + 857); to provide flexibility in the light of past under delivery a 20% buffer should be applied to the required land supply; consequently, the overall five-year housing land supply required in the period 2014 – 2019 would be 3,728 dwellings. The Council has acknowledged that it cannot demonstrate a realistic prospect of achieving the planned supply during this earlier five-year period. [21]
94. However, the parties disagree over the appropriate period for calculating the five-year supply. The Council's stance is that the period to be considered should be 2015 – 2020, taken from April 2015. Based on this period, the parties agree that the overall five-year housing land supply requirement would be 3,790 dwellings. The Council's supply calculation based on this period is 4,062 dwellings, which would equate to a 5.36 year supply. [50]

Housing Land Supply – the five-year period

95. Historically, the Council has always calculated the supply based on the period from the following April, in this case April 2015. To support this position reference was made at the inquiry to two pairs of previous appeal decisions – those for Waterbeach, Cambridge, and at Irchester and Bozeat in this district. In each pair the decisions found in favour of opposing standpoints. As the Irchester decision (which found in favour of the 2015 – 2020 period) found the

question to be time sensitive and gave weight to the months that had passed since April 2014 at the time of that inquiry (September/October 2014) and given the advanced point within the year reached at the time of this inquiry (December 2014) and the likely proximity to April 2015 of the issue date for the Secretary of State's decision it was put to me that I too should support the later period. [28, 29, 30, 51, 52, 53]

96. The full evidence available to the Irchester inspector on this matter was not made available to me. His decision clarifies that he had had sight of the full text of the DCLG guidance from 2008 and 2009 referred to in support of the Council's case on this matter. Both documents had already been withdrawn at the time of his decision and at this inquiry the Council's witness, Mr Ozier, acknowledged in cross examination that no regard should be given to guidance that has been withdrawn. In the Irchester decision the inspector clarified that the requirements of the Framework at the second sub paragraph of paragraph 47 and its footnote are remarkably similar to those of the previous document³³ that it replaces, for which the guidance was specifically published. In the absence of any more up to date advice he thus found that it was not inappropriate for the Council to use the methodology in the 2009 document if that is its preference. [28, 29, 30, 53]
97. However, I note and cannot ignore the fact that part of paragraph 47 says that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. For the period up to 2014 the Council accepts that it cannot demonstrate a five-year supply. By projecting forward to the 2015 – 2020 period it considers it can, just, on the basis of its predictions it can show a 5.36 year supply. I am unconvinced that this approach is in the spirit intended by the Framework, I note the views of the inspector of the Bozeat inspector on this that 'a significant advantage in the appellant's approach is that adopting a base date of 1 April 2014 ensures that the housing land supply requirement figure is based on known completions rather than Council predictions which may not come to pass.' However, in the absence of clear guidance, but noting the absence of the 2009 wording from the current policy, and in the light of the other factors set out here, I turn to whether the Council's supply predictions for the later period are well founded. [54]
98. The Council's position is that it can achieve a supply for this period of 4,062 dwellings. As the five-year requirement including 20% buffer is 3,790 this is some 272 in excess of the target. The appellant's figures show a supply of 2,714, some 1,348 dwellings below the target. [22]

Housing Land Supply – timetable and delivery rate

99. The parties agreed in advance of the inquiry to concentrate on their disagreement over the predicted rate of delivery from two strategic urban extension sites in the Wellingborough district, the WNorth and WEast sites. The figures in the HLSSoCG are set out for both the earlier and the later periods referred to above. However, as by either supply calculation the parties agree there would not be a five-year supply for the 2014 – 2019 period, there is little

³³ Planning Policy Statement 3 paragraph 54

reason to examine the figures for this period further and I shall concentrate on the predicted supply for the later period in respect of these two sites only. [22]

