



Department for
Communities and
Local Government

Our Ref: APP/4720/W/15/3004106

Mr Jonathan Dunbavin
Director
ID Planning
Atlas House
31 King Street
Leeds
LS1 2HL

22 December 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL
BY MILLER HOMES
LAND AT BREARY LANE EAST, BRAMHOPE, LEEDS
APPLICATION REF: 13/05134/OT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of K D Barton BA(Hons) DipArch DipArb RIBA FCI Arb, who held a public local inquiry between 12 and 29 April 2016, into your client's appeal against the decision of Leeds City Council ("the Council") to refuse your client's application for outline planning permission for residential development of up to 380 dwellings, a convenience store (up to 418m²), and public open space off Breary Lane East, Bramhope, Leeds, in accordance with application ref: 13/05134/OT, dated 31 October 2013. This included consideration of the matter of Housing Land Supply (HLS) in Leeds jointly with two other appeals between 19 and 21 April 2016, with closing submissions on 29 April 2016.
2. On 29 May 2015, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal 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 appeal be allowed and outline planning permission granted, subject to the conditions set out in IR Appendix C, pages 74-78.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. He has decided to allow the appeal and grant outline planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the additional environmental information submitted for the appeal. Having taken account of the Inspector's comments at IR1.3, the Secretary of State is satisfied that the Environmental Statement complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Procedural matters

6. As mentioned in paragraph 1 above, the Secretary of State is satisfied that, in order to avoid repetition and make efficient use of Inquiry time, it was appropriate to hear the matter of HLS in Leeds in conjunction with two other appeals (APP/N4720/W/14/3001559 Leeds Road, Collingham and APP/N4720/W/15/3004034 Bradford Road, East Ardsley) between 19 and 21 April 2016.

7. Policy considerations

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan comprises the Leeds Core strategy (CS), adopted on 12 November 2014; and the saved policies of the Leeds Unitary Development Plan Review (UDPR) adopted in July 2006. The Secretary of State agrees with the Inspector that the most relevant policy is UDPR Policy N34, referred to at IR8.3.5 *et seq.*
10. The Inspector refers at IR4.1 and IR 8.1.2 to the emerging Leeds Site Allocations Plan (SAP), including (at IR8.1.2) the fact that the appeal site is currently allocated as a phase 3 allocation for housing in accordance with CS policies. The Secretary of State agrees with the Inspector and the parties (IR4.1) that, as the SAP is still an early stage, only limited weight can be attached to it in considering this appeal.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated Planning Guidance; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving any listed buildings potentially affected by the appeal scheme, or their settings or any features of special architectural or historic interest which they may possess. Similarly, in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main issues

13. The Secretary of State agrees with the Inspector that the main issues are those set out at IR8.1.1.

Assessment of Housing Land Supply

14. Having carefully considered the Inspector's arguments at IR8.2.1-8.2.10, the Secretary of State agrees with him at IR8.2.11 that, on past performance, the buffer must be 20% - so that the 5-year HLS requirement across the City would be 31,898, or 6,379 units per annum (IR8.2.12). The Secretary of State notes the Inspector's comparison with recent levels of performance (IR8.2.13) before turning to the supply side as set out by the Inspector at IR8.2.14-8.2.25. He agrees with the Inspector at IR8.2.25 that the position on supply is difficult as the SAP will not be adopted until at least December 2017, but that the available evidence based on the December 2015 draft of the SHLAA indicates that there is a serious shortfall of supply in the next two years, a heavy dependence on sites that do not have planning permission and reliance on sites that are currently in other use.
15. The Secretary of State has given careful consideration to the Inspector's analysis of the uncertainties relating to the potential supply of land at IR8.2.26-8.2.28 and he agrees that there are a number of differences between the parties as to delivery rates and lead-in times (IR8.2.29-8.2.38). Overall, he agrees with the Inspector's conclusion at IR8.2.39 that the failure to produce an adopted SAP until at least December 2017 means that there is no policy set out to show how delivery of any houses, never mind the magnitude required, will actually take place; that the safety margin of 2,262 dwellings could soon be whittled away when realism is applied; and that the Council has failed to demonstrate a robust 5 year HLS. The Secretary of State therefore agrees with the Inspector's conclusion that the solution is to deliver housing now, including much needed affordable housing (IR8.2.40-8.2.41).

Development Plan Policy

16. Having regard to the Development Plan position as set out in paragraphs 8 and 9 above and by the Inspector at IR8.3.1, the Secretary of State agrees with the Inspector at IR8.3.2 that, as there is no 5 year HLS, paragraphs 14 and 49 of the Framework must be applied. Therefore, while he agrees with the Inspector that UDPR policy N34 (which designates the site as a Protected Area of Search (PAS)) is a policy for the supply of housing, he also agrees with the Inspector's conclusion at IR8.3.2 that policy N34 cannot be considered up-to-date. He further agrees with the Inspector that, rather than being a restrictive policy, the purpose of Policy N34 was to safeguard land to meet longer term development needs so that, as it envisages development, the appropriate test to apply is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
17. For the reasons given at IR8.3.3, the Secretary of State agrees with the Inspector that no-one has been disadvantaged by his considering the revised reasons for refusal at the Inquiry. Furthermore, for the reasons given at IR 8.3.4-8.3.10, the Secretary of State agrees with the Inspector that there are other important factors to consider in assessing the appeal scheme against development plan policy including the fact that there is still no completed development plan for Leeds since the UDPR (IR8.3.4); that both the UDP and the UDPR Inspectors found the appeal site to be genuinely capable of development when required (IR8.3.7); and that only the SAP process can allow for the relative assessment of a large number of competing sites (IR8.3.10).
18. The Secretary of State agrees with the Inspector that, for the reasons given at IR8.3.11-8.3.14, policy N34 is now time expired, and that its use to prevent development would be contrary to the terms of the Framework. He also agrees with the Inspector at IR8.3.23 that, for the reasons given at IR8.3.15-8.3.22, paragraph 14 of the Framework is

