



Department for
Communities and
Local Government

Mr Greg Mitchell
Planning Director
Framptons
Oriol House
42 North Bar
Banbury
Oxfordshire OX16 0TH

Our Ref: APP/J3720/A/13/2202101 and
APP/J3720/A/13/2205529

5 March 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEALS BY JS BLOOR (TAMWORTH) LTD AND BY GALLAGHER ESTATES,
PETTIFER DEVELOPMENTS AND BLOOR HOMES LTD
LAND NORTH OF ALLIMORE LANE, ALCESTER
APPLICATION REFS. 11/02767/OUT & 11/02895/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, K G Smith BSc (Hons) MRTPI, who held a public local inquiry on 26-29 November 2013, into your clients' appeals against the decisions of Stratford-on-Avon District Council (SDC) to refuse planning permission for:

Appeal A by JS Bloor (Tamworth) Ltd – the Northern Site: the construction of a maximum of 160 dwellings with associated car parking, access, infrastructure provision and open space (application reference 11/02767/OUT, dated 2 December 2011); and

Appeal B by Gallagher Estates, Pettifer Developments and Bloor Homes Ltd: the construction of a maximum of 190 dwellings with associated car parking, access, infrastructure provision and open space (application reference 11/02895/OUT, dated 12 December 2011).

2. The appeals were recovered for the Secretary of State's determination on 20 September 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because they involve proposals for residential development of over 150 units on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance

between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeals be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to the IR.

Procedural Matters

4. The Secretary of State has had regard to the correspondence listed at Annex C which was either received by the Inspector too late to be taken into account by him or was submitted after the Inspector's report had been submitted to this Department. He has carefully considered these representations but, as they do not raise new matters that would affect his decision, he has not considered it necessary to circulate them to all parties. Copies of these representations can be provided on application to the address at the bottom of the first page of this letter.
5. The Secretary of State notes that the S106 Obligations were not submitted 10 days before the inquiry, which led to complaints that the Ward Councillor and residents were unable to comment (IR306). However, for the reasons in IR306, the Secretary of State considers that the timescale in which the S106 Obligations were submitted was not prejudicial to any party.

Policy considerations

6. In determining these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the adopted (2006) Stratford-on-Avon Local Plan Review 1996-2011 (LPR). The Secretary of State considers that the development plan policies most relevant to this case include those set out at IR340-341.
7. The Secretary of State notes that SDC is preparing its Local Development Framework to replace the 2006 Local Plan, and that it approved the Intended Proposed Submission Core Strategy (CS) in July 2013, but that further consultation was likely to be carried out in early 2014 (IR11). The Secretary of State notes that the emerging CS allocates the two appeal sites for residential development of up to 300 homes in a phased manner from 2013/14 to 2022/23, and that the sites have been allocated for residential development in earlier versions of the CS. However, he notes that the current Draft CS has not been the subject of any master planning, and because it has also not been subject of examination in public (IR12), he gives it little weight in the determination of these appeals.
8. Material considerations which the Secretary of State has taken into account include: The National Planning Policy Framework ("the Framework"); *Technical Guidance to the National Planning Policy Framework*; *The Planning System: General Principles*; Circular 11/95: *The Use of Conditions in Planning Permission*;

the Community Infrastructure Levy (CIL) Regulations (2010 and 2011); the Ministerial Statement “Planning for Growth” (2011); and the Alcester Town Plan; notwithstanding that there are now more up to date information sources prepared for the CS (IR13).

9. The Secretary of State has had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance has not yet been finalised, he has attributed it limited weight.

Main issues

Housing Land Supply and the Framework

10. For the reasons in IR243, the Secretary of State agrees with the Inspector that the five-year supply question relates to the supply of housing within a local planning authority area rather than the specific needs of an individual settlement (IR243).
11. The Secretary of State notes that there is no dispute that SDC does not have a five year supply of housing land; and that if the appeals were allowed there would remain a shortfall in the five-year supply (IR244). He notes that the appellants say there is a supply of two years and SDC 4.4 years. However, for the reasons in IR244, he agrees with the Inspector that nothing would be gained by trying to assess in detail a more precise figure as to the size of the shortfall (IR244). Overall, the Secretary of State agrees with the Inspector’s conclusion (IR245) that there is a presumption in favour of sustainable development at the appeal sites.

Noise attenuation measures

12. For the reasons set out in IR248-257, the Secretary of State agrees with the Inspector that it would be possible to secure layout and housing details that would be sustainable and provide satisfactory internal and external standards of amenity; and that the proposals would not conflict with saved LPR Policies DEV.1 or PR.8 or with the content of paragraph 123 of the Framework (IR257).

Access to services, facilities, shops and employment

13. For the reasons in IR259-268, the Secretary of State agrees with the Inspector that the impacts of the appeal proposals on the services, facilities, shops and employment in the town would be acceptable; that, in the context of a general acceptance of 300 houses at the appeal sites in the draft CS, it would be most unlikely that the potential for up to 50 more dwellings in the current appeals would make a difference to the impacts on Alcester; and that the character of Alcester would not be changed forever (IR269).
14. For the reasons in IR270-273, the Secretary of State agrees with the Inspector that arguments about the ‘remoteness of the site’ from facilities are inconsistent with the general acceptance of the land for housing in emerging policy; and he concludes that the sites are in a sustainable location (IR273).

Prematurity

15. For the reasons in IR274, the Secretary of State agrees with the Inspector that there is no case for dismissing the appeals on the grounds of prematurity (IR274).

Density and size

16. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR275-285 and like him (IR285) finds little merit in the Council's forth reason for refusal, that density and size of the development would be detrimental to the character and setting of the rural centre of Alcester.

Flooding

17. For the reasons in IR286-302, the Secretary of State agrees with the Inspector that the proposals would be developed in detail to suit the site conditions; that the peak discharge rate of surface water from the proposed housing would be about half that of the current baseline discharge; major flood protection works have been carried out and, despite a problem in 2012, have substantially improved the protection for Alcester; and that the housing in the current appeals is allowed for in the design of the alleviation scheme (IR303). He notes that Severn Trent Water confirms that the foul network capacity would be adequate; and that the Environment Agency and Severn Trent Water raise no objections to the proposals (IR303). Overall, like the Inspector, he is satisfied that the proposals would not add to any flooding or drainage problems in Alcester (IR303).

Other matters

18. For the reasons in IR304, the Secretary of State agrees with the Inspector that the level of public consultation was appropriate (IR304). The Secretary of State sees no reason to disagree with the Inspector's reasoning and conclusion on those matters considered at IR305 and IR307-308.

Planning Obligations and Conditions

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on the planning obligations and conditions in IR309-332 and 334. He agrees with the Inspector that, in relation to the S106 obligations, the evidence base to support the sought contribution to South Warwickshire NHS Foundation Hospital Trust is wholly inadequate, and that this sought contribution would not satisfy the test of being fairly and reasonably related in scale and kind to the development (IR332). He agrees with the Inspector that, other than the contribution to the NHS Foundation Hospital Trust, the remaining provisions of the S106 obligations by unilateral undertaking would all pass the relevant tests in Regulation 122 of the CIL Regulations 2010 and would secure affordable housing on the sites in accordance with the Council's requirements; and that the contributions would assist in managing the impacts of the developments on local facilities and services (IR334).

20. The Secretary of State is satisfied that the two schedules of conditions attached to the Inspector's report, as reproduced in Annexes A and B of this letter, meet the tests of Circular 11/95 and paragraph 206 of the Framework.

Overall Conclusions

21. The Secretary of State agrees with the Inspector's overall conclusions at IR333-345. Like the Inspector he concludes that the proposals would not add to flooding or drainage problems in Alcester (IR338). He also agrees with the Inspector that access to services, facilities, shops and employment and the impact on Alcester of the additional population would be acceptable; that the sites are well-located for development on the edge of a Main Rural Centre; occupy a sustainable location

(IR336); and are for sustainable development (IR343). In relation to noise impacts, he agrees that it would be possible to secure layout and housing details that would be sustainable and provide satisfactory internal and external standards of amenity (IR335). The Secretary of State agrees with the Inspector (IR340) that the proposals gain support from LPR policy STR.1 on Main Rural Centres and do not conflict with the other LPR policies identified at IR340.

22. There is no dispute that the Council's housing policies are out of date, and the Secretary of States concludes, like the Inspector, that this thereby brings into play paragraphs 49 and 14 of the Framework (IR333). He agrees (IR344) that paragraph 14 of the Framework states that, in such circumstances, permission should be granted unless (in summary) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies of the Framework indicate that development should be restricted. The Secretary of State agrees with the Inspector that those circumstances do not apply in this case and setting aside the out-of-date housing policies of the development plan, the proposals are in accordance with the plan (IR344).

Formal Decision

23. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants planning permission for:

Appeal A by JS Bloor (Tamworth) Ltd – the Northern Site: the construction of a maximum of 160 dwellings with associated car parking, access, infrastructure provision and open space (application reference 11/02767/OUT, dated 2 December 2011) subject to the conditions listed at Annex A to this letter; and

Appeal B by Gallagher Estates, Pettifer Developments and Bloor Homes Ltd: the construction of a maximum of 190 dwellings with associated car parking, access, infrastructure provision and open space (application reference 11/02895/OUT, dated 12 December 2011) subject to the conditions listed at Annex B to this letter.

24. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
25. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
27. A copy of this letter has been sent to SDC and Nadhim Zahawi MP. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours faithfully

James Henderson
Authorised by the Secretary of State
to sign in that behalf

Conditions

Appeal A

Northern site

1. The development hereby approved shall relate to the details shown on the submitted plans, drawing nos. J0131 02-1J, J013 07D, GIA009/N/001A, GIA009/S/109A and GIA009/N/101B, unless otherwise agreed in connection with the discharge of other conditions attached to this permission.
2. Details of the appearance, landscaping, layout and scale of any phase, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
5. No more than 160 dwellings shall be erected on the site.
6. The access to the site shall be laid out in accordance with the details shown on drawing GIA009/N/101/B.
7. No development shall commence until a scheme that is in accordance with the details shown on drawing GIA009/S/109/A for the provision of a signalised pedestrian crossing on Birmingham Road has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details before the 25th dwelling on this site is occupied.
8. No site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local planning authority and has been implemented.

- The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837:2012, Trees in relation to design, demolition and construction - recommendations.
 - Fencing shall be shown on a plan and installed to the extent of the tree root protection area as calculated using the British Standard.
 - Nothing shall be stored or placed in those fenced areas or the ground levels of those areas altered without the prior consent in writing of the local planning authority.
 - The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.
9. No works shall commence on site, including site clearance, until a combined ecological and landscape management plan has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed reptile mitigation strategy, a pre-commencement badger survey, all aspects of landscaping and green infrastructure and appropriate working practices/safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed scheme shall be fully implemented before and during development of the site as appropriate.
10. Prior to the commencement of any phase of development on site a scheme of external lighting for that phase shall be submitted to and approved in writing by the local planning authority. The details shall include plans detailing the position of any lighting and its orientation and angle, cross-referenced to a schedule detailing the level of luminance. The lighting shall be installed in accordance with the approved details and thereafter be retained in that form.
11. In connection with the submission of reserved matters, the maximum ridge height of any dwelling on the site shall not exceed 9m above the approved adjacent ground level for a 2 storey property and 11m above the same for a 2.5/3 storey property.
12. Notwithstanding the details submitted in the Design and Access Statement, no reserved matters applications for any phase of development shall be submitted for the development until and unless a Design Code for the site has been submitted to and approved in writing by the local planning authority in accordance with the Indicative Master Plan (Drg. No. J0131_02-1J). The design code shall consist of guidance relating to the following matters:
- Block typologies;
Frontage codes;
Street hierarchy and codes;
Building types and heights;
Key and focal buildings; and

key spaces, open spaces and green features (including green link from the Central Green to the allotments and retention of key hedgerows and trees).

The design code shall then be used to inform the subsequent reserved matters application.

13. The development hereby permitted shall not be commenced until a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the local planning authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been submitted to and approved in writing by the local planning authority, and shall thereafter be retained in place and in working order at all times.
14. No house which has a downpipe, within the development hereby permitted, shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe in accordance with details to be submitted to and approved in writing by the local planning authority.
15. No development shall commence until details, and a programme for construction, of the storm and foul drainage provision have been submitted to and approved in writing by the local planning authority. The drainage system shall be carried out following the principles set out in the Halcrow Flood Risk Assessment and Outline Drainage Strategy of November 2011 and the relevant elements of the proposed drainage system shall be implemented in accordance with the approved programme and shall be retained thereafter.
16. No phase or part of the development hereby permitted shall be commenced within the site until a scheme for a programme of archaeological work and investigation has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details and the results of any surveys shall be submitted to the local planning authority in accordance with the approved programme.
17. Prior to the first occupation of any individual dwelling, the developer shall provide 3 bins for the purpose of refuse, recycling and green waste for the dwelling, in accordance with the Council's bin specification.
18. No part of the development hereby permitted shall be occupied until a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes in respect of that phase or part has been submitted to and approved in writing by the local planning authority and the

relevant phase or part of the development shall not be occupied until the approved scheme has been installed.

19. All new dwellings hereby permitted shall achieve a minimum rating of Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it, certifying that this Code Level has been achieved.
20. A minimum of 50% of all the dwellings on the site shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards and the dwellings built to 'Lifetime Homes Standards' shall be shown on a plan to be submitted to and approved in writing by the local planning authority.
21. In association with the submission of reserved matters, details of the existing and proposed site levels relative to adjoining land, together with the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the local planning authority.
22. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors and the location of construction compounds
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
 - v. wheel washing facilities and details of any other measures to ensure that mud and debris will not be deposited on the highway as a result of construction traffic leaving the site
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposal of waste resulting from site clearance and construction works
 - viii. safety warning signs for the benefit of drivers and pedestrians where the public footpath is crossed by the site access.
23. No works shall be undertaken on site in relation to the development hereby approved until such time as a phasing plan for the development has first been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved phasing plan.

24. Prior to the commencement of any development on site, a detailed noise mitigation scheme shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details.
25. Prior to the commencement of development, details shall be submitted to and approved in writing by the local planning authority to make provision for the comprehensive development of appeal site reference APP/J3720/A/13/2202101 and the adjoining land to the south (Allimore Lane South" the subject of appeal reference APP/J3720/A/13/2205529) and to this end the development shall be carried out in accordance with such details to facilitate the development of the adjoining site for residential purposes and, in particular, the provision of roads and footpaths with verges as may be required across the site and leading from the site to the boundary of the adjoining site.

Conditions

Appeal B

Southern site

1. The development hereby approved shall relate to the details shown on the submitted plans, drawing nos. J0131 02-1J, J013 07D, GIA009/N/001A, GIA009/S/109A and GIA009/N/101B, unless otherwise agreed in connection with the discharge of other conditions attached to this permission.
2. Details of the appearance, landscaping, layout and scale of any phase, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
5. No more than 190 dwellings shall be erected on the site.
6. The access to the site shall be laid out in accordance with the details shown on drawing GIA009/N/101/B.
7. No development shall commence until a scheme that is in accordance with the details shown on drawing GIA009/S/109/A for the provision of a signalised pedestrian crossing on Birmingham Road has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details before the 25th dwelling on this site is occupied.
8. No site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local planning authority and has been implemented.

- The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837:2012, Trees in relation to design, demolition and construction - recommendations.
 - Fencing shall be shown on a plan and installed to the extent of the tree root protection area as calculated using the British Standard.
 - Nothing shall be stored or placed in those fenced areas or the ground levels of those areas altered without the prior consent in writing of the local planning authority.
 - The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.
9. No works shall commence on site, including site clearance, until a combined ecological and landscape management plan has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed reptile mitigation strategy, a pre-commencement badger survey, all aspects of landscaping and green infrastructure and appropriate working practices/safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed scheme shall be fully implemented before and during development of the site as appropriate.
10. Prior to the commencement of any phase of development on site a scheme of external lighting for that phase shall be submitted to and approved in writing by the local planning authority. The details shall include plans detailing the position of any lighting and its orientation and angle, cross-referenced to a schedule detailing the level of luminance. The lighting shall be installed in accordance with the approved details and thereafter be retained in that form.
11. In connection with the submission of reserved matters, the maximum ridge height of any dwelling on the site shall not exceed 9m above the approved adjacent ground level for a 2 storey property and 11m above the same for a 2.5/3 storey property.
12. Notwithstanding the details submitted in the Design and Access Statement, no reserved matters applications for any phase of development shall be submitted for the development until and unless a Design Code for the site has been submitted to and approved in writing by the local planning authority in accordance with the Indicative Master Plan (Drg. No. J0131_02-1J). The design code shall consist of guidance relating to the following matters:
- Block typologies;
Frontage codes;
Street hierarchy and codes;
Building types and heights;
Key and focal buildings; and

key spaces, open spaces and green features (including green link from the Central Green to the allotments and retention of key hedgerows and trees).

The design code shall then be used to inform the subsequent reserved matters application.

13. The development hereby permitted shall not be commenced until a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the local planning authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been submitted to and approved in writing by the local planning authority, and shall thereafter be retained in place and in working order at all times.
14. No house which has a downpipe, within the development hereby permitted, shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe in accordance with details to be submitted to and approved in writing by the local planning authority.
15. No development shall commence until details, and a programme for construction, of the storm and foul drainage provision have been submitted to and approved in writing by the local planning authority. The drainage system shall be carried out following the principles set out in the Halcrow Flood Risk Assessment and Outline Drainage Strategy of November 2011 and the relevant elements of the proposed drainage system shall be implemented in accordance with the approved programme and shall be retained thereafter.
16. No phase or part of the development hereby permitted shall be commenced within the site until a scheme for a programme of archaeological work and investigation has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details and the results of any surveys shall be submitted to the local planning authority in accordance with the approved programme.
17. Prior to the first occupation of any individual dwelling, the developer shall provide 3 bins for the purpose of refuse, recycling and green waste for the dwelling, in accordance with the Council's bin specification.
18. No part of the development hereby permitted shall be occupied until a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes in respect of that phase or part has been submitted to and approved in writing by the local planning authority and the

relevant phase or part of the development shall not be occupied until the approved scheme has been installed.

19. All new dwellings hereby permitted shall achieve a minimum rating of Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it, certifying that this Code Level has been achieved.
20. A minimum of 50% of all the dwellings on the site shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards and the dwellings built to 'Lifetime Homes Standards' shall be shown on a plan to be submitted to and approved in writing by the local planning authority.
21. In association with the submission of reserved matters, details of the existing and proposed site levels relative to adjoining land, together with the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the local planning authority.
22. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i the parking of vehicles of site operatives and visitors and the location of construction compounds
 - ii loading and unloading of plant and materials
 - iii storage of plant and materials used in constructing the development
 - iv the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
 - v wheel washing facilities and details of any other measures to ensure that mud and debris will not be deposited on the highway as a result of construction traffic leaving the site
 - vi measures to control the emission of dust and dirt during construction
 - vii a scheme for recycling/disposal of waste resulting from site clearance and construction works
 - viii safety warning signs for the benefit of drivers and pedestrians where the public footpath is crossed by the site access.
23. No works shall be undertaken on site in relation to the development hereby approved until such time as a phasing plan for the development has first been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved phasing plan.

24. Prior to the commencement of any development on site, a detailed noise mitigation scheme shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details.
25. Prior to the commencement of development, details shall be submitted to and approved in writing by the local planning authority to make provision for the comprehensive development of appeal site reference APP/J3720/A/13/2205529 and the adjoining land to the north (the subject of appeal reference APP/J3720/A/13/2202101) and to this end the development shall be carried out in accordance with such details to facilitate the development of the adjoining site for residential purposes and, in particular, the provision of roads and footpaths with verges as may be required across the site and leading from the site to the boundary of the adjoining site.
26. New or improved dropped tactile kerb crossings on Seggs Lane, Cross Road, Roman Way and Allimore Lane, in general accordance with the details shown on drawing GIA009/A/108, shall be submitted to and approved in writing by the local planning authority and the kerb crossings shall be implemented in accordance with the approved details prior to the first occupation of the 50th dwelling.
27. Details shall be submitted to and approved in writing by the local planning authority for the provision of an emergency access and a pedestrian and cycle link from the site to Allimore Lane. The design shall incorporate features to prevent general vehicular traffic accessing or egressing the site to or from Allimore Lane. The development shall be carried out in accordance with the approved details for the emergency access and the pedestrian and cycle link to Allimore Lane.