100. In respect of the WNorth site, acquisition of around half the land has still to be completed and while the Council has resolved to sell its holding of around 10%, this remains subject to the completion of a s106 obligation, anticipated to be finalised shortly, but with no evidence as to what progress is being made. The purchase agreements for the other roughly 40% (from three landowners) are conditional on the completion of acquisition from the Council. The outline permission for the site expires in December 2014 and no reserved matters applications have been made, these are anticipated to be made in early 2015. The inquiry was told that detailed design including the Building Regulations drawings are now underway. [32, 33, 34, 58]
101. At the time of the Irchester appeal inquiry most of these same factors relating to the reality of the likely commencement on site (irrespective of the rate of delivery) were highlighted as reasons to doubt the Council's supply trajectory for this site. The s106 obligation still remains to be completed. I was told that negotiations were underway then, but a first draft has now been obtained; in my experience this is only modest progress. There is little tangible reason to find the Council's supply predictions for this site, which are based on completions in 2015/16, more persuasive than they were for the Irchester inspector. There remains doubt over whether the anticipated programme for a start on site is realistic.
102. For the WEast site the most up to date situation prior to this inquiry was set out by the Irchester inspector: a limited amount of development can commence before a major distributor road project that includes a new bridge over the Midland main line railway is completed and this was scheduled to start in summer 2014, but had not by the end of the inquiry in October 2014. This is now scheduled to start by April 2015, with a Development Services Agreement in place with Network Rail. It was clarified in cross examination that the bridge has reached detailed design stage (Grip Stage 5), with the remaining stages to be contracted by December or early January 2015, but it had not by the time of this inquiry in mid/late December 2014. It was also reported that as part of this process the road would be delivered by early 2016. A copy of this agreement was not supplied and as the later stages, including the construction phase, were not contracted by the time of this inquiry there can be no surety regarding this latest scheduled start date. Thus, this aspect of the programme has slipped from summer 2014 to April 2015 or later and there are other factors, set out below that could cause it to slip further. [35, 36, 37, 59, 60]
103. In cross examination it was also confirmed that the necessary infrastructure funding application for the bridge was only very recently shortlisted. Although the inquiry was told that Bovis Homes would underwrite this if necessary and it is budgeted for from internal loan funds, this funding stream seems uncertain and may be subject to delays from the funding process. I am less persuaded by the Council's suggestion that delays may occur due to the need to shut down the railway for construction access; this is a part of Network Rail's normal type of activities and one that is within their power to plan for and arrange in a timely manner for the contract, once in place. Nevertheless, the contract for the construction phase is not yet in place. [36]

104. Further, whereas previously the supply trajectory included the assumption that four to five house builders would develop the overall site, now that figure is three – Mr Lougher confirmed that this is expected to rise to the previous figure later, “once the development is fully up to speed”. It is anticipated to take three months overall to elicit interest from house builders and put contracts in place. Only one house builder has indicated interest to date and no contracts are in place. Overall, as almost one third of delivery for this site is anticipated in the final year of the 2015 – 2020 period, with only a relatively small slippage in the programme due to the numerous possible factors identified, the out turn would be substantially affected; I am doubtful that the Council’s trajectory figures are realistic. [34, 35]
105. Overall, on balance, I conclude that the Council has not demonstrated a five-year supply of deliverable housing sites. In such circumstances the Framework at paragraph 49 states that relevant policies for the supply of housing should not be considered up-to-date. Consequently, the presumption in favour of sustainable development at paragraph 14 applies.