engaged in this case and any adverse impacts due to the development should be balanced against the benefits of granting planning permission now to see whether they significantly and demonstrably outweigh them. In this case, the Secretary of State agrees with the Inspector (IR8.3.24-8.3.25) that, as the Council has allocated the appeal site for housing in phase 3 in the draft SAP, it can be concluded that it should be regarded as being sustainable and suitable for housing in accordance with the CS settlement and spatial strategies; and that, having regard to IR8.3.3.33, the appeal proposal would be compliant with the CS overall and would not undermine its implementation.

19. Thus, the Secretary of State agrees with the Inspector (IR8.3.34) that, in terms of the development plan, only Policy N34 would be breached, but that this should attract little weight as it is time expired and there needs to be a balancing exercise within the parameter that there is a presumption in favour of granting permission. He further agrees with the Inspector's reasoning at IR8.3.35-8.3.41 concerning the outstanding uncertainty regarding the timing and content of the emerging SAP and the fact that there is a shortfall of around 6,000 units due to withdrawals of sites since its publication, so that little weight can be given to it and the appeal proposal cannot be regarded as being premature - especially given that the Council cannot demonstrate a 5 year HLS.

Accessibility of proposed site to shops and services

20. For the reasons given at IR8.4.1-8.4.6, the Secretary of State agrees with the Inspector at IR8.4.7 that, although there is only a basic level of local services in Bramhope, the appeal site scores well against some CS Standards and a shortfall of 5 minutes in bus frequency would not constitute a severe detrimental impact. The Secretary of State notes that the site has previously been identified as being sustainable in terms of its suitability for longer term residential development; and he agrees with the Inspector at IR8.4.8 with regard to the economic, social and environmental benefits of the scheme. The Secretary of State also notes that land would be made available for a school (IR8.4.9)

Effect on the Highway Network

21. For the reasons given at IR8.5.1, the Secretary of State agrees with the Inspector that access should be reserved for later consideration. Furthermore, for the reasons given at IR8.5.2-8.5.10, the Secretary of State agrees with the Inspector's conclusion that, whilst the preferred option to relieve traffic congestion would be achieved by the construction of the proposed New Generation Trolley Bus (NGT) service for the area, if this scheme does not go ahead or is not implemented before the appeal scheme, the impacts of increased traffic and congestion around the site would not result in such severe impacts as to justify refusal under the terms of paragraph 32 of the Framework.

Effect on the character and identity of Bramhope

22. Having carefully considered the Inspector's comments at IR8.6.1-8.6.8, the Secretary of State notes in particular that the appeal site was removed from the Green Belt and designated as PAS land in 2001 (IR8.6.3); and agrees with him (IR8.6.7) that, contrary to the views of the Council's witness, the site does not play a vital role in the character of Bramhope. Furthermore, the Secretary of State agrees with the Inspector's conclusion at IR8.6.8 and IR8.7.2 that the proposed scheme would not have an adverse impact on either the Bramhope Conservation Area or on designated and non-designated heritage assets. Overall, the Secretary of State agrees with the Inspector's conclusion at IR8.6.8 that the village does not have a single distinct form and consequently is readily capable

of accepting change so that the proposal would conform with CS Policy SP1(iii) and paragraph 64 of the Framework.

Other matters

23. The Secretary of State agrees (IR8.7.1) that the proposed provision of up to 133 dwellings is to be welcomed; that there are no grounds for refusing planning permission on the basis of: flood risk or drainage matters (IR8.7.3); effects on trees, flora or fauna (IR8.7.4); noise issues (subject to the imposition of conditions) (IR8.7.4); or agricultural land quality (IR8.7.5).

Conditions

24. The Secretary of State has considered the suggested conditions set out at Appendix C to the IR and the Inspector's comments on them at IR8.8.7- 8.8.13. He agrees with the Inspector (IR8.8.11) that, for the reasons given in paragraph 21 above, condition 20 of the conditions suggested by the parties is no longer relevant, but he is satisfied that the remaining conditions – which are now set out at Annex A to this letter – are reasonable and necessary and meet the tests of the Framework and Guidance. He is satisfied that they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Obligations

25. The Secretary of State notes (IR8.8.1) that a number of facilities are covered by the Leeds CIL Charging Schedule adopted in April 2015. In addition, having regard to the Inspector's analysis at IR8.8.1-8.8.6, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State is satisfied that the signed section 106 Agreement dated 29 April 2016 complies with Regulation 122 of the CIL Regulations. He therefore agrees with the Inspector's conclusion at IR8.8.13 that its terms comply with the tests at paragraph 204 of the Framework, are necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development.