Annex C

Correspondent	Date
Nadhim Zahawi MP	23 October 2014
Suzanne Edkins	28 November 2014
Suzanne Edkins	29 November 2014
Ann Selby	7 January 2014
Greg Mitchell - Framptons	11 February 2014

Report to the Secretary of State for Communities and Local Government

by K G Smith BSc(Hons) MRTPI

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

Date: 15 January 2014

TOWN AND COUNTRY PLANNING ACT 1990

APPEALS BY J S BLOOR (TAMWORTH) LTD

AND BY

**GALLAGHER ESTATES, PETTIFER DEVELOPMENTS AND BLOOR HOMES
LTD**

STRATFORD-ON-AVON DISTRICT COUNCIL

Inquiry held on 26 – 29 November 2013

Land north of Allimore Lane, Alcester

File Refs: APP/J3720/A/13/2202101 and APP/13/J3720/A/13/2205529

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GLOSSARY

File Ref: APP/J3720/A/13/2202101
Land north of Allimore Lane, Alcester

APPEAL A – Northern Site

- 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 J S Bloor (Tamworth) Ltd against the decision of Stratford-on-Avon District Council.
- The application Ref 11/02767/OUT, dated 2 December 2011, was refused by a notice dated 4 June 2013.
- The development proposed is the construction of a maximum of 160 dwellings with associated car parking, access, infrastructure provision and open space.

Summary of Recommendation: That the appeal be allowed subject to conditions.

File Ref: APP/J3720/A/13/2205529
Land north of Allimore Lane, Alcester

APPEAL B – Southern Site

- 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 Gallagher Estates, Pettifer Developments and Bloor Homes Ltd against the decision of Stratford-on-Avon District Council.
- The application Ref 11/02895/OUT, dated 12 December 2011, was refused by a notice dated 10 September 2013.
- The development proposed is the construction of a maximum of 190 dwellings with associated car parking, access, infrastructure provision and open space.

Summary of Recommendation: That the appeal be allowed subject to conditions.

Procedural and Background Matters

1. The applications that led to the appeals are in outline with all matters other than access to be reserved for subsequent approval. The four reasons for refusal are the same for each application. In summary, they deal with: the use of mechanical means of noise attenuation for a number of the proposed dwellings near to the A435 Alcester by-pass; unsustainable development; substantial development that would be prejudicial to the production of the emerging Core Strategy; and detriment to the character and setting of Alcester.
2. I attach a Glossary at the very end of this report. When referring to Documents, I use round brackets, the prefix 'D' and the relevant number, plus 'p' for paragraph and 'pg' for page.
3. Stratford-on-Avon District Council (SDC) did not defend any of its reasons for refusal (D1 p1.22). It appeared at the inquiry only in relation to assisting with discussions on suggested conditions and to comment on the S106 Obligations which were completed during the inquiry. Also, although the Alcester Town Council (ATC) and the Eclipse Road Residents' Group (ERRG) had been granted Rule 6 status, they each decided, after SDC had resolved not to defend the

reasons for refusal, to relinquish their Rule 6 status and not to defend the reasons for refusal. ERRG did not give evidence at the inquiry.

The Sites and Surroundings

4. The (6.43 ha) **Northern site** (D1 pg2/3; Plans A, B) comprises 2 fields divided by a hedgerow and an eco-site along a small part of the line of a former railway. It lies on the north west side of Alcester, outside the built-up area, between the dwellings of Roebuck Park and part of Birmingham Road to the east and the A435 by-pass to the west. The northern tip of the site is close to the roundabout junction of the A435 and Birmingham Road. The Green Belt boundary runs along the western site boundary. The gated frontage to Birmingham Road is almost opposite the Roebuck public house. (NB Useful photographs in D24.1, 27.1, 27.10, 29.6, 29.18)
5. The (7.19 ha) **Southern site** (D1 pg3/5; Plans A, C) comprises a series of paddocks and agricultural fields, divided by hedgerows and fences. Its northern boundary abuts the southern boundary of the northern site. The land is outside the built-up area of Alcester, between the dwellings of Eclipse Road and Jephcott Close to the east and the A435 to the west. The site boundary was amended to include Eclipse Road (Plan F). The Green Belt boundary runs along the western edge of the site. The southern boundary of the site is Allimore Lane which gives vehicular access as far as a number of allotments outside the site, next to the A435. A footbridge serves as a bridleway link over the by-pass. To the north east of Allimore Lane and south east of the site is a triangular plot of former orchard land, which has potential wildlife importance and is in separate ownership.
6. **Both sites** are, in part, within about 1 km of the town centre of Alcester. Both include preserved trees that are protected by Tree Preservation Order Number 373 (TPO) (D23). The land slopes down gently from 50m AOD in the west to 45m AOD in the east. A public footpath crosses the land in a north westerly direction from Eclipse Road in the south east, crossing the A435 via steps down a steep embankment and up steps on the opposite side of the road. The section of Eclipse Road between Birmingham Road and the site boundary has no frontage access for housing; rather, it has established planting to each side. Both sides of this section of its carriageway are used for parking. On my site visit, I looked at the levels of the road and driveway near to No 38 Eclipse Road (see p77 and 190 below).
7. I walked along Allimore Lane and onto the bridge over the A435 road, which changes from dual carriageway near this point to a single carriageway further to the north. The road is well used and the traffic appears to be fast moving. I looked at the fully occupied parking in the Grammar School site, on the east/opposite side of Birmingham Road to Eclipse Road. Also, I walked to the town centre from the Eclipse Road entrance to the site, which took a little over 10 minutes. The three car parks and the Waitrose car park on the Friday morning of my visit were almost full.
8. I saw the location of the "Big Tank" on Stratford Road and went on from there through the very attractive and historic town centre of Alcester, which the Alcester Town Plan states received a Royal Charter in 1274 to hold a market (D25.10). I was shown the areas in the centre that have suffered from flooding. From there, I went on to look at the Greig Centre, which includes the Greig Hall

(D20 Appx D4 shown as Sport/Leisure Centre) (near to the new Health Centre); part is in use for a leisure centre but the Hall is unused and boarded up. I continued my walking tour northwards around the eastern side of the wide floodplain to the River Arrow, before heading west on a path along a former railway line to Birmingham Road, near to the Roebuck public house and the proposed northern site access. By car, I visited the large industrial estate to the north of the town and the housing in progress at Kinwarton Farm Road.

Alcester

9. The Statement of Common Ground (SoCG) states that Alcester has a full range of facilities, services, shops, schools and amenities located within walking and cycling distance (D1 p1.13) but this is disputed by the third parties. Alcester is identified as a Main Rural Centre in the adopted Local Plan and in each of the four drafts of the emerging Core Strategy (CS).

Planning Policy

10. The SoCG, which cross-refers to the reports to Committee, sets out the relevant policy background (D1 pg14/15; D25.3; D29.2). Some 35 saved policies of the adopted (2006) Stratford-on-Avon District Local Plan Review 1996-2011 (the LPR) are agreed to be relevant to the appeal proposals (D6.2; D25.2; D25.5).
11. SDC is currently preparing its Local Development Framework to replace the 2006 Local Plan (D26.1) and it approved the Intended Proposed Submission CS in July 2013 (D1 pg 15/17). However, further work is needed with regard to a proposed new settlement of 4,000 dwellings and 18 ha of employment land at Gaydon/Lighthorne Heath, such that the first level of public consultation is likely to be early in 2014 (D6.3).
12. The currently emerging fourth CS, like its predecessors, allocates the two appeal sites for residential development, in this case for up to 300 homes in a phased manner from 2013/14 to 2022/23 (D1 p2.5). The Draft CS has not been the subject of any master planning or of any examination in public.
13. The Alcester Town Plan is not a formal Supplementary Planning Document. SDC adopted it in 2008 as a local information source and as a material consideration in dealing with planning applications. However, there are now more up to date information sources prepared for the CS (D5 pg56/57).

Housing Land Supply

14. There is no dispute that SDC does not have a five year supply of housing land (D1 p2.10; D6.5; D6.6 p488-502). The figures are in dispute (D2); the appellants say that there is a supply of two years and SDC argues that it is 4.4 years. It is also common ground that, if the appeals were allowed, there would still remain a shortfall in the five years' supply.
15. I advised the inquiry that nothing would be gained by using hours or days of expensive inquiry time trying to assess in detail a more precise figure as to the size of the shortfall: there is nothing in the Framework to indicate that the bigger the shortfall, the bigger the presumption in favour of sustainable development.

The Proposals

16. Appeal A/northern site is for up to 160 mainly two storey dwellings, each of two to five bedrooms and each with on-site parking. Some 35% of the dwellings would be affordable (D1 p1.14). Other than the inclusion within the application of a new access off Birmingham Road, the application is in outline with appearance, landscaping, layout and scale to be reserved for subsequent approval. The two sites are in separate ownership and each would have its own access but an indicative Masterplan shows how they would be developed (D1 p1.16).
17. Appeal B/southern site is for up to 190 dwellings of one to five bedrooms, mainly two storey height and 35% affordable units (D1 pg6/7). All matters other than the access via Eclipse Road would be reserved for subsequent approval.

S106 Obligations

18. Two S106 Obligations by Unilateral Undertaking were submitted, one for each appeal (D38; D39). The appeal site dealt with by each Obligation is shown by a red line on a plan at Appx B next to the signatures at the back of each document.
19. The provisions in the Obligations are that:
- 35% of the dwellings are to be provided as Affordable Housing by reference to the total floor area of the development (pg45-48 of D38, pg47-50 of D39), with provision for control within parcels of the land over the numbers of Affordable Housing units, their sizes, tenure, the distribution that would meet Lifetime Homes Standards, the timing of construction of each phase, built standards and so on;
 - Built facilities contribution to SDC to/for a leisure centre in Stratford-on-Avon;
 - Off-site open space contribution to SDC for open space within the Parish of Alcester;
 - Acute and Community Healthcare contribution to SDC, at £1,678.00 per dwelling, to provide local infrastructure to support the acute and community needs of the population generated by the development;
 - Library contribution to WCC for Alcester Library;
 - Sustainable Travel Pack contribution to WCC;
 - Education contribution to WCC for educational facilities or services serving the site, in accordance with a formula, with credit to be given reflecting that there is spare capacity of 41 places in the current primary school system in Alcester;
 - Footpath contribution to WCC for upgrades or improvements within 1.5 miles of the site as shown on Appendix A after pg71 of D38 and pg73 of D39);
 - Primary Healthcare contribution to WCC for provision in Alcester.
20. Schedule 4 of the Obligations sets out the Public Open Space Works and their future transfer to SDC or to secure maintenance and management by a Management Company. Schedule 5 deals with the Provision of SUDS (Sustainable Urban Drainage Systems) and their transfer to SDC or at its election to a SUDS Alternative Body pursuant to the Maintenance Scheme. Schedule 6 confirms that the contributions would be index-linked.

21. SDC has submitted a compliance document for the tests in Regulation 122 of the Community Infrastructure Levy Regulations (CIL) (D40). The population figures of the proposed developments used for the open space provision, based on the proposed dwelling sizes, are 414 for the northern site and 492 for the southern one, a total of 906 persons.

THE CASE FOR THE APPELLANTS

The material points are:

Introduction

22. Once reasons for refusal have been issued in a decision notice by a Council, it has exercised its statutory power to determine a planning application and completed the executive act by which that determination is made, namely the signing and dating of the decision notice. There is no going back at this point.
23. The consequence for an unsuccessful applicant is that it has no alternative but to appeal to the Secretary of State or to start the application process all over again, with the same risk that, at the end of the process, Members will ignore the recommendation of professional officers and refuse the planning application. That option has not been suggested by SDC to be a way forward in this case, nor would it have attracted the appellants had it been, given the uncertainty as to how Members might act in the face of their officers' unambiguous recommendations.
24. It is clear that the Council has taken legal advice as to its prospects of successfully defending these appeals and has been told, in no uncertain terms, that those prospects are negligible. The appellants have sought - but have been denied - copies of the material upon which the Council decided not to defend its reasons for refusal. However, it is fair to infer from the Council's revised Statement of Case (SoC) for the northern site of 25 September 2013 and the SoC for the southern site of 6 October 2013 that Counsel and senior officers of the Council advised that the Reasons for Refusal could not be successfully defended at appeal and that there was a high prospect of a full award of costs following any fully contested inquiry (D1 p1.22).
25. It is unfortunate that this advice came after the issue of the decision notices and too late to avoid the process of the inquiry.

The Principle of Development

26. Virtually every inquiry participant, with the exception of the Council for the Preservation of Rural England (CPRE), accepts the principle of the development of the appeal sites for housing.
27. The sites have a long history, over many years, of being identified for housing development. Indeed, the current (4th) draft of the Council's Core Strategy maintains the position adopted in the previous 3 drafts, that the sites are suitable and appropriate for housing development for the current and future needs of Stratford-on-Avon District. Those needs are substantial (D5 p4.37). For a rural district with a limited supply of brownfield land, the release of greenfield land is inescapable (D26.4).

28. The Council has to find land for 9,500 dwellings in the period 2008-2028 even on its own assessment. The Secretary of State found last year that that figure was more likely to be in the range 11-12,000 (D5 pg24-38; D5 p4.17 and 5.24; D6.6 p14). He also found that the Council's "5 year land supply is between 2 and 3.5 years depending upon the way in which it is calculated" and "even taking the more generous assessment of housing land supply there is still a significant unmet need for housing in the district...". Thus, there is virtual unanimity in representations to the inquiry that the appeal sites should be developed for housing, as the Council continues to propose in its draft Core Strategy.
29. The Coalition Government's number one priority is to get the economy growing (D5 p3.32).
30. Alcester is a Main Rural Centre, with a population of 6,500. It is surrounded on three sides by Green Belt and much land within and around the settlement is in the flood plain. The appeal site is affected by neither designation and is separated from surrounding countryside by the A435 in its cutting. Its merits as a development site are self-evident.
31. Although SDC accepts that the site is appropriate for the development of 350 houses, the Alcester Town Council (ATC) and other third parties argue that this number should be restricted to 300. This has been the main issue at the inquiry.

Design

32. There are elements of design concerns within the first, second and fourth reasons for refusal. The Committee report to the 23 May 2013 Planning Committee states that: *"Overall, it is strongly concluded that the development accords with the core principles of the Framework and the delivery of sustainable development. The detailed Masterplan for the site has been developed in consultation with the local community the proposal is in accordance with the policies of the emerging Core Strategy. The application site is identified in the 2013 SHLAA update as a broad location for development. The benefits of the development significantly and demonstrably outweigh any impacts."*
33. The proposed layout, including landscaping and new planting, has taken proper account of the local context in terms of both the built and natural environment. Nevertheless, the Council would retain full control over the details of the housing layout, including the provision of further design details through the submission of Reserved Matters and the discharging of conditions.
34. The Design and Access Statements (DAS) (D24.1, 27.10; 29.6; 29.18) contain an assessment of the area and explain the elements of built and natural character that can be found. The existing built form in the immediate vicinity of the site reflects different styles over the different periods of its construction. In townscape terms, the character of the area is broadly typical of the style that could be described as freeform (late C20th) suburban, whilst Alcester's High Street has a more defined local vernacular form. The density of the immediately adjoining development (D20 Appx D6) is between 31.5 and 39 dwellings per hectare (dph). Along Allimore Lane the form changes to become more dispersed intermittent detached and semi-detached properties and one 3 storey house.
35. The DAS Addenda confirm that all relevant requirements for open space would be met. The report to Committee confirms the Officer opinion that, in relation to

Policy IMP4, there is no objection subject to the CIL Regulations but two of the three Reg 122 tests would not be met (P6.5 of D27.10 and D29.18). The S106 Obligations contain what SDC has requested.

36. The National Planning Policy Framework (the Framework) places emphasis on good design (P114-123), while Manual for Streets 1 and 2 have been used to establish the street hierarchy for the Masterplan. LPR Policies DEV.1 Layout and Design and PR.1 Landscape and Settlement Character are of significance to the character and quality of the local area (D19 p4.4-4.5). The Provision of Open Space 2005 Supplementary Planning Guidance (D41) gives guidance on open space requirements [Inspector's Note – it refers to policies from the adopted Stratford-on-Avon District Local Plan 2000 and the emerging policies, in 2005, of the 2006 LPR]. Regard should be had to LPR Policies COM.4 Open Space, COM.5 Open Space and DEV.3 Amenity Space (D19 p4.6-4.7).
37. The Alcester Town Plan of 2007 highlights the historic importance of the town centre (D19 p4.8; D25.10). The Stratford-on-Avon District Design Guide (April 2001) (D25.7) sets out local design advice.
38. The illustrative design of the Masterplan evolved as a lengthy consultation process (D19 p5.1-5.6 and p6.14-6.36) in which 13 alterations to the plan were made in response to the observations received (as set out in D19 p5.5). Two applications were submitted because of the different ownerships but there is no planning distinction between them.

Reasons for Refusal

39. SDC did not defend the four reasons and neither did ATC and ERRG, who also withdrew from Rule 6 status.
40. Reasons 2-4 are fundamentally incompatible with the position of the District and Town Councils that the site should be allocated for development in the CS. Reason 1 raises a specific technical issue, which rejects the professional advice of the Council's Environmental Health Officer (EHO) and Planning Officers, as well as ignoring the potential for the layout and boundary treatment of the development to be refined at the Reserved Matters stage.

Reason 2 – Access to facilities, services, shops and employment

41. This Reason is inconsistent with the Council's acceptance of the allocation of the land for the development of some 300 houses. Also, Alcester is a compact Main Rural Centre, with a very good range of facilities, all within a reasonable distance of the appeal site (D20 Appx D2 and D4). The town centre is within a modest walking distance and most other facilities are easily accessible by a variety of means. It is inevitable – in a town that is divided by a river with two crossing points - that some will be further than others but the distances involved and general attractiveness of the pedestrian and cycle routes in Alcester mean that the appeal sites would be a well located urban extension, as evidenced by the support of the Warwickshire County Council (WCC) as Highway Authority (CD25.3 and CD29.2 Section 9).
42. The whole site would not operate as a cul de sac. It would have a variety of road and footpath links into Alcester, which would assist its integration with the existing urban fabric and facilitate permeability. Alcester offers a wide variety of

job opportunities and further employment land is to be released from the Green Belt to build upon that success (D5 p5.5-5.13; D6.10).

43. The (2011) Employment Land Study by G L Hearn confirmed that the District demonstrated strong growth in economy and employment pre-2008 and that this was particularly strong in Alcester. It is presently subject to patterns of net daily in-commuting of some 2,000 residents from the latest information in the 2001 Census. The Study states that Alcester is one of the main employment locations in the District. And 'Alcester 7' is one of its largest employment sites, totalling 26 ha in area but it has limited vacancy and G L Hearn recommends that SDC allocates a further 5 ha of employment land to the north for employment development (D6.10 pg55, 63, 96, 128, 153, 192, 204, 205; D5 p5.9-5.13). SDC has included this in the emerging CS. The injection of an increased supply of housing at Alcester would provide opportunities for addressing that trend and reducing commuting into the town.

Reason 3 - Prematurity

44. There has been no serious attempt by any party to prop up this reason for refusal. The Core Strategy is still at a relatively early stage (not at examination). The proposed maximum of 350 houses against a draft CS requirement of 9,500 (plus) does not raise prematurity issues (D5 p5.14-5.15; D6.12 p85-94). Indeed, The Planning System: General Principles states that "Where a Development Plan Document is at consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified.....".
45. In any event, far from being "inconsistent" with the emerging development plan, the appeal proposals are for the development of a proposed housing allocation, which has featured in each of the Council's four drafts of its CS. This objection is not credible.

Reason 4 – impact on the character and setting of Alcester

46. This reason concerns the density and size of the overall development. It is fundamentally inconsistent with the acceptance of the allocation of the sites for "approximately" 300 dwellings. It is difficult, if not impossible, to see how an increase in density of 5 units per hectare (or two per acre) (50 units over 10.75 ha) could make any significant difference to the overall impact of the development on the character and setting of Alcester. It could not sensibly make unacceptable an impact which was otherwise acceptable.
47. There is nothing excessive about the proposed density or amount of development. It is not the case that the removal of the perimeter open space originally proposed next to the A435 by-pass would have resulted in an increased density of development across the site. That open space is simply proposed to be relocated more centrally within the site, on the advice of Midlands Architecture and the Designed Environment (MADE) without affecting the overall proposed density.
48. At this outline application stage, the ability to satisfactorily accommodate 350 dwellings without having a detrimental impact on Alcester's character depends on a number of factors, including the development mix and dwelling type. The

Framework (p50) requires a mix of housing, which is also found in Policy COM.14 of the Local Plan Review (D19 p7.11-7.14).