Sustainable development

106. There are three dimensions to sustainable development - the economic, social and environmental roles. [12]
107. The economic benefits of the proposal are not disputed; the proposal would provide employment in the construction and building supply industry and in the longer term the increased residential population would result in increased economic activity in the Earls Barton and the district. The appellant cites as an additional economic benefit the funding that would be attracted from the Government’s New Homes Bonus. It seems to me that such funding would apply to any proposal for which permission were granted. Accordingly, this does not seem to me to be a benefit that is unique to this case or a material consideration necessarily favouring approval of this proposal. [42]
108. In social terms, were this appeal allowed, there is little reason to doubt that it could be developed speedily, the land is available and completions within five years could be a realistic prospect. The proposal would contribute to the five-year supply of housing land through the addition of 39 dwellings. In addition to market housing, 30% of the dwellings would be provided on site as affordable housing secured by planning condition. [2, 42, 43, 82]
109. In terms of the character and appearance of the countryside here (the environmental role), and LP policy G6, the appeal site is mostly visually contained by hedge boundaries and is not prominent other than being at the edge of the village. Further, this small area of countryside at the south of the village is separated and contained from the countryside beyond it by the elevated feature of the A45 dual carriageway nearby. I note and have some sympathy with local residents’ views expressed at the inquiry that development in this location would jut oddly into the countryside at the end of the village. However, I note also that the Council’s case has not been based on undue visual harm to the landscape, in the context of development already underway on the adjacent site to the northwest, the containment that would be provided by existing hedging, the existing closed road and the allotments opposite, I agree that this is not an overriding consideration in this case. [3, 4, 8, 43]

110. For this district the CSS policies 1, 9 and 10, seeks to focus housing development at the Sustainable Urban Extensions identified adjacent to Wellingborough and to limit residential development elsewhere. The Council sees this strategy as a fundamental aspect of the development plan. However, in the absence of a five-year supply of housing, this policy restriction on the location of residential development can attract only limited weight. In terms of the location of the appeal site and its relationship to Earls Barton, there is little to demonstrate that the proposal would be unacceptable. There is a wide range of services and facilities in the village, including a primary school and medical services and the proposal would make contributions via the s106 Undertaking to expanding these provisions and strengthening the public transport infrastructure. [6, 7, 26, 46, 63, 83]
111. I conclude here that on the face of it, the proposal would accord with the three dimensions of sustainable development, as set out in the Framework and as such would deliver sustainable development.

Neighbourhood Plan

112. In accordance with one of the Government's core planning principles, for planning to empower local people, the Earls Barton Neighbourhood Plan has been in preparation since the Government's Localism Act 2011. The Earls Barton Parish Council and local residents have worked together in a process of continuous consultation with the community to set out their vision for positive growth for the village. The EBNP has been drawn up in cooperation with the Wellingborough Borough Council throughout the process, to ensure its compliance with the development plan. It has been through the consultation stage with statutory bodies and local people, required by regulation 14 of the Neighbourhood Planning (General) Regulations 2012. The draft EBNP has been submitted to the Council for examination by an independent person and, following compliance with regulation 16 the publicity period has been concluded. Examination is expected to take place early in 2015; a date has not yet been set. [11, 14, 64, 73]
113. Consultations on the preferred options produced an 88% response rate, indicating a high degree of local engagement in the process. While based on the housing requirement figures from the CSS, which are now acknowledged to be out of date, the EBNP sets a minimum target of 250 dwellings and EBNP policy EB.G1 allocates a large mixed use development site at the north end of the village, with good access to the A4500. [11, 70]
114. On the basis of this emerging policy planning permission has been granted for 280 dwellings on this site and work on reserved matters applications has commenced. A start on site is expected in early 2015. In addition, 65 dwellings are already underway at the site adjacent to the appeal site, also outside the development limit set in the EBNP. There are further residential developments underway at sites off Churchill Road and High Street within the village. In total 400 dwellings have been approved since 2011 both within the village policy line and outside it. This represents a 17% increase in the existing housing in Earls Barton. Further, another site close to the appeal site is subject to an appeal in respect of another 85 dwellings. This has been recovered by the Secretary of State; at the time of this inquiry the decision had not been issued. [72, 74, 77]