Overall conclusions

26. The Secretary of State concludes that granting permission for the appeal scheme would be in overall compliance with the CS but would conflict with saved, but time-expired, policy N34 of the UDPR, to which he gives less weight. Furthermore, as he has not found evidence of a five year supply of deliverable housing sites across the local authority area, the Secretary of State concludes that the relevant development plan policies for the supply of housing are out-of-date. Therefore, in line with the presumption in favour of sustainable development at paragraph 14 of the Framework, he considers that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.

27. Having carefully assessed the evidence before him, the Secretary of State is satisfied that there are no adverse impacts which, either individually or together, are of sufficient weight to indicate that the development of the appeal site should be restricted. Overall, therefore, the Secretary of State finds that, when taking the policies of the Development Plan and the Framework as a whole, the adverse impacts of granting the proposed development are limited and that there are no material harms that significantly and

demonstrably outweigh the very real benefits of providing new homes to boost the supply of housing as required by the Framework.

Formal decision

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for a maximum of 380 residential dwellings, a convenience store (up to 418m²) and public open space at Breary Lane East, Bramhope, Leeds, in accordance with application ref: 13/05134/OT, subject to the imposition of the conditions set out in the Annex A to this letter.
29. 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.
30. 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

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
32. A copy of this letter has been sent to Leeds City Council. Notification has also been sent to all other parties who asked to be informed.

Yours faithfully,

Jean Nowak

Authorised by Secretary of State to sign in that behalf

List of conditions

Approval of details

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called “the reserved matters”) shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall comprise no more than 380 dwellings.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan 488A-02B.

Timing of Implementation

- 4) Application for approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. 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 agreed.

Archaeology

- 5) No development shall take place until the applicant or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.

Flood Risk and Drainage

- 6) Not used
- 7) No building or other obstruction shall be located over, or within three metres either side of the centre line of, the sewer that crosses the site.
- 8) No new tree planting shall be located over, or within five metres either side of the centre line of, the sewer that crosses the site.
- 9) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 10) No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to, and approved in writing by, the local planning authority before development commences.
- 11) Development shall not commence until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works or off-site works, have been submitted to, and approved in writing by, the local planning authority. The works shall be implemented in accordance with the approved schemes before the development is brought into use, or as set out in the approved phasing details and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.

Ground Conditions

- 12) Development shall not commence until an intrusive investigation involving characterisation of contamination and site ground conditions has been undertaken, and the report has been submitted to, and approved in writing by, the local planning authority. The site investigation report shall explain the methodology employed, and provide an interpretive discussion of results and findings, a conceptual site model, a risk assessment and recommendations for further investigation/remediation.
- 13) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the local planning authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to and approved in writing by, the local planning authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised Remediation Statements.
- 14) Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works the verification report(s) shall be submitted to the local planning authority in accordance with the approved programme. The site, or phase of a site, shall not be brought into use until such time as all verification information relating to it has been approved in writing by the local planning authority.

Ecology

- 15) No development shall take place until the following ecological reports and details, including details for implementation, have been submitted to, and approved in writing by, the local planning authority:
 - a) A "Lighting Design Strategy for Bats";
 - b) A Construction Environmental Management Plan (CEMP);
 - c) A Biodiversity Enhancement and Management Plan (BEMP);
 - d) Details of bat roosting and bird nesting opportunities

The approved plans and reports shall be implemented in accordance with the approved details.

Public Open Space

- 16) The development hereby permitted shall not begin until a scheme has been submitted to, and approved in writing by, the local planning authority for the provision of 80m² of on-site public open space per dwelling or 3.04 hectares overall based upon a maximum development of 380 dwellings. The scheme shall include details of the siting, layout, landscaping, maintenance, and long term management of the open space. The on-site public open space shall be provided prior to completion of the development in accordance with the approved scheme.
- 17) The development hereby permitted shall not begin until a scheme for the provision of a landscaped woodland edge buffer zone along the northern and western boundaries of Spring Wood, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the location, layout, planting plans, schedule of species, timetable for implementation and a long term management scheme. The scheme should include for the provision of native tree planting in order to provide a transition from the woodland to the development and should provide for the retention and improvement of any public rights of way that falls within it. The buffer zone shall be laid out in accordance with the approved details and maintained as a buffer zone for the lifetime of the development.

Highways

- 18) Details of site access works shall be submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented before the first occupation of any dwelling or the convenience store on the development and retained and maintained thereafter.
- 19) Details of off-site works together with a programme of implementation shall be submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in accordance with the approved programme before the first occupation of any dwelling or the convenience store on the development and retained and maintained thereafter.
- 20) Not used.
- 21) No development shall take place until details of the provision for an emergency/pedestrian/cycle link to High Ridge Way have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented prior to first occupation of any dwelling on the development and retained thereafter.
- 22) No development shall take place until details of cycle/motorcycle parking and facilities have been submitted to, and approved in writing by, the local planning authority. Details shall include the method of securing the cycles and their location and the approved details shall be implemented prior to occupation of the dwelling it relates to and thereafter retained for the lifetime of the development.
- 23) No development shall take place until a scheme for the provision of electric vehicle charging points, to be provided within each garage hereby approved, shall have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented prior to occupation of the respective dwellings.