49. The density of the development would be in a similar range to existing development in the immediate context (D20 Appx D6) but while density is a relatively basic way to assess design quality, where a built form containing 2 bed dwellings can equate to a 4 bed dwelling in massing terms, it can provide an indication that in this case the development would be at the lower end of contemporary development density, promoting a layout and form with similar public realm characteristics to that of Alcester.
50. The development would aim to complement the existing development pattern of Alcester, which has grown incrementally over time. The site is well detached from the Conservation Area. A lower density approach would be promoted along the Allimore Lane frontage (D19 p7.17-7.19).
51. The overall development would achieve an average net density – excluding all open spaces - of about 32.5 dwellings per hectare (dph) (or 350 dwellings in 13.62 ha = 25.69 dph gross) (D20 Appx D3). The northern site would be 29.3 dph net and the equivalent figure for the southern one would be 35.9. These densities would be appropriate to the local area while allowing variation across the site; the 35% affordable housing would be located in clusters (D19 p6.3-6.5; D20 Appx D6). Based on the dwelling sizes, the estimated population would be 414 for the northern site and 492 for the southern, a total of 906 residents.
52. The height and massing of buildings would vary across the site, with two storey units near to the existing housing and occasional 2.5 -3 storey dwellings to provide distinctiveness in the street scene. Landmark buildings, focal points and a clear hierarchy of routes and intersections would aid the legibility of the development. Materials and details would respect local architectural quality (D19 p6.37-6.44; D24.1; D27.10; D29.6; D29.18). The landscape strategy would provide a green framework to the scheme (D19 p6.45-6.50).
53. The Final (April 2011) PPG17 Audit shows that there is already an over-provision of sports pitches in the area other than for junior rugby and cricket (D22). Based on the Council's standards, the provision would be:
 - Youth and Adult (Active) – off-site contribution
 - Youth and Adult (Incidental) – 1,812 sq m for both sites
 - Children's play (Informal) – 5,436 sq m for both sites
 - Children's play (Equipped) – 1,812 sq m for both sites,which would provide the required level of open space (D20 Appx D3). The areas for 'Youth and Adult (Active)' need to be large.
54. A series of children's play areas is proposed within the open space provision (D19 p6.51-6.54; D20 Appx D3).
55. Some 1.2 ha of drainage attenuation areas would be within the low point of the site and form part of the wider green network, in addition to the above play space. Arguments that the attenuation ponds would be away from the low point of the site are exaggerated; the ponds would be 0.5m above the lowest part of the site.

56. The attenuation areas would be grassy depressions, sometimes with shallow water. They would be overlooked by housing. To regulate their use, their detailed design and that of nearby play space could include fencing and mounding, as required by the Council.
57. A landscaped buffer of approximately 10m width would be provided along the south eastern boundary as a physical barrier to minimise any noise and disturbance from the proposed residential development on the identified ecological site to the south. This 0.32 ha buffer would be in addition to the above areas. Similarly, a 0.2 ha landscaped area near the A435 boundary would also be in addition, as would the proposed 0.23 ha of allotments to the south west. There would be a further 1.75 ha of open space over the required on-site recreation space of 0.906 ha (D19 p6.9-6.13; p7.20-7.24).
58. The proposed generous allocation of open space and the inclusion of extensive areas are not a Council open space requirement, as such. They would contribute to the overall impression of spaciousness and a well-laid out environment. The development as a whole would represent a sensible urban extension to Alcester, within the bypass, whilst not impinging on its Green Belt setting or upon the extensive historic environment of the town. It is no doubt for this reason that the site is a proposed housing allocation of such longstanding. There is no reason in design terms to refuse these proposals.

Reason 1 – residential amenity within the development

59. This is judged by the Council's EHO and Planning Officers to be perfectly acceptable.
60. Noise assessments were undertaken by Halcrow using calculations on traffic speed and flow. The calculated levels have been verified by sample noise readings (D17 p6.3-6.6). The houses nearest to the A435 would be arranged so that their non-habitable rooms would be maximised on the side facing the main road and the habitable rooms minimised on that frontage. The affected habitable rooms would have acoustically rated ventilation. The back gardens would be screened by the properties and their garden walls and fences, as recommended by the Government's Beta guidance.
61. With one exception on the illustrative Masterplan (Plan A), the nearest houses to the bypass would be set back some 30-35m from the carriageway, behind the existing cutting and planted embankment – and with the potential to introduce further landscaping and an acoustic barrier fence within that planted perimeter which have not been factored in to the noise assessment (D17 p6.6; D19 p7.1-7.9; D20 Appx D5 sections).
62. Even without such additional measures, the nearest properties would fall well within former Noise Exposure Category B (NEC B) (Daytime 55-63 dB $L_{Aeq, 16h}$ and Night-time 45-57 dB $L_{Aeq, 7h}$) from the former Planning Policy Guidance Note 24, a commonplace condition, where planning permission has been granted on many occasions, subject to conditions such as double glazing or the inclusion of a ventilation system for optional use within affected houses. The vast majority of the site would be within NEC A (D17 p3.12).
63. If additional barrier effects are factored in and care taken with the siting of one property, then the nearest properties would be at the margins only of NEC B,

being mostly at 55 or 58dB (D3 p27). Moreover, internal levels would be acceptable in rooms facing over the rear gardens of the perimeter properties with windows open. To the limited extent that mechanical ventilation may be required, this can now be achieved in a highly sustainable way compatible with Council for Sustainable Homes standards.

64. The road traffic noise would not give rise to significant impacts. It should not stand in the way of the provision of 50 much needed homes, which may otherwise have to be provided on green field sites which are far less suitable for development.
65. The scheme would meet the high standards recommended by the EHO and comply with saved LPR Policies DEV.1 and PR.8
66. The central green amenity space on the east side of the site would have noise levels below 45 dB $L_{Aeq, 16hr}$, a tranquil setting (D17 p6.8). Also, the existing houses to the east would experience lower noise levels than they do now.

Other issues raised by Third Parties

67. Inevitably, an inquiry such as this gives an opportunity for a very wide range of such issues to be raised. Where necessary, responses are provided. The people of Alcester have every reason to be interested in **flooding** issues. The appeal proposals would not give rise to adverse impacts (D3 p31).
68. The site proposals are supported by comprehensive Flood Risk Assessments (FRAs) and follow up Flood Risk and Drainage Technical Notes, prepared by the Halcrow Group, which collectively have been approved by the EA and the Lead Local Flood Authority. The FRAs demonstrate that the development would not pose a flood risk to Alcester (D10 p3.3; D15; D16; D24.6; D27.9; D29.17).
69. Significant investment has been made in improving the standard of flooding defences in Alcester since the last major event in 2007. The EA has completed work to reduce the risk of fluvial flooding from the River Arrow and Severn Trent Water (STW) has completed major enhancements to its sewerage network (D10 p3.4-3.5).
70. The November 2011 FRA specifically reviewed foul drainage provision in Section 5.5, more generally elsewhere in the documents and in Section 3 of the Addendum (D27.9). Two Flood Risk and Drainage Technical Notes were also produced, dated 4 April 2013 and 2 May 2013, which provide further advice on foul drainage matters. The foul sewerage systems of both developments would combine and flow via the Eclipse Road foul sewer to the combined foul sewerage system in Birmingham Road and thence to the Gas House Lane alleviation scheme (D27.9 Section 3). Cllr Neal-Sturgess argues that the new storage tank (the 'Big Tank') provided by STW was full or near full on 24 November or before Christmas 2012. However, foul network capacity for the development has already been confirmed as adequate by STW.
71. An email from STW of 11 April 2013 (attached to D10) confirms that a fault in an ultrasonic sensor around Christmas 2012 gave "...unreliable readings...." and the tank did not operate as planned. STW believes it likely that the problem with the pumping station and tank was present on 24 November also. Indeed, on 11 April 2013, nearly four months after these events, STW advised by email that no other problems have been identified and that interactions between the shaft tank and

- sewage pumping station are working as designed. The tank and pumping station have continued to operate satisfactorily since the fault in late 2012, within the expected design parameters (D10 p3.6-3.10).
72. Moreover, the weather data for 20-26 November 2012 on the Meteorological Office website show that it was "... the second wettest week on record in the last 50 years.....". Despite a reported fault in the ultrasonic sensors, the tank during the week of 20–26 November 2012 would have been dealing with significant inflows, which may well correspond to a return event beyond the reported design standard of 1 in 40 years. Indeed, evidence points to the inflows of November 2012 being close to those of 2007 but the difference in the effect is from the town's protection. The 2007 floods were reported by the EA as being from a storm event in excess of a 1:100 year return period. There is no evidence that the pumping station and tank are not working as intended (D10 p3.11-3.13). The proposed housing would lie in Flood Zone 1 and it would not rely on the town defences (D10 p6.1-6.3).
73. The Gas House Lane 'big tank' provides not only for an upgrading of the pumps. When the flows downstream are less than the capacity, the pumps operate. When the network downstream is at capacity, the tank provides storage. It is an attenuation facility. ATC accepts that the tank has been very valuable to Alcester.
74. While the design standard for the drainage network is 1:30, in line with the national 1:30 year standard in Sewers for Adoption (from which any departure would need the consent of STW as it could have implications for design flow velocities), the 1:40 standard for Gas House Lane alleviation scheme would be maintained (D14). The 1:30 year standard refers to the design of the underground sewerage network, for both storm and foul piped networks. Beyond this event, infrastructure must be designed to route excess flows along highway networks and the like and not inundate properties. The 100 year standard + 30% controls the design of the detention/attenuation basins and any exceedance flood routing, where flows come out of sewers in events over the 1:30 year standard.
75. STW has also advised that there is sufficient spare capacity in the foul system in Alcester to accept the 4.5 l/sec discharge from the proposed development and that it would not compromise the Gas House Lane flood alleviation scheme. Moreover, the proposed Allimore Lane development was originally included in the hydraulic model used to design the Gas House Lane alleviation scheme. The proposed housing development was included in the STW model for the Alcester area when it was run to check the criteria for the Gas House Lane tank design (D10 p3.14-3.15).
76. Water companies have a general duty to provide sewerage for planned developments (D10 p3.16-3.17). Prior to the flood improvements, the sewers near to the terminal pumping station were prone to flooding every year. The pumping station only operated at around 100 l/sec. The upgrade to the pumping station now gives it a capacity of 1,100 l/sec together with a 3,250 cu m storage tank and improvements to local sewers. This delivers a 1:40 year standard of protection rather than a 1:1 year standard. The 1:40 year standard would not be eroded. The 4.5 l/sec predicted foul flow from the planned development would represent only 0.42% of the upgraded pumping station capacity. The percentage

- impact figures from Cllr Neal-Sturgess take no account of the storm-related flows that contribute to the combined flow discharges (D10 p3.18-3.19).
77. As to concerns about a near flooding event on 26 November 2012, there is no objective evidence of this. Neither is there any evidence that houses near the site have flooded regularly. There is no report on the County database about any problem at 38 Eclipse Road but it is noted that the drive slopes down towards the house (D12). The reported pooling of water on the site would not occur once the development was implemented, and the potential for overland flows to migrate to adjacent land would be reduced (D10 p4.5-4.6).
78. The sites lie within the catchment of the nearby rivers and the natural flow paths from the land contribute to the discharge in these rivers. The FRAs have adopted a peak discharge rate of 5 litres/second/hectare (l/s/h) for the maximum discharge from the proposed development. An assessment of the present day discharge rates predicts the baseline discharge from the land that would enter the river network in the 1 in 100 year event is 9.54 l/s/h. Thus, rather than increasing peak flows in the nearby watercourse network, the proposed development would reduce flows by a predicted 47.6% during the design standard 1:100 year event. This would be an important flood risk betterment to the local watercourse network rather than an increased risk (D10 p4.7). Moreover, the surface water flow from the development would not combine with or discharge into the foul sewerage system (D27.9 section 2).
79. Claims by ERRG that Sustainable Drainage Systems (SuDS) rely on ground infiltration or good permeability are wrong. Some types can be implemented where the ground is completely impermeable. The detention type systems proposed for the appeal sites are based on the assumption of no infiltration. The EA and the Lead Local Flood Authority have accepted this by way of their approval of the FRA. The proposals would be developed in detail to suit the site conditions (D10 p5.1-5.5).
80. The attenuation basins within the sites would be 1.5m deep, falling from reduced levels around them, with side slopes of 1:4 and they would normally be dry (D11; D48). The gentle ground re-profiling would ensure that they and nearby buildings would integrate into the landscape.
81. The EA and STW raise no objections (D25.3 and 29.2 Section 9).
82. **Parking and highway safety** have also featured. Perfectly sensible proposals are agreed with WCC for addressing the Eclipse Road parking by sixth formers from the Grammar School and by others. It cannot be right that this issue should stand in the way of this important development. Parking in the town centre is not the subject of any documented problems; indeed quite the reverse.
83. Cllr Payne has used the parking standard of 1.5 spaces per dwelling to assess the traffic generation from the development. But that standard is to manage the demand for and supply of parking spaces in a new development. It is wrong to use this information to predict car usage on the highway network. These figures would have no direct correlation to the number of development vehicles using the roads at any time (D10 p2.1-2.4).
84. The Transportation Assessments, as approved by WCC, use a recognised methodology for the assessment of trip generation from the planned

development, employing TRICS data and Tempro. TRICS is a nationally employed and accepted database of developments and associated trip generation, which is regularly updated to provide robust information on trip movements. Tempro (the Trip End Model Presentation Program) may then be used to determine modal splits of the total trips determined using TRICS and therefore the number of passenger vehicles, or indeed other types of highway use classes. The trip generation and associated highway network capacity work completed in the Transportation Assessments are robust.

85. Cllr Payne states that the three SDC car parks in the town centre and the Waitrose car park are full in the daytime. Visits to the car parks reveal, and the advice from the WCC Parking Enforcement Officer, the SDC Parking Services Officer and the ATC Town Clerk confirm, that parking conditions in Alcester are not atypical of the District (D10 p2.6-2.11).
86. The WCC Officer reports that on-street parking is more available and is causing less of a nuisance than in other similar county towns.
87. SDC advises that it is unaware of any particular parking problem in Alcester; also, informally, the SDC officer, who lives in Alcester, reports the parking to be better now than at any time, anecdotally, due to the recent expansion of the Waitrose car park. The fact that the town centre would be a short walk from the appeal sites makes this an issue of minor significance in any event.
88. The Town Clerk advises that the car park at Waitrose normally does not fill to capacity. He is not aware of parking issues generally in Alcester or a shortage of space, although he says that parking can sometimes be difficult when the High Street is closed for a market, as on four occasions in 2012.
89. In support of the above, visits to Alcester have shown on-street parking adjacent to the Grammar School not to be fully utilised, with many of the nearby streets (with the exception of the lower part of Eclipse Road) having only a few vehicles parked on the carriageway.
90. There are no known formal parking surveys but a comparison of the 2007 and 2012 SDC Alcester Visitor Surveys indicates that visitors' perception of parking has eased in the town since 2007. Both on-street and off-street parking in Alcester are not a material problem. Parking in Alcester is more readily available and causing fewer problems than in other areas in the County.
91. As to concern about the traffic near to the Grammar school, Officers of WCC do not believe that any problems are of such magnitude as to warrant some form of intervention. Also, despite building work within the school, picking-up and dropping-off arrangements appear to be working satisfactorily. It is unlikely that the proposed housing development would change significantly the arrangements at other Alcester schools. The Transport Assessments demonstrate that, with a number of relatively minor improvements, the highway network would continue to operate satisfactorily (D10 p2.11-2.16; D28.4).
92. The **Birmingham Road roundabout** is not a particular source of danger. The Traffic Impact Assessment considered accident statistics from 2000 – 2011 and there was not an excessive number for a junction of this type. Some 1.8 accidents /km/year would be expected but the actual figure is less than this at 1.0.

93. **Eclipse Road parking**, mainly in connection with the Grammar School, is an issue. The Transportation Assessment has appraised safety and the main site access points would be subject to independent Road Safety Audits. The preferred proposal for Eclipse Road is to have double yellow lines on one side and parking on the other but a Traffic Regulation Order might not be made. The alternative option would be to provide parallel parking bays along the road, which could accommodate 16-18 cars in total. For each alternative, appropriate visibility splays would be needed (D10 p5.6-5.10; D13).
94. Residents argue that the site would not be in a **sustainable location** with regard to access to services and facilities. The former Planning Policy Guidance note 'PPG13 Transport' advised that walking is the most important mode of travel at the local level and that it offers the greatest potential to replace car trips, particularly under 2 km. A similar statement with regard to cycling gives a 5 km distance. Measured against these criteria, given the wide range of facilities, amenities and services within these specified distances, the proposal would be highly sustainable in terms of transport provision (D10 p4.8-4.10; D19 Appx D2 and D3).
95. School walking distances from the Eclipse Road access to the site are 0.8 km to St Benedict's Catholic High School; 1.0 km to St Nicholas C of E Primary; 1.1 km to Our Lady's Catholic Primary School; and 2 km to the Alcester Academy (D29.19).
96. Alcester is a compact town which is highly sustainable from a transportation perspective. The area near the sites benefits from good walking, cycling and public transport provision. Thus, WCC only found it necessary to request improvements to a small number of local footways. It did not seek any bus service provision (D10 p5.11-5.14).
97. The future of the **Greig Centre** has been troubling ATC. This is understandable but it is in private ownership and has deep financial problems which are far beyond the scope of this appeal. While the appellants would have been happy to see the "Built Facilities Contribution" of the S106 Obligation channelled in that direction, that is not what SDC has sought. Ultimately, this is a matter for the District and Town Councils to resolve and its resolution does not need to hold up the determination of these appeals.
98. In this context, all contributions to be secured by the **S106 Obligations** would be effectively ring-fenced for Alcester, with the exception of the Built Facilities Contribution and NHS Foundation Trust contribution (D3 p34; D40 p3(i) and 7(iii)). The Primary School contribution would be for provision at the St Nicholas Primary School in Alcester but the Special Needs contributions would be likely to be spent in Stratford.
99. **Open space provision** has been raised, but Alcester is fortunate in having good open space provision, much distributed around the central green swathe around which the town has developed. Where there are deficiencies, the appellants have agreed the payment of proportionate contributions (D3 p35; D22; D26.3; D40 Appx 2). As set out in the Obligations compliance document (D40), the Open Space audit revealed 'no deficit' for Parks, Gardens and Amenity Greenspace or for Natural and Semi-Natural Accessible Greenspace; a deficit of 1.37ha for Children and Young People's facilities; a current oversupply of Outdoor Sports Facilities with the exceptions of junior rugby (-1.4 ha) and cricket pitches (-0.6

- ha); Alcester needs a swimming pool; also refurbishment/upgrading of the Alcester Town Hall and the Greig Centre are needed to improve community facilities; an additional 0.99 ha of allotments (34 plots) is required. The study forms part of the evidence base for the Local Development Framework but it does not reflect SDC's planning policy at this time.
100. A precise comparison between the proposed development and requirements cannot be made at present, pending the breakdown of housing numbers, types and the like. An off-site contribution would relate to the under-provision of junior rugby and cricket pitches indicated above.
101. With regard to **public involvement**, the extent of this is explained in the Statements of Community Involvement (SCIs) of November 2011 which were submitted with the planning applications (D7; D24.4; D29.9). A public exhibition was held at the Greig Hall, Kinwarton Road, Alcester - a popular and accessible community facility in the town - on Friday 9 and Saturday 10 April 2010, with an afternoon and an evening session on the Friday and a daytime one on the Saturday. Publicity was arranged in various forms (D7 pg 1-2), including newspaper advertisements, posters and direct notification of Local District Ward Councillors, Local Warwickshire County Councillors, ATC and Alcester Civic Society, as confirmed in the SCI. There had been no issue over the level of public involvement until the inquiry.
102. Since the original submission, there have been a number of post-application meetings on 15 March, 30 April and 31 May 2012 with Officers and Ward Members of SDC (D27.7 p1.3) and with Officers and ATC on 23 August 2013. Meetings have also taken place with members and officers of ATC on 26 September and 17 December 2012. SDC Councillors Gittus, Adams and Payne attended the meetings. Also, the appellants' consultant team attended a meeting of ATC Forum on the evening of 19 November 2012. A second public exhibition was held on 14 March 2013 at Globe House in Alcester, attended by approximately 130 people.
103. As to **medical facilities**, the senior GPs in both practices confirm that they would be able to cope with population growth (D8 pg 1).
104. The **South Warwickshire NHS Foundation Trust** (SWFT) produced a very late submission which seeks to support a demand for nearly £500,000 from the appellants (D5 p5.26-5.28).
105. A request was made on 16 January 2012, including a CIL justification, by SWFT for a contribution of £1,740 per dwelling (D8). The request of 21 November 2013 does not include a CIL test review but evidence was given at the inquiry. At the Committee on 9 September 2013, the view of SDC officers was that "*.....the request for a contribution of £1,678 per dwelling (total £318,820) made by South Warwickshire NHS Foundation Trust has not been fully substantiated to meet the CIL Regulations. In reaching this sum of money, there appear to have been assumptions made that have not, at this time, been properly evidenced..... (but) the Foundation Trust be given a further opportunity to provide the necessary supporting information. Recommendation B allows until 9 December 2013 for the completion of the S106. If the Foundation Trust can provide satisfactory evidence within this timescale and with sufficient time for the developers and officers to respond, then a sum of money may be secured. However, this sum of money may not be £1,678 per dwelling*".