115. It was clear from the heart-felt oral representations made by local people at the inquiry that the community regards itself as, in effect, under siege by housing developers who are seeking sites for new homes in response to the Framework aim to boost significantly the supply of housing. This tension is understandable; the community here has committed to the neighbourhood plan process to ensure that it gets the types of development needed in the locations identified as locally appropriate. The financial contributions provided in the s106 undertaking would go some way to meeting some but not all of the community's concerns regarding local infrastructure and potential road congestion. However, as the appeal site is outside the limits for development set in the draft EBNP, the appeal proposal is in conflict with it. [11, 76, 78, 83]
116. The draft EBNP is emerging and this conflict therefore does not attract the weight accorded under s38(6) of the 1990 Act as it is not yet a development plan. That said, given the stage to which it has progressed through the process, with the Council's publicity period completed, and given the evident high degree of local support for it, I give it significant weight as a material consideration. [16, 17]
117. The scale of the proposed development is not of such a size that on its own it can be seen as premature in relation to the Framework Annex 1 and Guidance on this matter. The Council has not made its case in terms of the cumulative effect of development on Earls Barton. I recognise the heavy degree of local concern that the cumulative effect on the village of existing residential development that is underway, committed or with extant planning permission would result in excessive pressures relating to congestion on the local road system and on the services infrastructure in respect of schools and medical services. However, as no party gave me substantiated evidence to demonstrate any planning harm that would arise, I am unable to give this more than moderate weight. Moreover, these effects would be reduced by the mitigations that would be achieved by the s106 financial contributions set out above. As such only modest weight can be applied in this regard. [17, 74, 75, 76, 77]
118. I have found that the development would amount to sustainable development, which the Framework advises should be allowed, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. All in all the material considerations relating to the conflict with the emerging EBNP and the local community's concerns with regard to the cumulative impacts on traffic congestion and the services infrastructure, attract significant and modest weight respectively. In my judgement, even in combination, this harm is insufficient to significantly and demonstrably outweigh the acknowledged benefits of this sustainable development.
119. In reaching this judgement I have had regard to the appeal decisions referred by the Council, where the SoS has attached more weight to a less advanced neighbourhood plan and one which although already subject to examination, had been rejected as requiring modification, but I have reached my conclusion based on all of the evidence, merits and submissions put to me in this particular case. I fully recognise that the Secretary of State has discretion to attach different weights in balancing the factors that will lead him to his judgement. [64, 65]

Recommendation

120. I recommend that the appeal be allowed and planning permission be granted subject to conditions set out in Annex A below. I recommend also that weight be attached to the offered s106 Unilateral Undertaking for the reasons I give above.

Wenda Fabian

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Crean QC

He called

Mr M Best

Mr J Lougher

Mr N Ozier

Northants LLP

Director, Bovis Homes

Managing Director, Aitchison Raffety, Chartered
Town Planning Consultants

Wellingborough Borough Council

Mr O Duyile

(conditions only)

FOR THE APPELLANT:

Mr P Goatley of Counsel

He called

Mr J Turner

Mr M Bagshaw

Instructed by MHB Planning

Turner Morum Chartered Surveyors

Director MHB Ltd

INTERESTED PERSONS:

Councillor R Gough

Ward Councillor Earls Barton, SEBG, Chair Earls
Barton Neighbourhood Plan project group

Mr P Higgs

Mrs J Higgs

Mr J Wilson

Save Earls Barton Group (SEBG)

Secretary SEBG

Project Manager Earls Barton Neighbourhood
Plan

Mr C Wells

Earls Barton Parish Council

DOCUMENTS

- 1 Irchester appeal decision APP/H2835/14/2215925 issued 18 November 2014
- 2 Devizes SoS appeal decision APP/Y3940/A/13/2206963
issued 27 October 2014
- 3 SoS letter, 15 August 2014, recovering Station Road appeal decision
APP/H2835/14/2213617
- 4 Unilateral Planning Obligation, 12 December 2014
- 5 Statement of Common Ground Highways
- 6 Statement of Councillor R Gough
- 7 Statement of Mr P Higgs
- 8 Statement of Mrs J Higgs
- 9 Statement of Mr J Wilson + Earls Barton Neighbourhood Plan (EBNP) Basic
Conditions Statement
- 10 Statement of Earls Barton Parish Council, presented by Mr Wells + EBNP On
Street Parking Survey
- 11 High Court Judgement R Naylor v Essex CC etc issued 28 July 2014
- 12 EB Rural Housing Survey October 2012
- 13 EBNP Determining A Housing Target Report v1
- 14 Interim Report: Rural Housing Targets for Wellingborough's Principal Villages
- 15 EBNP Consultation Statement Appendix 12
- 16 EBNP Consultation Statement Appendix 13