Landscape

- 24) No development shall take place until details of the position, design, materials and type of all walls and/or fences or permanent boundary/screening treatment, whether or not shown to be erected on the approved plans, have been submitted to, and approved in writing by, the local planning authority. Such walls and fences shall be erected in accordance with the approved details, before the land/buildings to which they relate are occupied and shall thereafter be retained.
- 25) Development shall not commence until details of existing and proposed ground levels, including soft landscape areas, floors, paths, drives, walls, garages and parking areas, including a programme of implementation have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in line with the approved details and programme.
- 26) No development shall commence until a written arboricultural method statement for a tree care plan during construction in accordance with British Standard 5837 (2012) Trees in relation to design, demolition and construction has been submitted to, and approved in writing by, the Local Planning Authority. This should include details of access, scaffolding, storage, contractors parking, service runs and changes in levels. Development shall then be carried out in accordance with the approved method statement. For the duration of the construction works.
- 27) A landscaping management plan, including long term design objectives, management responsibilities and maintenance schedules shall be submitted to, and approved in writing by, the local planning authority prior to the first occupation of the development. The landscape management plan shall be carried out in accordance with the approved management responsibilities and maintenance schedules.

- 28) Development shall not commence until full details of both hard and soft landscape works including an implementation programme have been submitted to, and approved in writing by, the local planning authority. The landscaping shall be carried out in line with the approved details.
- 29) a) No works shall commence until all existing trees, hedges, and bushes shown to be retained on the approved landscape plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans and specifications and the provisions of British Standard 5837 (2012) Trees in relation to design, demolition and construction. Such measures shall be retained for the duration of any demolition and/or approved works.
- b) No works or development shall commence until a written arboricultural method statement for a tree care plan has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved method statement.
- c) No equipment, machinery or materials shall be used, stored or burnt within any protected area. Ground levels within these areas shall not be altered, nor any excavations undertaken including the provision of any underground services, without the prior written approval of the Local Planning Authority.
- d) Seven days written notice shall be given to the Local Planning Authority that the protection measures are in place prior to demolition and/or approved works, to allow inspection and approval of the works.
- 30) a) No retained tree/hedge/bush shall be cut down, uprooted or destroyed nor any tree be pruned, topped or lopped or suffer root severance other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved pruning, topping or lopping shall be carried out in accordance with current British Standards and any tree survey approved by the Local Planning Authority.
- c) If any retained tree/hedge/bush is removed, uprooted or destroyed or dies the local planning authority shall be notified forthwith in writing. Another tree/hedge/bush of an agreed size and species shall be planted at the same place and at such time as may be specified in writing by the local planning authority
- Retained tree/hedge/bush refers to vegetation which is to be retained, as shown on the approved plans and particulars and the condition shall have effect until the expiration of five years from the date of occupation.
- 31) If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season

Planning Permission Outline - Materials

- 32) No building works shall take place until details and samples of all external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Samples shall be made available on site prior to the commencement of building works, for inspection by the Local Planning Authority which shall be notified in writing of their availability. The building works shall be carried out in accordance with the approved details and samples.
- 33) No building works shall take place until details and samples of all surfacing materials to the hardsurfaced areas have been submitted to and approved in writing by the Local Planning Authority. The surfacing works shall be constructed in accordance with the approved details and samples.

Report to the Secretary of State for Communities and Local Government

by K D Barton BA(Hons) DipArch DipArb RIBA FCI Arb

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

Date: 20 September 2016

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY MILLER HOMES

AGAINST A DECISION BY

LEEDS CITY COUNCIL

RELATING TO LAND AT BREARY LANE EAST, BRAMHOPE, LEEDS

Inquiry opened on 12 April 2016

Land at Breary Lane East, Bramhope, Leeds

File Ref: APP/N4720/W/15/3004106

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File Ref: APP/N4720/W/15/3004106
Land at Breary Lane East, Bramhope, Leeds

- 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 Miller Homes against the decision of Leeds City Council.
- The application Ref 13/05134/OT, dated 31 October 2013, was refused by notice dated 28 August 2014.
- The development proposed is in outline (all matters reserved except for partial means of access to, but not within, the site) for residential development (up to 380 dwellings), a convenience store (up to 418m²), and public open space.

Summary of Recommendation: The Appeal be allowed, subject to the conditions set out in Appendix C of this report.

1. Procedural Matters

- 1.1. The appeal was recovered by the Secretary of State (SoS) by a letter dated 29 May 2015 (SSD). The reason for the direction is that the appeal involves a proposal 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.
- 1.2. A Direction, dated 9 June 2009, extended the UDPR saved policies listed within it. The Direction indicates that local planning authorities should "make good progress with local development frameworks" and states that "Policies have been extended in the expectation that they will be replaced promptly". The *Framework* makes clear that "It is highly desirable that local planning authorities should have an up-to-date plan in place" and where development plans are "absent, silent or relevant policies are out-of-date it expects planning permission to be granted unless "adverse impacts significantly and demonstrably outweigh the benefits" or "specific policies" apply.¹
- 1.3. The application was accompanied by an *Environmental Statement* produced in accordance with the *Town and Country Planning (Environmental Impact Assessment) Regulations 2011*. Subsequent to the appeal an *ES Addendum* has been prepared, agreed with the Council, submitted, and publicised. I have taken into account any comments from statutory consultation bodies but there is little comment specifically relating to the ES.²
- 1.4. A Pre-Inquiry Note was issued to set out the administrative arrangements for the Inquiry, which sat for 12 days between 12 and 29 April 2016. An unaccompanied site visit was made to the site and the surrounding area on 28 April 2016. In addition, to avoid repetition and make efficient use of Inquiry time, the matter of Housing Land Supply (HLS) in Leeds was heard in conjunction with two other appeals, APP/N4720/W/14/3001559 Land at Leeds Road, Collingham and APP/N4720/W/15/3004034 Land off Bradford Road, East Ardsley, on 19-21 April 2016. Closing submissions in relation