106. Little has changed since then. SDC has not adopted a charging schedule pursuant to the CIL Regulations, and neither has it published any Supplementary Planning Document relating to Developer Planning Obligations. The three tests for judging whether a S106 Obligation can legitimately be sought are set out in the National Planning Policy Framework (the Framework at p204) and elsewhere: necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
107. There is no reason in principle why a contribution cannot be sought towards the costs of medical infrastructure. However, SWFT must demonstrate (a) that the development would have an adverse impact on health provision (b) that this impact could not be mitigated without the provision of funds and (c) that these funds will be applied to off-set/mitigate the harm that has been identified. In addition, the decision-maker will have to be satisfied that the amount sought would be reasonable in scale and kind and the request would be reasonable in all other respects.
108. The approach set out by SWFT in the paper of October 2013 (D40) and its associated documents is insufficiently particularised to satisfy these requirements. The paper states (pg 4) that SWFT is not eligible for capital allocations from either the Dept of Health or local commissioners to provide new capacity to meet additional healthcare demands. SWFT is "... an independent and autonomous provider of healthcare". It receives payment on a tariff basis for the healthcare delivered, such that if a treatment is expected to require ten days and it is completed in five, SWFT is paid a surplus but, if it takes 20 days, SWFT loses money. An element of the tariff contributes towards the capital cost of its delivery and SWFT claims that this is insufficient to meet needs.
109. A number of questions need to be answered. Where is the adopted development plan policy justification for what is being sought? How would what is being sought meet the CIL tests in terms of being directly related to this proposed development? To what extent is the assumption robust that the existing facilities plus their improvement would prove adequate? How can SWFT generate a figure per dwelling if the scale of development in South Warwickshire is unknown? Does the amount being sought take any account of any of the tariff funding for NHS provision? It appears that the amount includes cost of provision and maintenance of equipment but that is not a capital cost. What is the relationship with neighbouring NHS Foundation Trusts; for example, how many Alcester residents actually use the closer medical facilities in Redditch?
110. It seems reasonable that the need for supporting infrastructure and the likelihood of a contribution being required, should demonstrate both the direct relationship between the development and the infrastructure, and the fair and reasonable scale of the contribution being sought. Once again, this work has not been done.
111. The SWFT approach is flawed because it is attempting to use S106 of the 1990 Act as though it allows the sort of approach envisaged under the charging schedule regime of the CIL regulations but it does not. If it did, there would have been no need to introduce the charging schedule approach. There are clear limitations to using pooling and the formulaic approach under S106 because these approaches, unless fully supported by a policy framework and applied with

flexibility, run the risk of becoming divorced from the impact of the actual development under consideration.

112. Ultimately, it is for SWFT to demonstrate why, if permission were granted, the impact of the development would be unacceptable in planning terms. It cannot do this without pointing to some harm, which it says could and would be rectified by spending the money it seeks as a contribution. On the current evidence, it has failed to demonstrate this.
113. In summary, the SWFT document is not sufficiently transparent or robust to support such a substantial levy. There are very real concerns about the way in which the total costs have been arrived at and the way in which the amounts to be sought from “Developers Contributions” have been “apportioned” or otherwise identified. The numbers and the logic are not properly justified. Moreover, there is no clear link to Alcester patient flows to South Warwickshire hospitals, which are not documented or analysed. This request is resisted although it is provided for in the S106 Obligations, on a contingency basis, if the SoS takes the view that the Community Infrastructure Levy (CIL) Regulation 122 tests would be satisfied.

Conclusions

114. The Council’s Housing policies are seriously out of date. SDC does not contest that it does not have a five year housing land supply. Thus, paragraphs 49 and 14 of the Framework are engaged. The limited adverse impacts of granting permission would not “significantly and demonstrably outweigh” the very substantial benefits which would arise from the proposed development. Planning permission should be granted in accordance with the presumption in favour of sustainable development.
115. The provision of housing and 35% affordable housing in the face of a significant shortfall weighs heavily in the balance, as does the extremely well-contained nature of the site and its proximity to the Main Rural Centre of Alcester, with its excellent range of facilities, schools and employment, as well as the appeal sites’ longstanding identification jointly as a potential development site. This is a conclusion from which the Council does not demur. These appeals should be allowed.

THE CASE FOR STRATFORD-ON-AVON DISTRICT COUNCIL

The material points are:

Introduction

116. The Council’s submissions relate only to whether the tests if Regulation 122 of the Community Infrastructure Levy Regulations and the requirements of national policy would be met in respect of the acute healthcare contribution in the S106 Obligations (D4, D38, D39, D40). [Inspector’s Note: The reports to Committee conveniently summarise the representations, policies and consultation responses – D25.3 and D29.2.]
117. Paragraphs 203-205 of the Framework set out national policy on the use of planning obligations; in short, where it is not possible to address unacceptable impacts through the use of planning conditions and where the Reg 122(2) tests are met.

Necessity and unacceptable impact

118. The necessity for the acute and community healthcare contribution arises from the fact that the acute healthcare infrastructure in the area is operating at above a safe capacity and that the appeal proposals, together with other developments in South Warwickshire, would put further pressure on services which, unless mitigated by contributions towards infrastructure improvements, would be likely to have a significant adverse effect on patient care and wellbeing (D40 Appx 6).
119. LPR Policy IMP4 provides that permission will only be granted where proper arrangements are made for necessary physical and social infrastructure. Also, p7 and p69/70 of the Framework seek the creation of healthy inclusive communities with the facilities needed by such communities. The contribution would be necessary to overcome a planning objection that would otherwise make the development unacceptable.
120. The appellants do not, in principle, dispute this analysis.

Direct relationship with the development proposed

121. The contribution sought would be directly related to the proposed development because it would mitigate its direct effects in terms of the additional pressure that would be placed on acute services in the area.
122. The contribution would be pooled with others from other developers to provide part of the funding for a new ward block at Warwick Hospital, a new hospital at the Stratford Hospital site and additional outpatient, diagnostic, treatment and inpatient facilities including hubs for community healthcare teams at the Warwick and Leamington hospital sites.
123. Although the detailed analysis of patient flows is complicated, many of the acute services at the above sites are ones that residents of Alcester currently use and are expected to continue to do so.
124. As a matter of legal principle, pooled contributions can properly be sought where a development is one of many that give rise to a need for additional infrastructure (D4 p11 and Footnote 3)

Fair and reasonable in scale and kind

125. In these circumstances, it is clearly reasonable that a contribution is sought. And the scale of contribution would be reasonable. The developer contributions are sought for only part of the necessary infrastructure improvements - £33m out of a total of £64m.
126. Conservative assumptions have been made on the demographic profile of service users – i.e. no change. The contributions would be only in respect of the capital cost of providing new infrastructure, not for its maintenance. Individual developer contributions have been calculated in the light of the anticipated costs of providing the infrastructure and of household growth, established through work with the relevant district planning authorities, and they are sought on a 'per household' basis. This yields a figure of £1,678 per household.

Conclusion

127. The requirements of national policy and of Regulation 122 would be met and the SoS can lawfully take them into account in determining these appeals.

The Case for Alcester Town Council

The material points are:

128. **The Mayor of Alcester, Cllr M Cargill**, advised that arrangements had been made for ATC speakers to each concentrate on one topic (D44). His topic is the impact on the **facilities for Alcester community**.
129. SDC has not got its CS in place and it is not defending the reasons for refusal. The neighbourhood plan cannot be prepared until the C S is in place.
130. There is a single proposal even though it has been split into two applications. However, if the SoS were to allow only one appeal, it should be Appeal B for the southern site, which is nearer to the town centre.
131. When combined with the Kinwarton Road development which is now being built (D18), there could be a 15% population increase for Alcester in 10 years, in what is, historically in this town, a very short period. This step-change in population would be difficult to absorb and so would be unsustainable. Unless the development is planned around the needs of the town, it could become a satellite village.
132. Alcester needs appropriate and sustainable development to benefit the town by bringing in new skills and enthusiasm and invigorate the community. But the additional infrastructure would need to be in place first. A large influx of people in a short time, coupled with budget cuts by County and District, fewer police and the potential loss of services such as the library and civic amenities, could not be accommodated.
133. Although fewer additional homes would be preferred at this time, a maximum of 300 homes would be supported in the development, to give a more relaxed form of layout. The emerging CS gives an approximate (not maximum) 300 dwellings for the site. High density housing would be inappropriate and would not provide for a sustainable community.
134. The appellants do not show any strategic thinking about Alcester. Also, the developers should secure any necessary and related infrastructure and services to meet the needs that would be generated.
135. Alcester is under-provided in terms of appropriate civic amenities in the form of meeting places, sports venues and the like. Consideration must also be given to recreational and leisure opportunities for the ageing population. The Council-owned and Council-run civic buildings are fully utilised. Greig Hall, which is owned by the Hannah Susan Greig Memorial Trust Co Ltd and is the largest venue in the town, has closed. It should be brought into civic ownership, under a trust for the community, to provide appropriate facilities. The emerging CS says that SDC supports the future of the Greig Centre for improved indoor recreation and leisure facilities.
136. Most facilities in the town are fully booked. Without appropriate facilities, any new residents would not become fully integrated into the town. And such facilities should be provided within walking distance, within the proposed

- development. This could take the form of a small meeting hall, which would ensure a more sustainable and integrated community.
137. Moreover, the housing development should be phased to assist the integration of the new residents. They should not have to leave the town for shopping and recreation etc.
138. Thus, the developers should consider: reducing the number of dwellings to no more than 300 and conditions should be imposed to limit Appeal A to no more than 140 dwellings and up to 160 in Appeal B; phasing the scheme over 10-15 years; contributing to the purchasing and improvement of the Greig Hall; and creating additional civic amenities. My plea is for appropriate facilities, either by new build or by funding existing buildings.
139. If the SoS were to allow only one of the appeals, it should be Appeal B on the southern site nearer to the town centre.
140. **Cllr C Neal-Sturgess** deals with **flood risk** (D47). Alcester is an ancient market town in a valley with two rivers. It has flooded 22 times since 1864; flooding is the main concern of the residents (D47 Appx 1 and 2). Much of the flood zone is within the Conservation Area. In the last major inundation (2007) 190 premises were flooded (D47 Appx 3). The town has combined drains so any flood is a major health hazard.
141. In 2012, the EA and STW completed major flood defence work, with repaired bunds and a 4.5m litre detention tank (shaft tank or big tank), which upgraded the flood defences to 1:100 years for river flooding and 1:40 years for foul water flooding (D47 Appx 4), which is barely adequate for the existing town.
142. The appellants' FRA did not explicitly consider foul water. It addressed surface water, contained in attenuation ponds and discharged into the River Arrow. This adds to the flow in the river but the major concern is the foul water. In response to ATC's concerns, a revised FRA was conducted but that was only a desk exercise and it contained a number of mistakes: that the alleviation scheme is to protect against both foul and combined systems; that the big tank did not fill before Christmas 2012; and that the scheme is to resolve surface water flooding events. This is incorrect (D47 Appx 5).
143. Thus the second FRA is incorrect and there is no valid FRA. STW's response that the 97% full tank was due to a technical issue raises additional concerns. It is accepted that there were technical problems during the commissioning phase (D47 Appx 7). But on 24 November 2012, the tank was completely full and there was no sensor failure.
144. Although STW says that the foul flow makes up only a small component of the total foul sewer (D47 Appx 6 pg 2 p10), this is the hazardous component. If the tank was completely full before any additional load from the proposed development, then any extra load is an overload which could result in a foul water flood. The tank has no overflow outlet.
145. Although STW says that its model indicates that extra load can be accommodated (D47 Appx 6 Pg 2 p6), there is no indication that the model was recalibrated after the November incident. The only way to empirically validate a tank is to wait for a flood or a major incursion and compare the response to the hydrograph for the event. It is not known if this recalibration has taken place.

The above comments were included in the Committee Report of 27 June 2013 (D47 Appx 8).

146. The detention tank was full on 24 November 2012 without the additional load from the proposed 350 dwellings or the 125 in the Kinwarton development, an overall addition of 16% which would go into the town in the event of a flood. The additional load would reduce the foul water flood return period below its projected 1:40 year period. A thorough new FRA is needed with a recalibrated model to give reassurance to the residents.
147. **Cllr L Cumberbatch** deals with **education and health** matters (D42). It is necessary to influence rather than prevent new development. In April 2013, the Governing body of St Nicholas' C of E Primary School felt it necessary to increase its pupil intake from 50 to 60 per year so that parents who had chosen St Nicholas' as their first choice for September 2013 would be allocated a place without appealing. Also, the school could accept up to 420 pupils. Demand is increasing and it is unlikely that the school would be able to accommodate primary school children from the proposed housing.
148. This could mean children travelling to schools in outlying parishes which would constitute the social and educational exclusion of the incoming families and would also result in additional highway congestion. An additional satellite school of St Nicholas' could be built on the Allimore Lane side of the town.
149. The main schools affected would be St Nicholas' and the Alcester Academy. The former has a Nursery School attached and a Children's Centre on the same site. It would need to expand in some way if future developments take place.
150. The Academy was designed as a middle school. In its present state, the Academy could accommodate another 100 pupils but it was not built for children up to the age of 16. It has a number of design constraints such as narrow corridors with bottlenecks, which can be dangerous; a small sports hall and inadequate showers/changing; inadequate dining facilities; many of the classrooms are too small. The school would benefit from a complete re-build or extension and modernisation. As a result of its academy status, and the academy status of the Primary School, Central Government has to be approached for funding rather than WCC.
151. Relevant details are that the 125 dwellings at Kinwarton Farm Road are likely to be built in 2013-6 and the 350 at the appeal sites in 2015-20. The catchment of the St Nicholas' C of E is immediate to Alcester; those of Our Lady's Catholic Primary School and of the Alcester Academy includes surrounding villages to Alcester; those of the Alcester Grammar School and of the St Benedicts Catholic Secondary School cover the county and beyond.
152. Any educational contributions should be spent locally.
153. As to health matters, the two local doctors' practices would be able to cope with population growth but there is concern over the future adequacy of community support services.
154. **County, District and Town Cllr M Gittus** deals with the subject of **noise** (D46). The division of the proposal into two applications has made it more difficult to deal with. Noise from traffic is probably the most widespread source of noise nuisance. New homes are needed in the community to ensure its

- prosperity. The CS proposal for 300 houses at the two sites is supported but it is necessary to consider: the effect of noise on health and wellbeing; the proximity of the houses to the A435; the principle of mechanical ventilation to reduce internal noise; the possible use of affordable houses to provide sound barriers for private houses; and the impact on public open space around the western edge of the development.
155. Paragraph 123 of the Framework sets out the national policy on noise in decision-making.
156. The World Health Organization confirms the harm to health caused by noise (D46 pg2). Private monitoring of the sound levels confirms the findings of the Noise Assessment (D28.2). The A435 is a major trunk road with a 60mph limit. It is in a cutting with a small bund on the eastern side. The sound in the cutting resonates and, while there are peaks and troughs in the harmonic sound, the resonance is always present, certainly during the day and early evening.
157. It is with dismay to find that the Halcrow noise assessment mitigation measures propose that the houses on the western site boundary would provide noise screening for their own gardens, that good internal levels could not be achieved with partially open windows, that there should be no opening windows and that additional cooling systems would be implemented. Bedrooms facing the A435 would have mechanical ventilation and no opening windows. Also, properties with a line of sight to the A435 should have only non-sensitive ground floor rooms facing the main road or living rooms should have mechanical ventilation and non-opening windows.
158. Properties built on the western side of the development would provide sound protection for the rest of the development. Thus, it is likely that these would be affordable units. The strip of land near to the main road would be bathed in the reflected sound from housing.
159. A number of options could be considered. The source noise could be reduced by lowering the speed limit or by changing the road surface. Traffic could be routed away from sensitive areas by traffic management measures or by building new roads. Sound insulation in new houses can provide acceptable internal sound levels but it defeats the principle of building sustainable homes. The bund near the main road could be increased in height. The affordable housing should be dispersed throughout the site. The removal of 50 houses from the western side of the site would provide the distance needed to reduce sound levels.
160. When standing on the site near the road, normal conversation is not possible. Although the effects of sound levels are subjective, such that people could be found to occupy the dwellings near the road, would they be sustainable quality homes in a suitable location? It is difficult to establish a common standard of acceptance for noise levels (D46 pg 5). The appeals should be dismissed in favour of a less intensive scheme.
161. **District and Town Cllr E Payne** deals with **parking and traffic** (D42, D45). He is not against housing development but the developments at Great Alne, Kinwarton and the appeal proposals would add up to 654 houses being built within 3 miles of the small, historic market town of Alcester. It is acknowledged that the Highway Authority has no objection to the two appeals but they would

- have a serious impact on the town, which does not have the infrastructure to cope with that scale of development, and would change its character for ever.
162. The town retains its Roman street pattern, with many attractive timber-framed buildings as well as brick-built ones from the last three centuries and a number of narrow streets and alleys called Tueries.
163. Alcester has provided services and facilities for its residents and the surrounding villages for centuries but it is now suffering badly from congestion caused by cars. Parking facilities are full all day. The increased traffic and parking needs generated by the proposed housing, together with that at Kinwarton (125 houses) and Great Alne (179 houses) would impact on the town.
164. Using the SDC parking standard of 1.5 cars per dwelling, the three above developments would generate some 980 extra cars in and around Alcester. The developers should consider funding additional parking for the town.
165. There are three SDC car parks: 134 spaces at Bulls Head Yard, 66 at Bleachfield Street and 10 at Moorfields, plus the private car park, with restrictions at Waitrose (D42 photographs).
166. There are safety and congestion problems at Eclipse Road/Birmingham Road owing to the shortage of parking at the Grammar school. Teachers and students park in Eclipse Road and nearby streets as well as on Birmingham Road from 08.30 to 16.00 hours, causing problems for residents and passing traffic. Further problems arise at the start and end of the school day as parents arrive with or for children and as 18 buses/coaches drop-off or pick-up pupils. Some coaches have to wait on the main road for others to leave before they have space to enter the premises (D42 photographs).
167. Kinwarton Road suffers similar problems connected with the four schools in that area (D42 and photographs).
168. ATC believes in ensuring the vitality of the town centre, with the Alcester town centre at the heart of the community. Access to the centre along its main arteries of Birmingham Road and Kinwarton Road is essential to achieve this.
169. **District and Town Cllr Ms S Adams** deals with **recreation and open space** (D52; the calculation with the letter of 25 October 2013 in D42 has been superseded). While supporting the proposal for 300 houses at the site in the emerging CS, her concern is to achieve the best facilities for residents. The Masterplan has changed significantly since the public consultation in March. There would be no open space to the north with play equipment and nor are there any existing areas on the west side of the town.
170. Alcester has a deficit of children's and young people's facilities and an undersupply of junior rugby and cricket pitches (D26.3; D52). The appeal sites are used as a public amenity and have been adopted by the community as an area for exercise and wellbeing. No better provision is proposed by the developers. At an early stage, there were discussions with ATC about additional open space provision on the national monument sites – which have little monetary value - by one of the site landowners. They could be used to offset the area lost to the community.