- 17 WBC Five Year Supply of Deliverable Housing June 2014
- 18 Rolleston on Dove Staffordshire SoS appeal decision APP/B3410/A/13/2209697 issued 15 December 2014
- 19 Suggested conditions
- 20 Supplementary Statement of CIL Compliance – S106 Contributions
- 21 WBC Planning Contributions Guide for Local Infrastructure March 2010 Update
- 22 NCC Planning Obligations Framework and Guidance March 2011
- 23 Council's closing submissions (handwritten)
- 24 High Court Judgement A Colman v SoS CLG etc issued 9 May 2013
- 25 Appellant's closing submissions
- 26 Pershore Worcestershire appeal decision APP/H1840/A/13/2203524 issued 31 October 2013
- 27 Location plan for site visit
- 28 List of local residents to attend site visit
- 29 Location plan Station Road site

DOCUMENTS submitted just prior to the inquiry

- 30 Statement of Common Ground, appendix 27, 11 November 2014
- 31 Letter, dated 12 December 2014, from Mr Ozier on behalf of the Council to the appellant
- 32 Statement of Mr J Lougher and 3 attached maps
- 33 Statement of Mr M Best
- 34 Draft Statement of Common Ground
- 35 Unilateral Planning Obligation undated
- 36 Droitwich Spa SoS appeal decision APP/H1804/A/13/2199085
- 37 North Northamptonshire Study Tour 4 December 2013

PLANS

- A Location plan
- B Dwg No 013-008-001 Proposed Layout (illustrative)
- C Dwg No 013-008-002 Proposed Layout – coloured (illustrative)
- D Dwg No 013-008-001 Street Scenes (illustrative)
- E Dwg No BLL613 DS1 rev B Drainage Strategy (illustrative)
- F House Types A, B, C, C2, D, E, F, G, H, and J (illustrative)

Annex A

Recommended conditions in the event that planning permission is granted:

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place within the site boundary until a programme of archaeological work shall have been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place until a Phase 2 Environmental Risk Assessment to identify any contamination on the site has been submitted to and approved in writing by the local planning authority. If this assessment identifies any contamination it shall specify the measures to be taken to remediate the site to render it suitable for the development hereby permitted. The site shall be remediated in accordance with the approved measures before development begins. If, during the construction of development any contamination is found which has not been identified in the assessment, additional measure for the remediation of the source of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 6) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme, in accordance with the Flood Risk Assessment, dated July 2013, shall have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 7) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved by the local planning authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved.
- 8) No development shall take place until details of a scheme of sustainable transport measures (including their promotion, monitoring and review) has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented prior to occupation of the first dwelling and thereafter managed and maintained in accordance with the approved details.
- 9) Prior to occupation of the first dwelling hereby permitted a noise barrier shall be installed to the west and south boundaries of the site. The barrier

- shall be at least 1.8m high close boarded timber comprising a minimum surface density of 12kg/m² or other materials of equivalent performance.
- 10) Prior to the occupation of each dwelling hereby permitted a report shall be provided to confirm that the glazing and ventilation specifications to that dwelling as detailed in section 5 of the Technical Report R5094-1 Rev 1, dated 12 June 2014, by 24Acoustics, have been complied with. The report, or reports, shall be submitted to and approved in writing by the local planning authority.
- 11) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the glossary at Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
- iii) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
 - iv) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - v) the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - vi) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - vii) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.



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). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

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 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 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.