¹ MHH/8/C APP ID4, MHH/12 Paras 7-8

² CD/O/9, CD/O/10, CD/O/11CD/O/20

to this appeal, on all matters, including Housing Land Supply, were made on 29 April 2016³.

- 1.5. Subsequent to the close of the Inquiry a decision was issued relating to development at Grove Road, Boston Spa (APP/N4720/A/13/2208551)⁴. The parties were given an opportunity to comment on this decision and their comments have been taken into consideration. The Council confirms that it is challenging the Grove Road decision, the conclusions of which it maintains are divergent from those relating to an earlier decision at Bagley Lane (APP/N4720/A/13/2208551). The Council states that its evidence on HLS has changed significantly since it was given at the Grove Road Inquiry in May 2014. It therefore asks that the conclusions on the three appeals mentioned at paragraph 1.4 above should be reached based on the latest evidence from all parties as presented and tested at the Inquiries in April 2016. The general consensus of the Appellants is also that the most up to date evidence given to this Inquiry should be used although response has been made to some of the detailed points raised by the Council.⁵
- 1.6. This report includes a description of the site and its surroundings, a summary of the planning policy background, the gist of the representations made at the Inquiry, and in writing, and my conclusion and recommendation. Lists of appearances and documents, a schedule of conditions should the Secretary of State be minded to allow the appeal, and a glossary of abbreviations, are also attached as appendices.

2. The Site and Its Surroundings⁶

- 2.1. The appeal site, which has an area of approximately 20.27 hectares, consists of open fields in agricultural use to the south of Breary Lane East and east of the A660. The land slopes up from the A660 to the south to Breary Lane East to the north. To the east of the site is Spring Wood beyond which is open countryside whilst fronting part of the northern and the western boundaries is a line of residential properties. Beyond these dwellings are the main housing areas in the village.

3. The Proposal⁷

- 3.1. The application did not originally seek for access to be a reserved matter. However, during the course of the Inquiry, the parties agreed, for the reasons set out in Section 6.5 of this report, that the most appropriate course of action was to reserve all matters for future consideration. The description of the proposal is therefore "The development proposed is in outline, for residential development (up to 380 dwellings), a convenience store (up to 418m²), and public open space, with all matters reserved." The Council does not object to the change and I do not consider that this amendment would prejudice anyone.⁸

³ CD/F9, LCC/7, LCC/18 Paras 48-115, BDW/7, BDW/8

⁴ Since the Inquiry the Grove Lane decision has been challenged

⁵ LCC/10/H Letter incorrectly dated 12 July 2015

⁶ CD/P/4 Section 2

⁷ CD/P/4 Sect 3

⁸ See paragraph 6.5.1. of this report

- 3.2. An indicative Masterplan seeks to demonstrate that in principle residential development of no more than 380 homes could be accommodated on the site. It is agreed that access, detailed layout, massing and townscape can be dealt with at reserved matters stage through the imposition of conditions. The Masterplan also shows areas of open space distributed throughout the site. A new park would be provided for Bramhope, with an area in excess of that required by the *Leeds Unitary Development Plan Review* (UDPR) and *Leeds Core Strategy* (CS) policies.

4. Planning Policy Context

- 4.1. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* indicates that determinations under the Planning Acts should be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case includes the CS adopted in November 2014, and the UDPR 2006. The Council is progressing a Site Allocations Plan (SAP) but it is agreed that since this is at an early stage only limited weight can be attached to it.⁹

5. The Case for Leeds City Council

5.1. Introduction

- 5.1.1 Bramhope is a Smaller Settlement within the CS settlement hierarchy, whilst under the UDPR the site was designated as a Protected Area of Search (PAS) site. The SAP identifies the site as a draft phase 3 allocation. When the Council reached its decision on the appeal proposal it was against the background of an Interim Housing Policy. However, this was withdrawn in February 2015 in light of the stage reached by the SAP process and the reasons for refusal have been revised to reflect adopted and emerging policy. The SAP will resolve the Council's view as to which PAS sites should be included on the basis of their planning merits. This accords with CS policies and meeting the Council's housing delivery and locational strategies.¹⁰
- 5.1.2 Consequently, assessment against the Interim Policy is not appropriate and the proposal was taken back to the Plans Panel Committee for assessment in the light of the current policy context. The amended reasons for refusal are the outcome of that assessment and the Council relies on them.¹¹