171. Additional open space and facilities are needed for the new residents (D52 pg1/2). Conditions for on-site provision or a S106 contribution are needed for additional green open space, additional adjacent green open space, a community venue or, in the absence of such provision, to enhance ATC's facilities. The S106 contributions should 'remain in Alcester' and money should go to the Greig Centre.
172. No more than 300 houses should be built on the two sites.

The Cases for the Interested Persons

The material points are:

173. **District Cllr Dr S Juned** states that the two sites should be considered as one (D43) with an overall Masterplan. The outline applications do not allow proper consideration of the design, an important factor in the Framework. The proposals should contribute positively to making places better and supporting local facilities and transport.
174. She states that there has been no proper consultation with local communities or satisfactory pre-application report submitted. The relevant 'Gunning' or 'Sedley' principles are that the consultation must take place when the proposals are at the formative stage; sufficient reasons must be put forward for the development to allow for intelligent consideration and response, for which adequate time must be given; and the product of consultation must be conscientiously taken into account.
175. The S106 Obligations should fund transport schemes, flood defences, schools, hospitals and other health and social care facilities, parks, green spaces and leisure centres. The money should be spent in Alcester and not be spent elsewhere. Provision should be made for the long term maintenance of the proposed attenuation ponds/SUDS. The proposals are premature in advance of additional flood defence works and in advance of the production of the CS, which will guide all planning applications within the standards on sustainability and the terms of the Framework. Contributions should ensure that a development does not impose on the public purse and provides a benefit from the development and affordable housing.
176. There are problems of parking on Eclipse Road and congestion on Birmingham Road linked with the Grammar School. The developers should contribute to a drop-off and pick-up area on the school site.
177. There is not enough information to confirm that foul and surface water drainage systems would be able to cope.
178. Noise protection measures that would involve mechanical ventilation and windows that cannot be opened would be unacceptable and they would not secure satisfactory noise levels in gardens. An adequate separation distance from the A435 road and a physical sound barrier would be required. The Framework seeks high quality design and a good standard of amenity for occupiers.
179. Many of the local schools are over-subscribed or nearing their capacity, with little scope for expansion. Others lack capital investment.

180. The expansion to Alcester would require improvements to community facilities, play areas and open space. Sport England was not consulted on the applications.
181. The adverse impacts of granting permission, by reason of the size of the proposals and the harm to Alcester and its residents, would outweigh the benefits. The development should be restricted accordingly. There is already a permission at Kinwarton Farm Road (for 125 dwellings) on the opposite side of town. The combination of that with the current proposals exceeds the number of dwellings in the emerging CS for Alcester.
182. **Mr N Butler**, for the Warwickshire Branch of the **Council for the Preservation of Rural England** (CPRE), opposes any development at the two sites (D49). The proposals would drastically increase the size of Alcester and harm its character, both physically and socially.
183. The proposals are for a 10% increase to the size of the town. It has not been demonstrated that the facilities in the town could cope with the extra residents and there would not be enough jobs for the additional adults. It is likely that the housing would become a dormitory for Redditch and other large towns. Traffic would increase, bus services are inadequate and there is no railway station in Alcester. The development would not be socially sustainable.
184. The tallest buildings would be 12m high and as the sites are on rising ground, views of the countryside from neighbouring estates would be lost. Also, views from paths in the Special Landscape Area to the west would be harmed.
185. The wildlife habitats on the sites would be destroyed.
186. Flood risks to Alcester town centre would increase.
187. **Mr R Pamment** has been a resident of Alcester for 39 years (D51). He is a committed resident and a firm believer in localism. The two applications were refused permission by votes of 8:1 and 6:3, despite the Officer recommendations. SDC's website shows well over 90% of people are opposed to the plans, as structured. The community feels that the scale and timeframe for the development would not be appropriate. And yet the Council has decided not to contest the appeals, without any reference back to the residents.
188. Much of the opposition stems from a concern that Alcester should develop in a measured, sustainable way, to accommodate the needs of existing and future residents.
189. There is huge concern to avoid any exacerbation of the flood risk. The submitted plans deliver little detail as to how this and many other elements of the plans would be addressed effectively. All that is known is that STW is satisfied with the plans. Yet the same body was satisfied with the flood risk measures at Kempsey that filed spectacularly in November 2012. Also, Professor Sturgess casts doubt over the actual experience of the 'big tank', a factor that questions the validity of the FRA for the built development of some 13 ha.
190. The FRA states that there are no examples on record of the flooding of properties near the site but 38 Eclipse Road near its south eastern corner has flooded three times in the last 20 years. This problem may have resulted in 'moving' the proposed housing further into the site and, on its other side, nearer to the by-pass where external noise levels would be bad.

191. Walking to school and to medical facilities would be lengthy. The medical practices have been combined on the opposite side of town. Using a calibrated pedometer and existing footpaths, the distances to the nearest schools from the northern site entrance, the nearest schools are 1,200-1,500m, 3,200 to the Academy and 1,800 to the medical centre. Possibly another 900m would be travelled by those on the western margin of the site. This would be a round trip of 3.2 miles for a visit to the doctor from an occupier on the western edge of the site.
192. Much has been made of the potential for 525 new jobs for the area, attributable to the two developments (D27.7 p4.7). It is not clear whether these would be only construction jobs during the building works or how many would be filled by local residents.
193. Many details are not clear. How would the developments increase biodiversity? How can it be concluded that Alcester has sufficient infrastructure to accommodate the population increase. The magnitude of the schemes warrants deeper consideration. The persistence in treating the development as two schemes independently adds to the confusion.
194. Measured development would be welcomed. The local community has embraced the localism concept but it now feels disenfranchised. The possible excesses of development ambitions need to be fairly and democratically moderated by an effective planning process.
195. **Mr A J Mann** spoke on behalf of himself and his wife (D42, D48). It is regretted that no evening session of the inquiry was held. Also, local residents were not consulted on the S106 Obligations, which were submitted late [Inspector's Note: Mr Mann accepted in XX that there is no requirement to send a draft S106 to third parties]. The sheer mass of documentation causes confusion.
196. How would the Masterplan work if one appeal were allowed and one dismissed? Road linkages, attenuation ponds, play areas and green spaces would need to be considered.
197. Mr and Mrs Mann are concerned about the impacts of the developments on the town and the environment, particularly if both appeals were to be allowed together, because of the lack of supporting infrastructure and services. The application process has not had proper data, analysis and scrutiny.
198. The comments made by ERRG to SDC and to PINS are endorsed (D42).
199. There has been a lack of community involvement with the proposals, despite the requirements of p46 of the Framework. At the public display at the Greig Centre in April 2010, there were no firm proposals but the application plans are different and there has been no resident involvement since that display, despite the claim to the contrary in the DAS (D24.1 p1.5). Also, there is no record of pre-application discussions between the applicants and SDC.
200. On 19 November 2012, at the applicants' request, a public forum was held by ATC at which revised proposals were presented but the public were not permitted to ask questions. Subsequent written questions and a request for community involvement received no response (D42 pg2/3). There has been no dialogue between the applicants and residents other than a brief public exhibition of revised proposals some 14 months after the applications were submitted. The

- original December 2011 documents failed to address the aspect of scale, thereby contravening the pre January 2013 DCLG requirements but the applications were still validated by SDC (D42 pg3). If the appeals are allowed, local residents should be able to influence the design of the scheme. A suitably worded condition would secure this.
201. The 2010 Draft CS showed 250 units on a larger site, albeit with an optional care home (D48). The second Draft CS included for development the Old Orchard site, to the north of Allimore Lane and south east of the southern appeal site, but it is excluded from the current draft CS.
202. The third Draft CS proposed 200-300 houses for Alcester and the appeal sites were in the possible broad locations. The subsequent Kinwarton Farm Road permission for 125 dwellings would leave 75-175 for the rest of Alcester. The fourth draft proposes a new settlement and the allocation of the appeal sites for 300 homes in two phases over seven to eight years. There is heavy opposition to the emerging CS. The 300 dwellings would be accepted on the site if the development were sustainable with that number and if the POS provision and other facilities were met. The site could accommodate 300 houses better than 350 as they could be set back from the by-pass and would not impose design constraints.
203. The CS proposal for the appeal sites plus the Kinwarton Farm Road scheme would add up to 425 units; also there are applications pending for houses on 40 windfall sites in Alcester. The scale and rate of development would be unsustainable.
204. Comments in the second draft CS on the need for extensive open space on the appeal sites have been ignored by the appellants.
205. Likewise, the Warwickshire Rural Communities Council study (May 2012) that found a need for less than 50 Housing Association/Shared Ownership/Local market Ownership dwellings in the town has been ignored (D42 Mann pg5 and Appx A). And that need has been met already by the 35% affordable homes to be built on the Kinwarton site.
206. Allimore Lane is a popular recreational facility, well used by families and dog-walkers. The two gaps that would be occupied by the proposed housing would close off open views.
207. The loss of landscaping from Eclipse Road for the formation of parking areas would detract from its character.
208. Alcester has a public open space (POS) deficit of 14.96 ha according to the 2005 Open Space Audit (D26.3; D42 Appx B). There are no large areas of POS within reasonable walking distance of the site and a children's kickabout area at the site entrance would be lost [Inspector's Note: this is not POS, it is an area of grass that is privately owned by CCS Ltd]. A contribution to POS provision off-site would not deliver a viable or sustainable solution. There is no justification for failing to provide the minimum level of POS on the site. There would be a shortfall of 1.5 ha or 40% on the site. If the appeals were allowed, conditions should require that the minimum POS provision be made on site.
209. Sport England was not consulted on the proposals (D42 pg6). If the appeals were allowed, conditions should require that it be consulted.

210. Surface water drainage and flooding issues are addressed largely in similar terms to those by ATC. Also, photographs are submitted of the town centre in 2007 (D42 Pg 6 and Appx F).
211. The proposed attenuation ponds would be part way up the slope, away from the lowest point of the site (D48; see also D11). How safe would they be near to the main play area? The angle of the banks could be too steep.
212. Concerns about traffic noise, design the character of Alcester and distances to facilities have been outlined above by others (D42 pg 7 and Appx E and F).
213. The recommended comfortable walking distance in Manual for Streets is 800m (D48). The shortest walking distance to the medical centre is 1.8km; much of the combined site is over 1.0km from the town centre; all schools apart from the Grammar are over 1.0km distant and the Academy is over 2km away.
214. **Ms S Edkins** chose to live in this small friendly town 22 years ago (D50). It has grown gradually in that time but an additional 300-350 houses would not continue that gradual pattern, it would change the character and nature of Alcester. If the appeal proposals were successful, there would be little provision for smaller pockets of housing.
215. Holding the inquiry in Stratford-on-Avon during working hours rather than in Alcester, and with no evening session, limited the numbers attending. The inquiry could have been held in the Greig Hall if it was still operational. There are poor public transport links between Alcester and surrounding towns.
216. The late submission of the S106 and the information about the provision for an orthopaedic ward at Warwick did not allow the Ward Councillor to comment on such matters.
217. The Grammar School has changed dramatically in the last 22 years, with a vastly larger sixth form and a number of large additional buildings. This has resulted in cars parking in Eclipse Road and nearby streets. Eclipse Road has cars parked on each side and is reduced to a single track. Also, cars park on the corners reducing visibility.
218. The school has a staff of 100 but only 95 parking spaces and one disabled space. It has a wide catchment and many of the 500 sixth formers drive to school. As school numbers grow, the congestion problems, which have been on-going for many years – and not just during the current building works which affect eight of the parking spaces on-site - will get worse (D50 pg2).
219. If the development proceeds, the pleasant landscaped sides of Eclipse Road should not be sacrificed to provide parking for the school. It would not enhance the approach to the new housing or Alcester's rural character. Parking for the school should be provided on its site.
220. When the houses in the locality of Eclipse Road were built, there were plans for a park but it was not provided.
221. Surface water drainage would discharge into the River Arrow and cause problems for Alcester and our neighbours downstream. Reliance cannot be placed on the mechanical pumping of water.

222. The Alexander Hospital in Redditch is to be closed, placing a greater burden on Warwick Hospital, even without the proposed additional population.
223. The new Doctors' Surgery, which opened a few months ago is already suffering from parking problems, including insufficient disabled spaces.
224. Houses, to be built in a rural environment, that would be so tightly packed that windows could not be opened and where a non-environmentally friendly mechanical system of cooling would be required, would not address the biodiversity claim of the developers. Would this be the look, feel and character of a rural Roman town or a step back to the Dark Ages?
225. **Mr G Taylor**, a local resident and representative of the Newport Schools Foundation, one of the landowners, states that the Alcester intake to the Grammar School is only about 5% of its pupil numbers, such that the additional population at the appeal sites would not change parking demands. Similarly, St Benedict's takes only 6% of its pupils from Alcester.

Written Representations

The material points are:

226. I have read all of the many written representations, from both the application and the appeal stages, for each proposal. The reports to Committee conveniently provide an analysis and summary of the representations (Section 8 of D25.3 and of D29.2). Section 6 of the reports summarises the comments of ATC while Section 7 gives the observations of the Ward Members.
227. With regard to the northern site at the application stage, 125 letters of objection were received initially covering numerous topics plus 2 letters of support. There were 123 responses following submission of the first revision of the indicative Masterplan and 7 more to its final revision. The topics covered are almost all dealt with in the cases outlined above. Specific additional matters points are:
- Localism Bill introduced to give people more say;
 - only 13% of respondents to the Alcester Town Plan wanted edge-of-town expansion and Allimore Lane was the least favoured area;
 - use brownfield land;
 - use sites on the eastern side of town;
 - the site is a vital buffer for the existing houses;
 - development should be phased over 5-10 years;
 - need an alternative area for dog walking;
 - buffer needed to Allimore Lane;
 - loss of privacy;
 - Birmingham Road/A435 roundabout would be blocked by traffic at the site access near the Roebuck public house;
 - adverse impact on the wildlife area to the south east;

- adverse impact on wildlife on site;
- loss of hedgerows would harm wildlife;
- archaeological investigation needed;
- object to Birmingham Road pedestrian crossing in front of my house;
- the access from Eclipse Road would go through an open space used for children's play;
- Grammar School should provide parking on-site for its students;
- inadequate public open space;
- difficult to control use of the emergency access to Allimore Lane;
- disturbance and pollution to the properties and nursery on Allimore Lane;
- increase in crime;
- poor water supply would be worsened;
- housing design out of keeping;
- housing needs assessment for Alcester shows fewer than 50 people needed a home.

228. With regard to the southern site at the application stage, there were 125 initial objections and 2 letters of support; 123 objections to the first revision of the indicative Masterplan; and 8 letters against its final revision. The topics of objection are very similar to those against the northern site.

229. At the appeal stage, for both appeals, there were 17 representations (D42). The topics covered are very similar to those listed above or dealt with in the cases that are reported, plus:

- developers attended public meetings and offered sweeteners to gain local support;
- SDC failed to consult the local population;
- allotments only shown on the southern site;
- attenuation ponds only shown on the southern site;
- one of the developers owns land near to Essence Restaurant that would provide parking for the Grammar School;
- Ragley Estate owns land off-site that would be suitable for open space;
- small play areas are difficult to maintain;
- in the last six years, the Greig Hall has been re-roofed and kitchens and toilets refurbished and parking provided but it has been closed as being uneconomic to run
- Globe House, owned by SDC, and the administrative centre of Alcester, is under threat of closure;

- Gunnings Bridge forms a dam in extreme weather, leading to town centre flooding. Development upstream of the bridge must be considered, including Redditch and Studley. The proposed storm water outlet from the appeal sites would be upstream of the bridge.
- when the by-pass gained permission in 1989, the Inspector said that the land between the by-pass and the town needed to be developed because Alcester is unbalanced;
- it is time that SDC and ATC accept that they have had the by-pass for 20 years but have failed to provide the housing land, resulting in blight for Allimore Lane residents;
- this development is long overdue;
- confusion over why the development has been split into two sites;
- would pylons be needed to supply electricity? [Inspector's Note: the developers say all services would be underground].

Conditions

230. A draft schedule of conditions was submitted in the SoCG on which I gave my initial comments at the inquiry (D1). This led to the submission of a revised draft that was examined at the inquiry (D33).

231. In addition to those in the schedules, conditions are suggested for (see above paragraphs 137, 138, 159, 200, 208, 209 and D32, D25.3, D29.2):

- a landscaped buffer to the A435;
- a linkages condition to secure links between the two sites and, at my suggestion and agreed by SDC, consideration of a link from the southern site to the Old Orchard site to the south east of it but I am advised that part is affected by ecological and part by archaeological issues and a 10m buffer strip is planned for the edge of the southern site;
- dwelling numbers to be limited to 300 and be phased – ATC suggests a limit of 140 dwellings for Appeal A and 160 for Appeal B, with the whole scheme phased over 10-15 years;
- Sport England to be consulted;
- public involvement in the design process;
- a requirement for the amount of public open space on the site;
- WCC Ecology states that a condition would be required for a combined ecological and landscape management plan;
- WCC Archaeology has no objections subject to an appropriate condition.

232. The appellants would be content with a phasing condition for up to 350 dwellings over seven years; the Kinwarton development will take three years to build and be completed by 2016 and the two appeal sites, probably with two builders, would be likely to start delivering houses at about the same time.

233. The schedules for each site are the same but two extra conditions (Nos 8 and 9 in D1 Appx 2) are suggested for Appeal B/southern site.

INSPECTOR'S CONCLUSIONS

Introduction

234. The sequence of the sections in these conclusions is set out in the Contents list at the start of this report. The Glossary is found at the end, after the Documents lists. To set the scene and to make the Conclusions relatively self-contained, I will start with background matters, a short description of the proposals and reference to the relevant policy and guidance. After that, I will deal with each of the main considerations in turn, which will be identified by sub headings.
235. Paragraph references in square brackets at the ends of paragraphs indicate the sources of the material relied on in reaching my conclusions. Some references may be included to show that a particular argument has been considered, even though it might not merit specific mention. Inevitably, in a report of this length, it is necessary to be selective about the source paragraphs, especially where the same point is made by more than one party.
236. The same four reasons for refusal were given for each of the applications that led to the current appeals. The Officer recommendation on each had been that permission be granted. Stratford-on-Avon District Council (SDC) did not defend the reasons for refusal (RfR); it could have decided to defend one or more of the reasons but it did not defend any. Also, although the Alcester Town Council (ATC) and the Eclipse Road Residents' Group (ERRG) had been granted Rule 6 status, they each decided, after SDC had resolved not to defend the reasons for refusal, to relinquish their Rule 6 status and not to defend the reasons for refusal. ERRG did not give evidence at the inquiry. [1, 3, 28, 39, 40]

Background

237. There are two appeals for outline planning permission, with all matters to be reserved for subsequent approval other than details of access. The appeals relate to adjacent sites for which there is one illustrative Masterplan. Appeal A for the northern site (6.43 ha) is for up to 160 dwellings and Appeal B for the southern site (7.19 ha) is for up to 190 dwellings. [5, 6, 16, 17]
238. Both sites are undeveloped land on the north west side of Alcester. They extend to within about 1 km of the very attractive and historic town centre. The land on the sites slopes down gently from 50m AOD in the west to 45m AOD in the east. A public footpath crosses the land in a north westerly direction from Eclipse Road in the south east to the A435 by-pass on the western boundary of the sites. To the east of the sites is Birmingham Road and its associated housing in areas including Eclipse Road. The northern tip of the northern site is close to the roundabout junction of the A435 and Birmingham Road. The Green Belt boundary runs along the western site boundary. [4-8]
239. The eastern boundary for the southern site was amended before the Council's decision to include Eclipse Road. The southern boundary is Allimore Lane and its frontage properties and allotments. This lane gives vehicular access as far as the allotments next to the A435. The lane continues as a footbridge which serves as a bridleway link over the by-pass. To the north east of Allimore Lane and south east of the southern site is a triangular plot, the Old Orchard site, which has potential wildlife importance and is in separate ownership. [see above for references]

240. The proposed access to the southern site would be via Eclipse Road and to the northern site by a new access from Birmingham Road. The illustrative Masterplan shows the two sites linked by a new road between the two proposed accesses. [16, 17, 42]

Planning Policy

241. Some 35 saved policies of the adopted (2006) Stratford-on-Avon District Local Plan Review 1996-2011 (the LPR) are agreed to be relevant to the appeal proposals. SDC is currently preparing its Local Development Framework to replace the 2006 Local Plan and has approved the emerging fourth Core Strategy (CS) in July 2013. However, further work is needed with regard to a proposed new settlement of 4,000 dwellings and 18 ha of employment land at Gaydon/Lighthorne Heath, such that the first level of public consultation is likely to be early in 2014. The CS, like its three predecessors, allocates the two appeal sites for residential development, in this case for up to 300 homes in a phased manner from 2013/14 to 2022/23. [10-12]

Housing Land Supply and the National Planning Policy Framework

242. Paragraph 49 of the National Planning Policy Framework (the Framework) tells us 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". And paragraph (p) 14 states, in the context of a presumption in favour of sustainable development which should be seen as a golden thread through decision-taking, that where relevant policies are out of date, this means granting planning permission unless "any adverse impactswould significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole; or specific policies of this Framework indicate development should be restricted".