5.2 Assessment of Housing Land Supply

- 5.2.1 The housing requirement for the purposes of *Framework* paragraph 47 is largely common ground. The 5 year period is 1 April 2016 to 31 March 2021. The annual requirement derives from CS Policy SP6 and whilst the average net additional housing requirement over the CS Plan Period is 4,375 dwellings per annum, Policy SP6 contains a step-up in the requirement with the first five years of the plan being at a lower rate. The consequent annual figures are 1x3,660 + 4x4,700 although the requirement is not a maximum.¹²

⁹ CD/A8, CD/A10, CD/F5 Section 6, CD/A3, CD/A5, CD/A5(A), CD/A6, CD/A6(A), CD/A7, CD/A7(A)

¹⁰ LCC/7 Para 2, LCC/18 Para 129

¹¹ CD/P/4 Para 1.7, LCC/18 Para 6

¹² CD/A/1, CD/A/3, CD/F/6, CD/L/5, LCC/18 Paras 48-50

5.2.2 The CS requirements for the first three years of the plan period have not been met but the completions for the period 2012/13 to 2014/15 are agreed as the table below.¹³

Year	Adopted CS Policy SP6	Contribution from sources to Core Strategy target			Demolitions	Total
		New & converted units	Empty homes	Older persons housing		
2012/13	3,660	1,650	149	29	27	1,801
2013/14	3,660	2,235	880	86	6	3,195
2014/15	3,660	2,076	215	322	97	2,226
Total	10,980	5,961	1,244	147	130	7,222
Backlog 2012 to 2015						

5.2.3 There are two issues in dispute between the parties:

- a) The precise level of completions in 2015/16; and
- b) The appropriate buffer.¹⁴

5.2.4 The precise level of completions in 2015/16 is not an issue of principle but of quantum. The figure submitted by the Council has been compiled in exactly the same way as other years, where the Appellant accepts the figures, and is the figure submitted to Government to the purpose of the New Homes Bonus. The base information comes from individuals' Council Tax information and cannot simply be disclosed. However, the figure sits in the range of annual figures accepted for 2012/15.¹⁵

5.2.5 Turning to the matter of the buffer, this is a matter of judgement that the *Guidance* makes clear will vary from place to place. Notwithstanding this the *Guidance* notes that a more robust assessment will be made by considering a longer term view such as a complete housing market cycle. The Appellants' joint 5 years assessment does not do this.¹⁶

5.2.6 The purpose and function of the buffer derives from *Framework* paragraph 47. The purpose is to ensure choice and competition and, in relation to the 20% buffer, to provide a realistic prospect of the planned supply being achieved. The function is to move sites forward from later in the plan period. This is consistent with the core policy principles and promoting,

¹³ CD/L/5, LCC/18 Paras 49-50

¹⁴ CD/L/5, LCC/18 Para 50

¹⁵ LCC/18 Para 51

¹⁶ LCC/18 Para 52, CD/A/2 Para 3-035, MHH/3/C APP ID9 Table 2.2

not undermining, the plan-led system. The objective is not to penalize an authority.¹⁷

5.2.7 In this case, the Appellants seek the release of safeguarded land that would be contrary to the CS and would undermine the emerging SAP. A 20% buffer would have the opposite purpose and function to that set out in *Framework* paragraph 47. There is a large volume of permitted residential development and large areas of the inner area and city centre available for development. The issue is not an absence of competition and supply but that the volume house builders seek to build other than in accordance with the Council's adopted CS.¹⁸

5.2.8 In terms of figures, there is agreement except for Empties in 2015/16 as set out above and they can be considered in three parts.¹⁹

Plan	Context	Year	Net Completions	Target Min	Target Max	Under delivery Min	Under delivery Max
UDP	Rising	2003/4	2,991	1,930	1,930	1,061	1,061
UDP/RSS	Rising	2004/5	2,633	2,260	2,260	373	373
UDP/RSS	Boom	2005/6	3,436	2,260	2,260	1,176	1,176
UDP/RSS	Boom	2006/7	3,327	2,260	2,260	1,067	1,067
UDP/RSS	Boom	2007/8	3,576	2,260	2,260	1,316	1,316
UDP/RSS	Recession	2008/9	3,828	2,260	4,300	1,568	-472
UDP/RSS	Recession	2009/10	2,238	2,260	4,300	-22	-2062
UDP/RSS	Recession	2010/11	1,686	2,260	4,300	-574	-2,614
UDP/RSS	Recovery	2011/12	1,931	2,260	4,300	-329	-2,369
CS	Recovery	2012/13	1,801	3,660	3,360	-1,859	-1,859
CS	Recovery	2013/14	3,195	3,660	3,660	-465	-465
CS	Recovery	2014/15	2,226	3,660	3,660	-1,434	-1,434
CS	Rising	2015/16		3,660	3,660		
						1,878	-6,282

5.2.9 Firstly, pre-recession the requirement was 1,930 rising to 2,260 and in this 5 years the requirement was exceeded by around 5,000 homes. During the recession the requirement was debatable. Adopted targets were 2,260 and 4,300. The lower target was exceeded by 643 but against the step up

¹⁷ LCC/18 para 53

¹⁸ LCC/18 Paras 53

¹⁹ LCC/18 Para 54, LCC/11//B Table 7

RSS requirement there was an under supply of 7,517. However, it is acknowledged that the RSS requirement was inaccurate. Post-recession the CS requirement for 2013 to 2016 was 3,660 and there has been a cumulative undersupply of 4,122. However, the most recent year is the best since the adoption of the CS delivering 3,296 units.²⁰