243. One argument is that Alcester does not need any more housing because the (May 2012) Warwickshire Rural Communities Council study found a need for less than 50 Housing Association/Shared Ownership/Local Market Ownership dwellings in the town and that this need has been met already by the 35% affordable homes to be built on the Kinwarton Farm Road site. However, as p49 of the Framework makes clear, the five-year supply question relates to the supply of housing within a local planning authority rather than the specific needs of an individual settlement. [205]

244. There is no dispute that SDC does not have a five year supply of housing land. If the appeals were allowed, there would still remain a shortfall in the five-year supply. The appellants say that there is a supply of two years and SDC argues that it is 4.4 years. I advised the inquiry that nothing would be gained by using hours or days of expensive inquiry time trying to assess in detail a more precise figure as to the size of the shortfall: there is nothing in the Framework to indicate that the bigger the shortfall, the bigger the presumption in favour of sustainable development. [15, 23, 24]

245. Thus, there is a presumption in favour of sustainable development at the appeal sites, which begs the question whether the proposed development would be sustainable. The policies in p18-219 of the Framework constitute the Government's view of what sustainable development means in practice (p6) and p7 confirms that it has three roles: economic, social and environmental.

246. Clearly, for development to be sustainable, it must be far more than easily accessible and well located for services, facilities and employment. The reasons for refusal deal with: RfR1 - the use of mechanical means of noise attenuation for a number of the proposed dwellings near to the A435 Alcester by-pass; RfR2 – services, facilities, shops and employment; RfR3 - substantial development that would be prejudicial to the production of the emerging Core Strategy; and RfR4 - detriment to the character and setting of Alcester. I will deal with each of these in turn and I will include in RfR2 the main concerns of the third parties on such matters.

247. Two S106 Obligations have been submitted, one for each appeal. [18-21]

Noise attenuation measures – Reason 1

248. An earlier version of the illustrative Masterplan included a perimeter open space along the boundary with the A435 road. This open space has been relocated more centrally within the site on the advice of Midlands Architecture and the Designed Environment (MADE) without affecting the numbers of houses proposed or the overall site density. [47]

249. However, a knock-on effect of this is that the illustrative layout now shows the nearest houses closer to the by-pass, with one property being less than 30m from the carriageway and the other nearest ones being 30-35m from it. [61]

250. Guidance in the now cancelled Planning Policy Guidance Note 24 (PPG24): Planning and Noise shows that 50 dwellings near to the A435 would fall within Noise Exposure Category (NEC) B, which meant that “Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise”. Most of the site would have been within NEC A, where noise need not be considered a determining factor in granting planning permission. Whereas PPG24 has been cancelled and no longer forms part of Government advice on which I can place weight in reaching my conclusions, I have had regard to the NEC figures as a reference point and it has been used by both parties as a basis for making judgements. [62-64]

251. A principal element of RfR1 is that the ‘technical solution (to the noise and disturbance) in the form of mechanical ventilation is not considered appropriate’. This is enlarged upon by ATC and others. Additional concerns in relation to the proposed dwellings near the A435 are claims that windows would be non-opening and that external noise levels would not be acceptable. [154-160, 178, 212, 224, 227, 228, 220]

252. However, these are outline applications. If the appeals were successful, suggested Condition 25 for each one would require the submission, approval by SDC and implementation of a noise mitigation scheme. This could include one or a combination of a number of measures including double or triple glazing; a mechanical ventilation system for optional use, with openable or closed windows, which could be required to accord with the Code for Sustainable Homes; additional acoustic fencing near to the A435 boundary; the distance of dwellings from the carriageway; mainly non-habitable rooms facing the A435; and screening of back gardens by the dwellings and their walls and fences. With such measures, I see no reason why, in an NEC B location, a perfectly acceptable standard of residential amenity could not be achieved. [60-65]

253. Moreover, SDC would have control over the details of a noise mitigation scheme.
254. Various other options have been suggested for achieving satisfactory noise standards, including reducing the speed limit on the A435, changing the road surface and removing 50 houses from the proposals to secure a wider open area on the western side of the sites. However, as indicated above, such measures would not be necessary. [159]
255. A linked concern is that affordable housing would be used near the by-pass to serve as a screen for private homes. However, the S106 Obligations confirm that the affordable housing would be distributed about the site within different parcels of land, under the control of the Council. [19, 154, 158]
256. Internal noise levels would be acceptable in rooms facing over the rear gardens of the perimeter properties with windows open. [63]
257. In conclusion on this matter, the development has been judged to be acceptable by the Council's EHO and Planning Officers and I see no reason to disagree. It would be possible to secure layout and housing details that would be sustainable and would provide satisfactory internal and external standards of amenity. The proposed development would not conflict with saved LPR Policies DEV.1 or PR.8 or with the content of p123 of the Framework. [59, 65]

Access to services, facilities, shops and employment – Reason 2

258. There are two main legs to this subject. Firstly, do the relevant services, facilities and the like exist and, secondly, if they do, are they within accessible distances? Indeed, much has been written about the distances from the sites to various schools, services, facilities and so on in Alcester being too far, such that the development would be unsustainable.

Services, facilities, shops and employment

259. As to the first point, about the existence of facilities and services, Alcester has a population of about 6,500 and is classed as a Main Rural Centre. The agreed Statement of Common Ground (SoCG) between the appellants and SDC states that the town has a full range of facilities, services, shops, schools and amenities. It has been classed as a Main Rural Centre for some time, for example in each of the four drafts of the CS and in the adopted 2006 LPR. Moreover, the Alcester Town Plan by ATC states that "The town is a focal point for the surrounding rural communities. It provides jobs, housing, community facilities and local services." [9, 13, 27, 30]
260. In addition, the S106 Obligations would make provision for improved facilities in the Alcester area to cope with the additional demand from the estimated 906 residents of the proposed housing. [19, 51, 98]
261. With regard to employment, the (2011) Employment Land Study by G L Hearn confirmed that Alcester demonstrated strong growth in economy and employment pre-2008; the latest available information is that it is subject to patterns of net daily in-commuting of some 2,000 workers; Alcester is one of the main employment locations in the District; the 26 ha 'Alcester 7' site has limited vacancy and G L Hearn's recommendation that SDC allocates a further 5 ha of employment land to the north of it for employment development has been

- included in the emerging CS. Thus, concerns about there being no jobs for new residents of the proposed housing appear to be unduly pessimistic. Moreover, as the appellants point out, an increased supply of housing and workers in Alcester could provide opportunities for reducing the daily net-commuting into the town. [8, 42, 43, 115, 183, 192]
262. There are concerns about the capability of the existing schools to accommodate children from the proposed housing and there is no dispute that some have constraints on numbers and accommodation but the S106 contributions could assist in securing improvements and I note that WCC Education has no objection subject to appropriate contributions for local schools. [19, 116, 147-152,]
263. Concern has also been expressed about there being a deficiency of public open space in Alcester. However, other than junior rugby and cricket, there is an over-supply in the area of pitches for outdoor sport. Also, the on-site proposals would provide more open space than is required by the Council's standards for the proposed development. In addition, contributions would be made for 'Youth and Adult (Active)' space off-site. Sports pitches and the like, of necessity, need large areas of land, and – unless a development site were very big – it would be wrong to expect them to be provided within the site. Moreover, lest residents think otherwise, contributions for facilities off-site must relate only to the demands generated by the appeal proposals. They cannot be required to deal, in addition to meeting the demands from the development, with other existing deficiencies in the provision of facilities. [19, 21, 53-58, 99, 100, 208]
264. The Greig Hall, the largest venue in town, is a case in point. This privately owned and much-valued hall has closed. While money from the Built Facilities Contribution of the Obligations could have gone towards helping this facility, that is not what SDC has sought. As the appellants indicate, the future of the Greig Hall is not a factor that affects the determination of the current appeals, worthwhile as it would be. [8, 99, 101, 135, 138, 171, 199, 215, 229]
265. The parking in the town centre has been a concern for a number of years, as indicated in the (2007) Alcester Town Plan. The centre retains its very old street pattern and the narrow streets and alleys known locally as 'Tueries' (which appears to be translated from the French for 'massacres, bloodbaths, murders!'). My spot check of parking in the centre revealed that the three SDC car parks are well used. However, there are no formal parking surveys; the advice of officers from WCC and SDC and the ATC Town Clerk is that parking conditions in Alcester are not atypical of the District. Also, the appeal sites are a relatively short distance from the centre, well within cycling distances and within potential walking distances for many. I am satisfied that town centre parking is not a matter of undue significance for the appeal proposals. [7, 82-90, 161-168]
266. Of more concern to residents appears to be the parking associated with the Grammar School on and near Eclipse Road. Although parking within the school grounds is affected at present by building works, it is clear that the parking on roads outside the school grounds has caused congestion and safety problems on a long term basis. Also, the school buses and coaches at the start and end of the school day cause congestion and linked safety problems on Birmingham Road. However, the school parking and buses difficulties are not of the appellants' making. Measures have been put forward for reducing the congestion and

improving the safety of users of Eclipse Road and the Highway Authority does not object to the proposed developments. I agree. [7, 82, 91, 93, 161, 166, 176, 207, 217-219, 225, 227, 229]

267. The attraction and success of Alcester can be measured by the extent of daily net in-migration, to which I refer above. Also, it is clear to me that its residents treasure and feel protective towards their picturesque historic market town but I acknowledge that they have a substantial degree of apprehension about the impact of the scale and likely rate of growth that is proposed and in hand. Is this apprehension warranted?

268. As some point out, in addition to up to 350 dwellings at the appeal sites, a development of 125 houses is in hand at Kinwarton Farm Road and there is another development for 179, albeit a few miles away, at Great Alne. If that is included, there would be total of 654 units or, if it is not included, 475. In addition, there could be around 40 or more windfall sites. Various calculations have been made as to the percentage increase in the population of Alcester and guesstimates of the timescale for the developments. Whatever their degree of accuracy, when the proposals are seen in the context of a town that has grown over many hundreds of years to reach a population of some 6,500, the population increases in hand and proposed would be rapid and they would be large. [References after next paragraph]

269. As indicated above, the impacts of the appeal proposals on the services, facilities, shops and employment in the town would be managed and manageable and I see no reason why they would not be acceptable. It is also necessary to look at this question in the context of a general acceptance of 300 houses at the appeal sites, as in the fourth draft CS. Would the potential for up to 50 more dwellings as in the current appeals make a difference to the impacts on Alcester? This would be most unlikely. Also, the benefits of any phasing of building at the appeal sites must be questionable and phasing would reduce the assistance towards the five year housing land supply. Lastly on this subject, I do not accept that the character of Alcester would be changed forever, as has been claimed. [12, 21, 31, 41, 46, 131-133, 137, 138, 146, 151, 154, 161, 163, 169, 172, 181, 187, 188, 202, 203, 214, 227]

Accessibility of services, facilities, shops and employment

270. Manual for Streets advises, at p4.4.1, that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot. However, it continues by advising that this is not an upper limit and that PPS13 (which should have been the now cancelled PPG13 Transport) states that walking offers the greatest potential to replace short car trips, particularly those under 2 km (1.25 miles). The comparable distance for cycling is 5km (3.1 miles). [94, 213]

271. The town of Alcester is split by the wide flood plain of the River Arrow, which is crossed by two bridges and which narrows towards the town centre but, other than this, it is a town with a relatively compact structure. This physical form means that, inevitably, some services and facilities are more easily accessed from one side of the town and some more so from the other. The effects of this geographical constraint must be recognised.

272. Even with this constraint, the appeal sites are on the edge of the built-up area and around a 10 minute walk from the Eclipse Road access to the town centre. The walking times between the town centre and the more remote parts of the sites would clearly be more than that. A number of the schools serve large catchments, some being very large, such that only a small percentage of the pupil draw might be from the appeal sites. Other than the Alcester Academy, there is no dispute that all of the schools in Alcester are less than 2km from the appeal sites. [7, 95, 151, 213, 225]
273. Be that as it may, I have referred already to the flood plain that splits the town and which can affect accessibility. Accessibility by bus is not a factor that has concerned the Highway Authority. Also, arguments about the 'remoteness of the site' from facilities are inconsistent with the general acceptance of the land for housing in emerging policy. If a site would not be too remote from facilities and the like for building 300 houses then I find it hard to reconcile that with claims that it would be too remote for building 350 houses. I agree with the various versions of the emerging CS over a considerable period of time that the appeal sites are, in principle, well-located as a potential development site on the edge of a Main Rural Centre. I conclude that the sites are in a sustainable location. [96, 115]

Prematurity - Reason 3

274. There is little support this RfR. The fourth version of the CS is at a very early stage in its preparation. The three earlier versions of the CS fell by the wayside. There is no case for dismissing the appeals for this reason. [44, 45]

Density and size – Reason 4

275. RfR 4 states, in brief, that the density and size of the development would be detrimental to the character and setting of the rural centre of Alcester. The wording of this Reason is not clear and, as it was not supported by the report to Committee or by the Council at the inquiry, it is difficult to understand clearly the concerns behind this Reason and be able to deal with them.
276. If 'size' relates to the area of the sites, then why is SDC proposing the area for housing in its emerging CS? If 'size' relates to the proposed number of dwellings, it is difficult to understand why 300 dwellings would not harm the 'character and setting of the rural centre of Alcester' but 350 would. Does 'rural centre of Alcester' mean the town centre of Alcester, which is of course urban, or does it mean the town of Alcester, derived from it being a Main Rural Centre?
277. It may be that 'density and size' must be read together as a proxy for the number of dwellings proposed but that does not take me further forward. I have considered above questions relating to the acceptability of up to 350 dwellings on the site in terms of the services, facilities, shops and employment that would be both available and accessible in order to assess the locational sustainability of the development.
278. That leaves me with the question whether the density and size of the proposals in terms of the design of the development would be harmful to the character of the town.
279. Firstly, the applications are in outline, albeit supported by Design and Access Statements and an illustrative Masterplan. [16, 32, 34, 36, 38, 61, 169, 173, 196, 227, 228]

280. Secondly, the net density of the developments (leaving out the areas of open space from the calculation) is similar to that of the adjacent housing to the east. [34, 51]
281. Thirdly, the proposed density including the open areas would be well below that of the nearby housing. [34, 51]
282. Fourthly, the illustrative proposals include more open space on the sites than is required by application of the Council's standards. [57]
283. Fifthly, the development would not encroach onto the Green Belt, the Conservation Area or the historic town centre. [50, 58]
284. Sixthly, density is, by itself, a very crude measure of the impact of a housing scheme on the character of an area. It is necessary to consider, among many other things: the ground floor areas/scale/height of the dwellings; whether they would be detached, semi-detached or terraced units; the garage provisions; whether the density is gross or net; the landscaping; the form of the layout and so on. In this case, such details would fall to be considered at the reserved matters stage in the context of the illustrative Masterplan if the appeal(s) were allowed.
285. I find little merit in this RfR.

Flooding

286. This subject is a major worry for the residents and businesses in Alcester, given its history of flooding over many years. I will deal with it in some detail. Alcester has flooded 22 times since 1864 and I have no doubt that ATC is correct in saying that flooding is the main concern of the residents. Much of the flood zone is within the Conservation Area and, in the last major inundation (2007), 190 premises were flooded. ATC also states that the town has combined drains so that any flood is a major health hazard. Given the level of sensitivity on this subject, it is not surprising that the residents need to be fully convinced of the effectiveness of the measures taken already to protect the town and that the development of the appeal sites would not exacerbate the situation. [8, 30, 67-81, 140-146, 175, 186, 189, 190, 210, 220]
287. Also, there have been some misunderstandings about the operation of the proposed drainage works. Fears that the surface water from the development would discharge into the foul sewerage system are unfounded. The claims that Sustainable Drainage Systems or SuDS would not work because they rely on ground infiltration or good permeability are wrong. Some types can work effectively where the ground is completely impermeable. Indeed, the detention systems proposed assume that there would be no infiltration. [70, 78, 79]
288. The attenuation basins within the sites would be 1.5m deep, falling from reduced levels around them, with side slopes of 1:4 and they would normally be dry. [80]
289. The proposed housing would lie in Flood Zone 1 and it would not rely on the town's flood defences. [72]
290. As to concern about the flooding that is alleged to have taken place of houses near to the appeal sites, there is no report on the County database about any

- problem at 38 Eclipse Road. However, as I saw at my site visit, the long drive slopes down from the road towards the house, which is next to a field in the southern site. That could have caused the flooding but, in the future, it is highly unlikely that any pooling of water on the sites would occur once the development was implemented and an appropriate surface water drainage system installed, such that any potential for overland flows to migrate to adjacent land would also be reduced. [6, 77, 190]
291. The drainage from the sites contributes to the discharge into the nearby rivers. An assessment of the present day discharge rates from the fields of the appeal sites predicts that the baseline discharge from the land that would enter the river network in the 1 in 100 year flood event is 9.54 litres per second per hectare (l/s/h). However, the Flood Risk Assessments (FRAs) have adopted a peak discharge rate of only 5 l/s/h for the maximum discharge from the proposed development. Thus, rather than increasing peak flows in the nearby watercourse network, the proposed development would reduce flows to the rivers by almost half (a predicted 47.6%) during the design standard 1:100 year event. [78]
292. Significant investment has been made in improving the standard of flood defences in Alcester since the last major event in 2007. The Environment Agency (EA) has completed work to reduce the risk of fluvial flooding from the River Arrow and Severn Trent Water (STW) has completed major enhancements to its sewerage network. STW's work includes the construction of a new storage or detention tank at Gas House Lane, known locally as 'the big tank'. [69, 70, 73, 146]
293. Despite this, the evidence from ATC is that the big tank was full on 24 November 2012 without the additional load from the proposed 350 dwellings or the 125 in the Kinwarton development, giving an overall addition of 16% which would go into the town in the event of a flood. Also, it argues that the additional load would reduce the foul water flood return period below its projected 1:40 year period and that a new Flood Risk Assessment (FRA) is needed with a recalibrated model. [70, 77, 143, 146]
294. To counter these concerns, it is necessary to be aware that the November 2011 FRA specifically reviewed foul drainage provision. In addition, two Flood Risk and Drainage Technical Notes were produced, dated 4 April 2013 and 2 May 2013, on foul drainage matters. Also, the foul network capacity for the proposed development has been confirmed as adequate by STW. [70, 142]
295. Moreover an explanation of the November 2012 problem with the tank is found in an email from STW of 11 April 2013 which confirms that a fault in an ultrasonic sensor around Christmas 2012 gave "...unreliable readings...", so that the tank did not operate as planned. It is likely, as STW suggests, that the problem with the pumping station and tank was present on 24 November. In support of this, STW advised by email on 11 April 2013 that no other problems have been identified and that the shaft tank and sewage pumping station are working as designed. They have continued to operate satisfactorily since the fault in late 2012, within the expected design parameters. [71, 143]
296. Details about the weather towards the end of 2012 are worthy of note. The 20-26 November 2012 was "... the second wettest week on record in the last 50 years.....". Yet, despite a reported fault in the ultrasonic sensors, the tank would have dealt with significant inflows during that week, which may well correspond to a return event beyond the reported design standard of 1 in 40

- years. The evidence points to the inflows of November 2012 being close to those of 2007, when the floods were reported by the EA as being from a storm event in excess of a 1:100 year return period. The difference in November 2012 is that the town was protected by 'the big tank'. There is no evidence that the pumping station and tank are not working as intended. [72]
297. The site proposals are supported by comprehensive FRAs and follow up Flood Risk and Drainage Technical Notes, prepared by the Halcrow Group, which collectively have been approved by the EA and the Lead Local Flood Authority. The FRAs demonstrate that the development would not pose a flood risk to Alcester and this has been accepted by the EA and the Lead Local Flood Authority. [68, 79]
298. The Gas House Lane 'big tank' includes an upgrading of the pumps. When the flows downstream are less than the capacity, the pumps operate; when the network downstream is at capacity, the tank provides storage. It is an attenuation facility which ATC accepts has been very valuable already to Alcester. [73]
299. ATC states that, in 2012, the EA and STW completed major flood defence work, with repaired bunds and the 'big tank', which upgraded the flood defences to 1:100 years for river flooding and 1:40 years for foul water flooding. It states that this is barely adequate for the existing town. [141]
300. However, while the design standard for the drainage network is 1:30, in line with the national 1:30 year standard in Sewers for Adoption (from which any departure would need the consent of STW as it could have implications for design flow velocities), the 1:40 standard for the Gas House Lane alleviation scheme would be maintained. The 1:30 year standard refers to the design of the underground sewerage network, for both storm and foul piped networks. Beyond this event, infrastructure must be designed to flood route excess flows along highway networks and the like and not inundate properties. The 100 year standard + 30% controls the design of the detention/attenuation basins and any exceedance flood routeing, where flows come out of sewers in events over the 1:30 year standard. [74]
301. STW confirms that there is sufficient spare capacity in the foul system in Alcester to accept the 4.5 l/sec discharge from the proposed development and that it would not compromise the Gas House Lane flood alleviation scheme. Importantly, the proposed housing at the appeal sites was included in the hydraulic model used to design the Gas House Lane alleviation scheme and included in the STW model for the Alcester area when it was run to check the criteria for the Gas House Lane tank design. [75, 145]
302. Water companies have a general duty to provide sewerage for planned developments. Prior to the flood improvements, the sewers near to the terminal pumping station were prone to flooding every year. The pumping station only operated at around 100 l/sec. The upgrade to the pumping station now gives it a capacity of 1,100 l/sec together with a 3,250 cu m storage tank and improvements to local sewers. This delivers a 1:40 year standard of protection rather than a 1:1 year standard. The 1:40 year standard would not be eroded. The 4.5 l/sec predicted foul flow from the planned development would represent only 0.42% of the upgraded pumping station capacity. The percentage impact

figures from ATC take no account of the storm-related flows that contribute to the combined flow discharges. [76, 144]

303. The proposals would be developed in detail to suit the site conditions. In summary, the peak discharge rate of surface water from the proposed housing scheme would be about half that of the current baseline discharge. Major flood protection works have been carried out and despite a problem in November 2012, they have substantially improved the protection for Alcester from a 1:1 year standard to a 1:40 year standard for foul water flooding and 1:100 for river flooding. The proposed housing in the current appeals is allowed for in the design of the alleviation scheme. STW confirms that the foul network capacity would be adequate. The EA and STW raise no objections. I am satisfied that the appeal proposals would not add to any flooding or drainage problems in Alcester. [79, 81]

Other Matters

304. It is argued that there has been a lack of **community involvement** with the development of the proposals. However, Statements of Community Involvement (SCIs) were submitted about two years ago, in 2011, with the applications. There was a public exhibition at the Greig Hall on 9 and 10 April 2010 and there were various forms of publicity and direct notification of local District and County Councillors, the ATC and the Alcester Civic Society. After the applications were submitted, there were additional meetings with Officers and Members, a meeting of ATC Forum in November 2012 and a second public exhibition in March 2013. I note also that the Masterplan has been the subject of 13 alterations in response to observations received, albeit that most of these may have been from consultees. The level of consultation was appropriate. [38, 101, 102, 174, 199, 200, 229]

305. Numerous matters are raised in the **written representations** at the application and appeal stages. Some of them would be dealt with at reserved matters stage if the appeals were allowed and some by way of conditions. As to others, the suggestion that brownfield land be used would not be practical for the scale of development proposed; pylons are not proposed; views along Allimore Lane would change with 300 or with 350 dwellings. The other matters in the written representations that are not dealt with in detail above are not ones of such substance as to affect the decisions on these appeals. [27, 206, 226-229]

306. The **S106 Obligations** were not submitted 10 days before the inquiry which led to complaints later that the Ward Councillor and residents were unable to comment. There was, however, no indication by those present – including the representatives of SDC and ATC - when the Obligations were provided that they would be unable to deal with them. There is no requirement to send a draft S106 to third parties. The Councillor in question was not a Rule 6 party, she had already given evidence and I knew her concerns about the S106 Obligations. [175, 195, 216]

307. Any consultation with **Sport England** on reserved matters applications would be a matter for SDC to consider. [180, 209]

308. There have been complaints by residents that the submission of **two applications** for a development with one Masterplan caused confusion. I do not doubt this and must admit that I find the reason for it – because of different

ownerships – to be unconvincing. Nevertheless, there is a right to submit an application and although it is true that the applications in question are supported by a substantial amount of information, none of it is designed to confuse. Indeed, a counter complaint is that the applications should not have been in outline and they should have had full details, which would have required the submission of a lot more information. [38, 173, 193, 195, 196, 229]

Conditions

309. I am required to deal with conditions in all reports to the Secretary of State, regardless of what recommendation I might make, so that he will be aware of the conditions that may be needed if he were to allow the appeal. I will deal with these and the S106 Obligations before turning to my final conclusions.
310. For ease of description and identification, I have put the two 'extra' conditions (formerly 8 and 9 in Appx 2 of document 1 which relate to the Allimore Lane area) for Appeal B at the end of its Schedule, so that the numbers for identical conditions are the same in each Schedule. [233]
311. Former conditions 15 and 16 of D33 have been replaced by a simplified wording in a single condition (which is found acceptable by ATC) (No 15 in the Schedule below) shown in the D14 email. Former condition 23 in D33 on the removal of permitted development rights for compounds is not justified and has been deleted. Subject to these changes and to some minor corrections, all of the conditions in the Schedules in D33 are agreed by the appellants and SDC and all would pass the tests in Circular 11/95 as amended and as shown in the Schedules in this report before the lists of Appearances.
312. The reasons for the conditions are as set out in D33 or as set out in Appendix 2 of D1 for the former conditions 8 and 9, now numbers 26 and 27 in the Schedule of Conditions for Appeal B. One condition in D33 is shown simply as 'linkages condition' because the wording for it (from D32) had not been agreed. The reason for this condition (now No 25 in the Schedules below) would be to ensure that each of the appeal sites would provide access to and gain access from the other, in the interests of the proper planning of the area.
313. Other conditions have been suggested and I shall deal now with each in turn. Would a landscaped buffer be required to the A435 road? If it were to be provided, it could have implications for the central green open space or for the number of dwellings on the site, with possibly 50 fewer being built, or requiring building to be at a higher net density or a combination of such factors. I do not consider this condition to be necessary. [231]
314. I have referred above to the linkages condition. A similar condition could provide access from the southern site to the Old Orchard land to its south east. I am advised that that land has ecological and archaeological constraints that would affect its development, albeit that I have no detailed evidence on these matters and I am not aware of any comments from the owners as to their intentions. If there were ever to be any development there, it would be likely to be in the longer term. Although the site was included in the second version of the CS, it is not in the current one. I am mindful also that, within the southern site, a 10m wide planted buffer strip is planned along its south eastern boundary. In these circumstances, I am not recommending a linkages condition to the Old Orchard site. [201, 231]

315. Turning now to dwelling numbers and phasing, the emerging CS refers to 300 dwellings in a phased manner to 2022/23 and the previous version indicated seven to eight years. ATC wants up to 300 units (140 for Appeal A and 160 in Appeal B in condition No 5) phased over 10-15 years. My conclusions above do not support the restrictions being requested. [137, 138, 202, 241]
316. Condition No 23 deals with phasing, in line with the appellants' acceptance of phasing up to 350 units over seven years, with houses starting to be delivered by 2016. Also, it would help to secure a satisfactory form of development, consequent upon these being outline applications, for example, in order to secure control over the identification and sequence of parts of the scheme, rather than serving as a condition to slow down the rate of population growth in order to ameliorate any of the impacts that have been argued. [232]
317. Sport England is a statutory consultee where a development would involve the loss of a playing field. Therefore, in this case, it would be a non-statutory consultee. It would be a matter for SDC to decide whether to consult this body. How it exercises its discretion in such a matter would not be something that would pass the tests for the imposition of conditions in Circular 11/95.
318. Public involvement in the design process would not pass the tests for the use of planning conditions.
319. As to the open space provision on the sites, I have dealt with this above. The on-site provision as shown on the illustrative Masterplan is more than the Council's standards require. The suggested condition would be unnecessary.
320. Concerns about wildlife on site and about archaeological interest would be met by conditions 5 and 16.

S106 Obligations

321. A S106 Obligation by Unilateral Undertaking has been submitted for each appeal. It is the only subject, other than its involvement in the discussion on conditions, on which SDC gave evidence at the inquiry. [18-21, 116-127]
322. The concerns that have been expressed, mainly by ATC and the Ward Councillor, that contributions be ring-fenced and spent locally, have been met as far as the appellants are able. The three exceptions are as follows. The Built Facilities Contribution would be spent in Stratford-on-Avon for the leisure centre. Although the appellants would have been happy for that money to be used for the Greig Centre in Alcester, that is not what SDC sought. The other two exceptions are the NHS Foundation Trust (SWFT) and the likelihood that the Primary Special Needs Education Contribution would be spent in Stratford-on-Avon. [18-21, 97, 98, 152, 164, 171, 175, 176, 180]
323. SDC has not adopted a charging schedule pursuant to the Community Infrastructure Levy (CIL) Regulations and it has not published any guidance on Obligations. The three tests for judging whether a S106 Obligation can legitimately be sought can be found, among other places, in p204 of the Framework: necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. [106, 116, 117]
324. SDC has provided a compliance document which sets out the cases, in terms of the above tests, in support of the affordable housing and the various

- contributions. Other than for one contribution, which I shall come to in a moment, the appellants are in agreement with the Council that the affordable housing and all of the contributions satisfy the tests. I agree. The full supporting arguments are set out in D40 and I do not repeat them here. [18-21, 99, 105-113, 116-127]
325. The disputed contribution is that sought by SWFT. While the appellants argue that this contribution is not justified they have, rather than delay the consideration of the appeals, included it in the Obligations on a contingency basis, to be paid if the SoS decides that the Regulation 122 tests would be satisfied. [104-113, 116-127]
326. The request was first made by SWFT in January 2012. The reports to Committee on the applications stated that the request had not been substantiated. A further request was made by SWFT on 21 November 2013, on which it gave evidence in support at the inquiry. [105]
327. Despite the fact that this subject was not one of the Reasons for Refusal, SDC refers to LPR Policy IMP4 which provides that permission will only be granted where proper arrangements are made for necessary physical and social infrastructure. It now argues that the contribution would be necessary to overcome a planning objection that would otherwise make the development unacceptable. The appellants accept and I agree that there is no reason in principle why a contribution cannot be sought towards the cost of medical infrastructure. [107, 119]
328. SWFT is an independent and autonomous provider of healthcare that is not eligible for capital allocations from the Department of Health or local commissioners to provide new capacity. Its payments take the form of a tariff for the healthcare it delivers and part of the tariff contributes towards its capital costs. SWFT argues that this is insufficient to meet its needs. The contribution would be pooled with others for part of the funding for a new ward block at Warwick Hospital, a new hospital at the Stratford Hospital site and additional facilities at the Warwick and Leamington hospital sites. Details of the development costs of an orthopaedic ward block at Warwick Hospital have been provided in Appendix 6 of D40. [108, 122-126]
329. I accept that it would be possible to show a direct relationship with the development proposed and to show that any contribution would be fair and reasonable in scale and kind. However, I am not satisfied that the evidence available provides adequate justification for what is now being sought. SWFT states in its October 2013 letter in D40 on Infrastructure Requirements for South Warwickshire that "We are reimbursed by tariff for the cost of hospital accommodation constructed in the past but this massively understates the cost of developing new fixed capacity". However, the extent of any understatement is not quantified. [References after next paragraph]
330. Numerous other questions need to be answered but the most telling one is how it can be possible to arrive at a figure of £1,678 per household when the population growth is not known, when the numbers of Alcester residents who would use the closer Redditch Hospital are not known, when Alcester's patient flows to South Warwickshire Hospitals are unclear (and SDC accepts that the detailed analysis of patient flows is complicated) and, as indicated in the above

paragraph, there is no adequate detail on the relationship between the proposed capital costs and the tariff funding. [107-109, 113, 121-126]

331. One resident says that the Alexander Hospital in Redditch is to be closed but I have no evidence on when this might be or how it might affect any calculations. [222]

332. In conclusion on this matter, the evidence base to support the contribution to SWFT is wholly inadequate. This contribution would not satisfy the test of being fairly and reasonably related in scale and kind to the development. However, as stated above, the affordable housing provision and the other contributions would pass the tests and can be taken into account in the decision-making process.

Overall Conclusions

333. There is no dispute that the Council's housing policies are out of date, thereby bringing into play paragraphs 49 and 14 of the Framework, to which I refer in p242-246 above.

334. Two S106 Obligations by Unilateral Undertaking have been submitted. Other than the contribution to SWFT, which would not pass the tests in Regulation 122 of the CIL Regulations, the remaining provisions would all pass the relevant tests. They would secure affordable housing on the sites in accordance with the Council's requirements and the contributions would assist in managing the impacts of the developments on local facilities and services.

335. In relation to noise impacts and attenuation measures, I have concluded that it would be possible to secure layout and housing details that would be sustainable and would provide satisfactory internal and external standards of amenity. The proposed development would not conflict with saved LPR Policies DEV.1 or PR.8 or with the content of p123 of the Framework.

336. Access to services, facilities, shops and employment and the impact on Alcester of the additional population in the proposed houses would be acceptable. Moreover, the sites are well-located for development on the edge of a Main Rural Centre and they occupy a sustainable location.

337. RfR3 on prematurity is dealt with in p274 above. There is no case for dismissing the appeals for this reason. The purpose of RfR4 is unclear but, if it relates to design matters, it has little merit.

338. Importantly, the appeal proposals would not add to flooding or drainage problems in Alcester.

339. SDC has referred to 35 saved policies of the Local Plan Review. Some relate to details that are not within the scope of these outline applications and some would be secured by appropriate conditions.

340. I find no conflict with: PR.1 that seeks to respect and, where possible, enhance the character and quality of the area; PR.7 on flooding; COM.4 and COM.5 on open space standards; COM.9 on walking and cycling; COM.13 affordable housing; COM.14 on diversity of dwelling sizes and types; DEV.1 on the character and quality of the local area; DEV.2 on landscaping, DEV.2 on amenity open space and DEV.5 on parking as shown on the illustrative Masterplan; DEV.4 access arrangements; DEV.6 on off-site services and infrastructure; DEV.7 SuDS;

DEV.8 energy resources; EF.6 nature conservation; EF.7 wildlife habitats; EF.10 trees, woodlands and hedgerows; EF.11 sites of archaeological importance; IMP.4 physical and social infrastructure; IMP.5 transport contribution; IMP.6 submission of a Transport Assessment; IMP.7 Green Transport Plan where significant traffic impacts or poor public transport. The proposals gain support from STR.1 on Main Rural Centres. [10]

341. Policy STR.2 is an out-of-date housing policy as is CTY.1, in so far as it seeks to prevent housing on greenfield sites. Policy STR.2B seeks an average net density of 30 to 50 dph, which would be achieved, albeit that Policy STR.2B derives from superseded government advice. The average net density for the two sites would be 32.5 dph (29.3 dph net for the northern site and 35.9 net for the southern one). [51]
342. Alcester is a small market town that is a Main Rural Centre, with a picturesque historic centre of some character. Its residents are justifiably protective of their town and I was impressed with their civic pride and desire to ensure that it will have appropriate facilities for its existing and future residents. Moreover, its economy is sufficiently buoyant that it attracts net daily in-commuting of some 2,000 people. Around 2,000 leave each day and 4,000 arrive, a substantial number for a town with a population of around 6,500.
343. The proposals are for sustainable development in terms of its economic, social and environmental dimensions.
344. The development plan policies on housing are out of date and p14 of the Framework states that, in such circumstances, permission should be granted unless (in summary) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies of the Framework indicate that development should be restricted. Those circumstances do not apply here and, after setting aside the out-of-date housing policies of the development plan, the proposals are in accord with the plan.
345. If the Secretary of State disagrees with my conclusions on matters such as the impact on Alcester and he decides to allow only one of the appeals, the ATC suggests that it should be Appeal B for the southern site because it is nearer to the town centre. This would be feasible. No case has been made by the appellants that both sites must stand or fall together. The two appeals are in outline other than the access in each case. Although there is a single indicative Masterplan, each site could be developed independently and the planning conditions in the Schedules below are formulated on that basis. [16, 17, 38, 130]

Recommendations

346. I recommend that both appeals are allowed subject to the conditions set out in the Schedules which follow below.

K G Smith

SCHEDULE OF CONDITIONS FOR APPEAL A

Northern site

SDC Application ref. 11/02767/OUT

Appeal Reference APP/J3720/A/13/2202101

1. The development hereby approved shall relate to the details shown on the submitted plans, drawing nos. J0131 02-1J, J013 07D, GIA009/N/001A, GIA009/S/109A and GIA009/N/101B, unless otherwise agreed in connection with the discharge of other conditions attached to this permission.
2. Details of the appearance, landscaping, layout and scale of any phase, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
5. No more than 160 dwellings shall be erected on the site.
6. The access to the site shall be laid out in accordance with the details shown on drawing GIA009/N/101/B.
7. No development shall commence until a scheme that is in accordance with the details shown on drawing GIA009/S/109/A for the provision of a signalised pedestrian crossing on Birmingham Road has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details before the 25th dwelling on this site is occupied.
8. No site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local planning authority and has been implemented.
 - The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837:2012, Trees in relation to design, demolition and construction - recommendations.
 - Fencing shall be shown on a plan and installed to the extent of the tree root protection area as calculated using the British Standard.
 - Nothing shall be stored or placed in those fenced areas or the ground levels of those areas altered without the prior consent in writing of the local planning authority.
 - The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.

9. No works shall commence on site, including site clearance, until a combined ecological and landscape management plan has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed reptile mitigation strategy, a pre-commencement badger survey, all aspects of landscaping and green infrastructure and appropriate working practices/safeguards for wildlife that are to be employed whilst works are taking place on site. The agreed scheme shall be fully implemented before and during development of the site as appropriate.
10. Prior to the commencement of any phase of development on site a scheme of external lighting for that phase shall be submitted to and approved in writing by the local planning authority. The details shall include plans detailing the position of any lighting and its orientation and angle, cross-referenced to a schedule detailing the level of luminance. The lighting shall be installed in accordance with the approved details and thereafter be retained in that form.
11. In connection with the submission of reserved matters, the maximum ridge height of any dwelling on the site shall not exceed 9m above the approved adjacent ground level for a 2 storey property and 11m above the same for a 2.5/3 storey property.
12. Notwithstanding the details submitted in the Design and Access Statement, no reserved matters applications for any phase of development shall be submitted for the development until and unless a Design Code for the site has been submitted to and approved in writing by the local planning authority in accordance with the Indicative Master Plan (Drg. No. J0131_02-1J). The design code shall consist of guidance relating to the following matters:

Block typologies;
Frontage codes;
Street hierarchy and codes;
Building types and heights;
Key and focal buildings; and
key spaces, open spaces and green features (including green link from the Central Green to the allotments and retention of key hedgerows and trees).

The design code shall then be used to inform the subsequent reserved matters application.
13. The development hereby permitted shall not be commenced until a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the local planning authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been submitted to and approved in writing by the local planning authority, and shall thereafter be retained in place and in working order at all times.