- 5.2.10 If a cumulative approach is taken to the whole cycle and assessment made against the lower requirement for 2008/12, targets were exceeded by 1,514. The RSS is accepted as being unrealistic and the figure is based on job growth of 24,000 when in practice there was a loss of 8,000 jobs, a swing of over 32,000. An assessment against this is meaningless and the Bagley Lane Inspector concluded it was unrealistic.²¹
- 5.2.11 The CS Inspector also considered the matter. "The Regional Strategy has been revoked and its housing targets were underpinned by assumptions that the 2011 census and later projections have shown to be inaccurate. This significantly reduces the weight to be attributed to under delivery against the Regional Strategy target and the need to address any shortfall against the RS through the CS".²²
- 5.2.12 No weight should be given to non-compliance with the RSS target. The lower target is more meaningful and against that there is no cumulative shortfall. In any event, the CS requirement was based on demographic projections and encapsulates any shortfall properly found to have occurred therefore counting non-compliance against the higher RSS target would lead to double counting of any actual undersupply. This was recognised by the Bagley Lane Inspector.²³
- 5.2.13 Secondly, turning to performance against the CS, the requirement has not been met. However, completions are increasing as the market recovers and are just short of the CS requirement. A robust approach over a market cycle, in line with the *Guidance*, has met the cumulative need and is moving into line with the CS requirement. This is similar to the conclusion of the Bagley Lane Inspector. Although time has passed he was informed that the target for 2014/15 would not be met. His conclusions should continue to apply as the practical difference is one additional year in which supply only fell by 364 units.²⁴
- 5.2.14 The Appellants make much of how substantial the CS requirement is but the Council has always acknowledged that and is committed to meeting the target. To add a 20% buffer would be unproductive, contrary to the intentions of the *Framework*, and would undermine the strategy for meeting the target. A 20% buffer would effectively increase the CS target to allow remote greenfield sites to get permission at the expense of urban regeneration. With a 5% buffer the Council maintains that the 5 year housing requirement is 27,911 units.²⁵

²⁰ LCC/18 Para 54

²¹ LCC/18 Paras 55-58

²² CD/G/4 Para 16, LCC/18 Para 59

²³ LCC/18 Para 60, CD/G/17 2nd report Para 185

²⁴ LCC/18 Paras 61-62, CD/G17 2nd Report Para 187

²⁵ CD/A/38A, CD/L/14, LCC/18 Paras63-64

- 5.2.15 Many of the sources of supply are agreed. Over 5 years these would be; 2500 smaller windfalls, those sites too small to be identified by the SHLAA; 1000 empty homes; and -225 demolitions. In terms of large windfalls the Council includes an average of 167 such units a year whereas large windfalls have actually produced an average of 388 units over the last three years. This allowance was accepted by the Bagley Lane Inspector with only 2 years of evidence and should be allowed in this case.²⁶
- 5.2.16 *Framework* paragraph 47 requires five year supply sites to be “deliverable” and sets out advice in Footnote 11. Firstly, “sites with planning permission should be considered deliverable until permission expires unless there is clear evidence that schemes will not be implemented within 5 years”. Secondly, “sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.”²⁷
- 5.2.17 The Appellants acknowledge and identify 16,571 units in the 5 year supply, deriving from the 2015/2020, that have planning permission or are under construction. The equivalent figure for 2016/2021 is 14,770. All these units must count in the absence of clear evidence otherwise. The real challenge is to the achievability although predictions of delivery are inherently uncertain. Consequently the *Framework* looks only for a realistic prospect of delivery. The *Guidance* addresses the Footnote 11 factors of Availability, Achievability and Deliverability.²⁸
- 5.2.18 Reference has also been made to Wain Homes (SW) Holdings Ltd v SSCLG. This agrees that sites should not be ‘assumed’ to be deliverable. The Council has considered each site against the Footnote 11 tests and the same methodology has been used by the Appellant. Another occupier is not a bar to inclusion of the site in the five year supply but rather consideration should be given as to whether any problem could be overcome to allow delivery within 5 years. The inclusion of a site in the SHLAA provides a starting point and some evidence a site is deliverable.²⁹
- 5.2.19 The SHLAA takes on board an enormous amount of information and is the result of an iterative process. The 2015 SHLAA, from which the 5 year supply derives, used the same methodology as the 2014 SHLAA which was the subject of extensive consultation with the development industry. It did not agree with a number of issues which has influenced the approach to consultation. Criticisms in the Appellants’ case reflect the intractable differences between the parties. Both the SHLAA and the SAP inform each other and each allows promoters to be heard and for availability and achievability to be confirmed creating a rebuttable presumption as to their delivery.³⁰

²⁶ LCC/18 Paras 65-66, CD/A/1 Para 48, LCC/11/B Para 3.13 & App 2, CD/L/5 Para 3.16, CD/G/17 Para 200, CD/A/3 Paras 4.6.4, 4.6.8 & 4.6.10