14. No house which has a downpipe, within the development hereby permitted, shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe in accordance with details to be submitted to and approved in writing by the local planning authority.
15. No development shall commence until details, and a programme for construction, of the storm and foul drainage provision have been submitted to and approved in writing by the local planning authority. The drainage system shall be carried out following the principles set out in the Halcrow Flood Risk Assessment and Outline Drainage Strategy of November 2011 and the relevant elements of the proposed drainage system shall be implemented in accordance with the approved programme and shall be retained thereafter.
16. No phase or part of the development hereby permitted shall be commenced within the site until a scheme for a programme of archaeological work and investigation has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details and the results of any surveys shall be submitted to the local planning authority in accordance with the approved programme.
17. Prior to the first occupation of any individual dwelling, the developer shall provide 3 bins for the purposed of refuse, recycling and green waste for the dwelling, in accordance with the Council's bin specification.
18. No part of the development hereby permitted shall be occupied until a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes in respect of that phase or part has been submitted to and approved in writing by the local planning authority and the relevant phase or part of the development shall not be occupied until the approved scheme has been installed.
19. All new dwellings hereby permitted shall achieve a minimum rating of Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it, certifying that this Code Level has been achieved.
20. A minimum of 50% of all the dwellings on the site shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards and the dwellings built to 'Lifetime Homes Standards' shall be shown on a plan to be submitted to and approved in writing by the local planning authority.
21. In association with the submission of reserved matters, details of the existing and proposed site levels relative to adjoining land, together with the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the local planning authority.
22. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be

adhered to throughout the construction period. The statement shall provide for:

- i. the parking of vehicles of site operatives and visitors and the location of construction compounds
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
 - v. wheel washing facilities and details of any other measures to ensure that mud and debris will not be deposited on the highway as a result of construction traffic leaving the site
 - vi. measures to control the emission of dust and dirt during construction
 - vii. a scheme for recycling/disposal of waste resulting from site clearance and construction works
 - viii. safety warning signs for the benefit of drivers and pedestrians where the public footpath is crossed by the site access.
23. No works shall be undertaken on site in relation to the development hereby approved until such time as a phasing plan for the development has first been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved phasing plan.
24. Prior to the commencement of any development on site, a detailed noise mitigation scheme shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details.
25. Prior to the commencement of development, details shall be submitted to and approved in writing by the local planning authority to make provision for the comprehensive development of appeal site reference APP/J3720/A/13/2202101 and the adjoining land to the south (Allimore Lane South" the subject of appeal reference APP/J3720/A/13/2205529) and to this end the development shall be carried out in accordance with such details to facilitate the development of the adjoining site for residential purposes and, in particular, the provision of roads and footpaths with verges as may be required across the site and leading from the site to the boundary of the adjoining site.

SCHEDULE OF CONDITIONS FOR APPEAL B

Southern site

SDC Application ref. 11/02895/OUT

Appeal Reference APP/J3720/A/13/2205529

1. The development hereby approved shall relate to the details shown on the submitted plans, drawing nos. J0131 02-1J, J013 07D, GIA009/N/001A,

- GIA009/S/109A and GIA009/N/101B, unless otherwise agreed in connection with the discharge of other conditions attached to this permission.
2. Details of the appearance, landscaping, layout and scale of any phase, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved.
 3. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
 4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
 5. No more than 190 dwellings shall be erected on the site.
 6. The access to the site shall be laid out in accordance with the details shown on drawing GIA009/N/101/B.
 7. No development shall commence until a scheme that is in accordance with the details shown on drawing GIA009/S/109/A for the provision of a signalised pedestrian crossing on Birmingham Road has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details before the 25th dwelling on this site is occupied.
 8. No site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto the site until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local planning authority and has been implemented.
 - The scheme must include details of the erection of stout protective fencing in accordance with British Standard 5837:2012, Trees in relation to design, demolition and construction - recommendations.
 - Fencing shall be shown on a plan and installed to the extent of the tree root protection area as calculated using the British Standard.
 - Nothing shall be stored or placed in those fenced areas or the ground levels of those areas altered without the prior consent in writing of the local planning authority.
 - The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed.
 9. No works shall commence on site, including site clearance, until a combined ecological and landscape management plan has been submitted to and approved in writing by the local planning authority. The scheme shall include a detailed reptile mitigation strategy, a pre-commencement badger survey, all aspects of landscaping and green infrastructure and appropriate working practices/safeguards for wildlife that are to be employed whilst works are

taking place on site. The agreed scheme shall be fully implemented before and during development of the site as appropriate.

10. Prior to the commencement of any phase of development on site a scheme of external lighting for that phase shall be submitted to and approved in writing by the local planning authority. The details shall include plans detailing the position of any lighting and its orientation and angle, cross-referenced to a schedule detailing the level of luminance. The lighting shall be installed in accordance with the approved details and thereafter be retained in that form.
11. In connection with the submission of reserved matters, the maximum ridge height of any dwelling on the site shall not exceed 9m above the approved adjacent ground level for a 2 storey property and 11m above the same for a 2.5/3 storey property.
12. Notwithstanding the details submitted in the Design and Access Statement, no reserved matters applications for any phase of development shall be submitted for the development until and unless a Design Code for the site has been submitted to and approved in writing by the local planning authority in accordance with the Indicative Master Plan (Drg. No. J0131_02-1J). The design code shall consist of guidance relating to the following matters:

Block typologies;

Frontage codes;

Street hierarchy and codes;

Building types and heights;

Key and focal buildings; and

key spaces, open spaces and green features (including green link from the Central Green to the allotments and retention of key hedgerows and trees).

The design code shall then be used to inform the subsequent reserved matters application.

13. The development hereby permitted shall not be commenced until a scheme for the provision of energy from on-site renewable sources sufficient to replace a minimum of 10% of the predicted carbon dioxide emissions from the total energy requirements of the development has been submitted to and approved in writing by the local planning authority. The design features, systems and equipment that comprise the approved scheme shall be fully implemented in accordance with the approved plans and particulars prior to the development first being brought into use, or alternatively in accordance with a phasing scheme which has been submitted to and approved in writing by the local planning authority, and shall thereafter be retained in place and in working order at all times.
14. No house which has a downpipe, within the development hereby permitted, shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe in accordance with details to be submitted to and approved in writing by the local planning authority.

15. No development shall commence until details, and a programme for construction, of the storm and foul drainage provision have been submitted to and approved in writing by the local planning authority. The drainage system shall be carried out following the principles set out in the Halcrow Flood Risk Assessment and Outline Drainage Strategy of November 2011 and the relevant elements of the proposed drainage system shall be implemented in accordance with the approved programme and shall be retained thereafter.
16. No phase or part of the development hereby permitted shall be commenced within the site until a scheme for a programme of archaeological work and investigation has been submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details and the results of any surveys shall be submitted to the local planning authority in accordance with the approved programme.
17. Prior to the first occupation of any individual dwelling, the developer shall provide 3 bins for the purposed of refuse, recycling and green waste for the dwelling, in accordance with the Council's bin specification.
18. No part of the development hereby permitted shall be occupied until a scheme for the provision of water supply and fire hydrants necessary for fire fighting purposes in respect of that phase or part has been submitted to and approved in writing by the local planning authority and the relevant phase or part of the development shall not be occupied until the approved scheme has been installed.
19. All new dwellings hereby permitted shall achieve a minimum rating of Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it, certifying that this Code Level has been achieved.
20. A minimum of 50% of all the dwellings on the site shall be designed and built to meet all relevant specifications of the Joseph Rowntree Foundation's 'Lifetime Homes' standards and the dwellings built to 'Lifetime Homes Standards' shall be shown on a plan to be submitted to and approved in writing by the local planning authority.
21. In association with the submission of reserved matters, details of the existing and proposed site levels relative to adjoining land, together with the finished floor levels of the proposed buildings shall be submitted to and approved in writing by the local planning authority.
22. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i the parking of vehicles of site operatives and visitors and the location of construction compounds
 - ii loading and unloading of plant and materials

- iii storage of plant and materials used in constructing the development
 - iv the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
 - v wheel washing facilities and details of any other measures to ensure that mud and debris will not be deposited on the highway as a result of construction traffic leaving the site
 - vi measures to control the emission of dust and dirt during construction
 - vii a scheme for recycling/disposal of waste resulting from site clearance and construction works
 - viii safety warning signs for the benefit of drivers and pedestrians where the public footpath is crossed by the site access.
23. No works shall be undertaken on site in relation to the development hereby approved until such time as a phasing plan for the development has first been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved phasing plan.
24. Prior to the commencement of any development on site, a detailed noise mitigation scheme shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be implemented in accordance with the approved details.
25. Prior to the commencement of development, details shall be submitted to and approved in writing by the local planning authority to make provision for the comprehensive development of appeal site reference APP/J3720/A/13/2205529 and the adjoining land to the north (the subject of appeal reference APP/J3720/A/13/2202101) and to this end the development shall be carried out in accordance with such details to facilitate the development of the adjoining site for residential purposes and, in particular, the provision of roads and footpaths with verges as may be required across the site and leading from the site to the boundary of the adjoining site.
26. New or improved dropped tactile kerb crossings on Seggs Lane, Cross Road, Roman Way and Allimore Lane, in general accordance with the details shown on drawing GIA009/A/108, shall be submitted to and approved in writing by the local planning authority and the kerb crossings shall be implemented in accordance with the approved details prior to the first occupation of the 50th dwelling.
27. Details shall be submitted to and approved in writing by the local planning authority for the provision of an emergency access and a pedestrian and cycle link from the site to Allimore Lane. The design shall incorporate features to prevent general vehicular traffic accessing or egressing the site to or from Allimore Lane. The development shall be carried out in accordance with the approved details for the emergency access and the pedestrian and cycle link to Allimore Lane.

APPEARANCES

FOR THE APPELLANTS:

Mr T Hill QC	Instructed by Framptons, Chartered Town Planning Consultants
He called:	
Mr M Carr BA(Hons) DipLA MAUD	Pegasus Group
Mr P Boileau BEng CEng CEnv MICE	Brookbanks Consulting Ltd
Mr N Jarman BSc(Hons) CEng MCIBSE MIOA	Cole Jarman, consultants in Acoustics
Mr G Mitchell BA(Hons) DipTP MRTPI	Framptons, Chartered Town Planning Consultants

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Hunter, of Counsel	Instructed by Leenamarie Aantaa-Collier
He called:	
Mrs C Stephens	Stratford-on-Avon DC
Mrs J Blacklay	Warwickshire Foundation Trust

INTERESTED PERSONS:

Cllr M Cargill	Alcester Mayor, for Alcester Town Council
Cllr C Neal-Sturgess	For Alcester Town Council
Cllr L Cumberbatch	For Alcester Town Council
Cllr M Gittus	For Alcester Town Council
Cllr E Payne	For Alcester Town Council
Cllr S Adams	For Alcester Town Council
Mr N A M]Butler	Council for the Preservation of Rural England
Mr A Mann`	Local resident
Mr R Pamment	Local resident
Cllr Dr S Juned	Local resident and District Ward Councillor
Ms S Edkins	Local resident
Mr G Taylor	Local resident

DOCUMENTS

- 1 Statement of Common Ground (SoCG) including draft conditions
- 2 Addendum to SoCG
- 3 Appellants' Closing Submissions
- 4 Submissions on behalf of SDC
- 5 Proof of evidence of G Mitchell on planning
- 6 Appendices to Proof of G Mitchell
- 7 Statement by G Mitchell on public involvement, response to ERRG and Cllr Dr S Juned
- 8 Statement by G Mitchell on medical facilities (response to Cllr L Cumberbatch) and on the South Warwickshire NHS Trust Hospital contribution

- 9 Proof of evidence of P Boileau on transportation, highways, flood risk and drainage
- 10 Rebuttal evidence of P Boileau to third party representations on parking, transportation, highways, road safety, flood risk and drainage
- 11 Section from P Boileau to illustrate typical water attenuation arrangements on a flat site and on a sloping site
- 12 Photograph from P Boileau of drive leading to 38 Eclipse Road to show the slope towards the house
- 13 Plan from P Boileau to show visibility splays for 20 mph and 30mph to Eclipse Road in relation to possible lay-by parking areas and extract from Manual for Streets 2
- 14 Explanation of 1:30 design standard for the site drainage network and suggested revised condition 18
- 15 Technical note of 4 April 2013 from Halcrow on foul and surface water drainage, including attached plans
- 16 Technical note from Halcrow of 2 May 2013 on flood risk
- 17 Proof of evidence of N Jarman on noise
- 18 Appeal decision ref APP/J3720/A/11/2157126 for residential development at Kinwarton Farm Road, Kinwarton, which included consideration of traffic noise
- 19 Proof of evidence of M Carr on design
- 20 A3 size booklet of appendices to proof of M Carr
- 21 'Planning and Design for Outdoor Sport and Play' from Fields in Trust, formerly the National Playing Fields Association
- 22 Summary of outdoor sports provision in 2011 and in 2023, extract from the Final (April 2011) PPG17 Audit and Playing Pitch Strategy
- 23 Blue questionnaire folder on Northern site including:
 - 1- Notification of 1 August 2013 and list of addressees;
 - 2 – TPO Number 373 for Land East of Alcester By-Pass
 - 3 - Bundle of representations
- 24 Lever arch folder of appeal papers for the Northern Site including:
 - 1 – DAS for the whole site, with photographs;
 - 2 - Planning Statement;
 - 3 - Draft S106;
 - 4 - Statement of Community Involvement;
 - 5 - Affordable Housing Statement;
 - 6 - Flood Risk Assessment and Outline Drainage Strategy;
 - 7 - Archaeological Assessment;
 - 8 - Badger Report (whole site);
 - 9 - Ecological Appraisal (whole site) with photographs;
 - 10 - Air Quality report (whole site)
- 25 Lever arch file of questionnaire papers for Northern site including:
 - 1 - large bundle of representations (nearly all 'against');
 - 2 - Direction on Saved Policies without list of saved policies;
 - 3 - Committee Report;
 - 4 - consultation replies;
 - 5 - copies of relevant policies;
 - 6 - Car and Cycle Parking Standards SPD;
 - 7 - District Design Guide;
 - 8 - Meeting Housing Needs SPD;
 - 9 - Sustainable Low Carbon Buildings SPD;

- 10 - Alcester Town Plan Final Report 2007
- 26 Lever arch file of questionnaire papers for Northern site including:
- 1 - Draft Core Strategy 2012;
 - 2 - Housing Prov'ns Options Study Final Report June 2011;
 - 3 - PPG17 Audit and Playing Pitch Strategy, March 2005 and Final (April 2011) Audit;
 - 4 - Strategic Housing Land Availability Assessment Final Report February 2008;
 - 5 - Sustainable Community Strategy;
 - 6 - Warwickshire sub-regional Water Cycle Study Stratford-on-Avon District Final Report March 2010
- 27 Lever arch file of appeal papers for whole site including:
- 1 - Landscape and Visual Amenity with photographs;
 - 2 - Waste Strategy (Northern Site);
 - 3 - email of 5 April 2013 and revised site plan (S site);
 - 4 - Notice of Adoption of Local Plan in 2006;
 - 5 - Direction on Saved Policies with list of saved policies;
 - 6 - SDC Minutes of 19 November 2012;
 - 7 - Planning Statement Supplement (N site, March 2013);
 - 8 - Halcrow Technical note on Noise of 4 April 2013;
 - 9 - Flood Risk Assessment and Outline Drainage Strategy Addendum of 4 April 2013 from Halcrow;
 - 10 - DAS Addendum (Northern site, April 2013);
 - 11 - Emails including revised Birmingham Road access plan;
 - 12 - Halcrow Technical Note on Noise of 4 June 2013;
 - 13 - Local Facilities Composite Plan;
 - 14 - Southern Site Attenuation Ponds;
 - 15 - Public Open Space Areas plan;
 - 16 - Proposed off-site improvements;
 - 17 - MADE comments
- 28 Lever arch file of appeal papers of November 2011 for both sites:
- 1 - Geo Environmental Desk Study Information Search;
 - 2 - Noise Assessment;
 - 3 - Sustainability Statement;
 - 4 - Transport Assessment;
 - 5 - Travel Plan
- 29 Lever arch file for the Southern site including:
- 1 - Appeal papers;
 - 2 - Update report of 9 September 2013 and Committee Report;
 - 3 - Update report of 27 June 2013;
 - 4 - Application letter of 2 December 2011;
 - 5 - Application plan;
 - 6 - DAS of December 2011;
 - 7 - Planning Statement of November 2011;
 - 8 - Affordable Housing Statement of November 2011;
 - 9 - Statement of Community Involvement of Nov 2011;
 - 10 - Two CDs of Technical Reports;
 - 11 - Indicative Master Plan;
 - 12 - Local Plan adoption 2006;
 - 13 - Council Minutes 19 November 2012;
 - 14 - Updated Planning Statement March 2013;
 - 15 - Halcrow Technical note 4 April 2013 re noise - both sites;

- 16 - Technical note on ecological mitigation – both sites;
- 17 - Halcrow technical note on FRA and drainage of 4 April 2013 – both sites;
- 18 - DAS Addendum;
- 19 - School walking distances from Eclipse Road access including recommended distances and Eclipse Road proposals;
- 20 - Noise contours
- 30 Lever arch file of Questionnaire for Southern site including:
 - 1 - Notification letter and addressees;
 - 2 - Committee report;
 - 3 - Consultation replies;
 - 4 - Badger report;
 - 5 - Public responses
- 31 Emails on S106 contributions
- 32 Emails on linkages condition
- 33 Final draft of conditions
- 34 Emails on two Unilateral Undertakings (UUs)
- 35 Chronology of events leading to production of the UUs
- 36 Draft UU Northern site
- 37 Draft UU Southern site
- 38 UU Northern site
- 39 UU Southern site
- 40 SDC Statement on Regulation 122 tests
- 41 Supplementary Planning Guidance on Provision of Open Space
- 42 Appeal stage representations re both sites
- 43 Statement by Cllr Dr S Juned
- 44 Statement by Mayor M Cargill
- 45 Introduction to statement (in Doc 42) of Cllr E Payne
- 46 Statement of Cllr M Gittus
- 47 Statement and attachments from Cllr C Neal-Sturgess
- 48 Attachments for Statement of Mr A Mann (in Doc 42) on draft Core Strategy, walking distances and attenuation pond arrangements
- 49 Statement of Mr N Butler for CPRE
- 50 Statements of Ms S Edkins
- 51 Statement of Mr R Pamment
- 52 Statement of Cllr Ms S Adams with attached extract from (April 2011) Final PPG17 audit of open space sport and recreation.

PLANS

- A Illustrative Master Plan for both sites
- B Bundle of plans for northern site
- C Bundle of plans for southern site
- D Proposed site access from Birmingham Road
- E Plan of public open space areas
- F Revised site plan with Eclipse Road access
- G Superseded plan of northern site before boundary on east side was amended to exclude footpath.

GLOSSARY

Acoustic terms are set out in detail at the back of D17 but, in particular

$L_{Aeq, 16h}$	The notional steady sound level in dB which over a stated period of time, in this case 16 hours, would have the same A-weighted acoustic energy as the A-weighted fluctuating noise measurement over that period. If written as $L_{Aeq, T}$, the 'T' relates to the unspecified time period.
AOD	Above Ordnance Datum
ATC	Alcester Town Council
CIL	Community Infrastructure Levy Regulations
CS	Core Strategy
cu m	cubic metre(s)
D	Document
DAS	Design and Access Statement
dB	decibel
dph	Dwellings per hectare
EA	Environment Agency
EHO	Environmental Health Officer
ERRG	Eclipse Road Residents' Group
FRA	Flood Risk Assessment
ha	hectare
km	kilometre(s)
LPR	Stratford-on-Avon District Local Plan Review 1996-2011
l/sec	litres per second
l/s/h	litres per second per hectare
m	Metre(s)
MADE	Midlands Architecture and the Designed Environment
p	paragraph
pg	page
POS	Public Open Space
RfR	Reason(s) for Refusal
SDC	Stratford-on-Avon District Council
SoC	Statement of Case

SoCG	Statement of Common Ground
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
sq m	Square metres
STW	Severn Trent Water
SuDS	Sustainable Drainage Systems (see also SUDS below)
SUDS	Sustainable Urban Drainage Systems
SWFT	South Warwickshire NHS Foundation Hospital Trust
TPO	Tree Preservation Order
WCC	Warwickshire County Council



Department for Communities and Local Government

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 to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: 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 report of 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.