²⁷ LCC/18 Paras 67

²⁸ LCC/18 Para 68-71

²⁹ LCC/18 Paras 72-73, MMH/3/C App ID8

³⁰ CD/A/3 Para 4.6.17, LCC/18 Paras 74-78

- 5.2.20 The Appellants' criticisms of the SHLAA differences were raised at the Bagley Lane Inquiry and the Inspector's conclusions below hold good in this case.
- a) Supply cannot be approached in a policy vacuum. Allocations and the 5 year supply need to reflect the CS strategy;
 - b) Although volume house builders reject much of the supply from the city centre and the inner area, there are factors that would assist supply in those areas such as PRS and low cost builders;
 - c) The viability of some city centre and inner area sites indicates that many sites are likely to be viable, albeit not with volume builder's profit margins;
 - d) The Council's build out rates based on past performance and publically stated anticipated rates are to be preferred;
 - e) The input of the development industry is important; and
 - f) The SHLAA is a snapshot in time.

Taking account of policy context and the other factors referred to above the Council's analysis is to be preferred.³¹

- 5.2.21 All this needs to be seen in the context of whether the Council's approach to achievability is realistic and reasonable, a fact already confirmed by the Bagley Lane Inspector:
- a) Challenges to a number of housing land supply matters were dismissed confirming there was no error in the legal approach to housing land supply;
 - b) This endorsed the Council's approach to the SHLAA and its methodology to ensure consistency;
 - c) A number of arguments in this case were also raised at Bagley Lane and dismissed. Arguments have narrowed and viability is no longer questioned. House price growth has strengthened to 6.5-7.5% in the city centre and inner area and sales have increased.³²

- 5.2.22 The supply of housing should not be seen in isolation from the Strategy. Both the CS and Community Infrastructure Levy (CIL) Inspectors noted the housing requirement was large but concluded the Strategy was effective and deliverable. It has begun to deliver and the considerable activity will act as a catalyst for further growth. In addition the Council is being proactive with measures, including, amongst others, delivering housing itself and selling brownfield land in its ownership. The Strategy is delivering, albeit perhaps less rapidly than originally hoped.³³

- 5.2.23 Some particular concerns were raised by the Appellants' but must be put in context. Leeds is a large area with very many sites coming forward. It is,

³¹ LCC/18 Para78

³² CD/A/32 App 1 Sect 4, CD/G/18 Para 30 onwards, LCC/18 Para 79-81

³³ LCC/18 Paras 81-82

therefore, impossible for the Inspector to replicate the SHLAA or 5 year supply exercise. A broad range of sources of supply have been used in a realistic way. Whilst there is a need for robust evidence to support decisions that does not mean a letter from the landowner setting out his intentions. What it does mean is that the Council's assessment should be capable of being explained and evidenced. Where there is new information the details are updated hence following the round table session the Council reduced the number of units assessed as deliverable to 30,385. Although the Appellants disagree on key issues, the Council's position is realistic and none of the points raised are a bar to the inclusion of particular sites. The SHLAA and SAP are objective and can be tested.³⁴

- 5.2.24 Wain Homes is illustrative in terms of 'other active uses'. In that case, a "factory that has not been derequisitioned" was considered unavailable but that is different to a surface car park, such as Site 445 Jack Lane/Sweet Street. It previously had outline permission for residential development and has now been sold to the developer Caddick. It is close to Holbeck Urban Village, a key regeneration area, and is being actively promoted for development. The Appellants assert that there is no realistic prospect of housing in the 5 years from 2016. This defies the evidence.³⁵
- 5.2.25 Regard has to be had to the Footnote 11 advice about planning permission. Site 200-401 Quarry Hill has outline planning permission for a mixed use including 715 flats. It has been in use as a temporary car park but was acquired in 2015 by a developer in association with Moda Living. A newspaper article indicates a start on site in 2017 with the first homes ready to rent by 2019. The Appellants do not allow for any development in the 5 years from 2016. This is impossible to justify and whilst there may be some room for an alternative view that falls far short of showing that the Council's view is unrealistic.³⁶
- 5.2.26 Sites without planning permission, including those with expired consents, should be assessed against the Footnote 11 tests and a judgement formed in the light of all the information. The Council agrees that where there is evidence of an intention by a specific developer to develop in an identified timescale it is valuable but not a pre-requisite. Many of the sites are not greenfield sites outside settlements such that gaining permission is an uphill task. Most are brownfield sites in the Major Urban Area (MUA) where the Council's strategy supports development. In addition, viability appraisals have been carried out to identify areas where there is a real prospect of the market delivering housing. Indeed, at the CS EiP the development industry supported the Council's strategy and argued for even higher delivery figures.³⁷
- 5.2.27 The Appellants' approach is unduly pessimistic. It is unrealistic to expect explicit commitment on each urban site when many are Council owned and made ready for sale through the Brownfield Land Programme. If a site is going to be offered to the market ready for development and offering a

³⁴ CD/A/2 Para 3-012, LCC/18 Para 83-87

³⁵ LCC/18 Paras 91-94

³⁶ CD/A/32 Para 4.18 App 5, LCC/18 Para 95

³⁷ LCC/10/A Para 4.37, LCC/18 Para 96-97

profitable development opportunity following a robust SHLAA process, there is a realistic prospect of housing delivery. For example site 649 Charity Farm Swinnow is questioned by the Appellants as there is no developer interest. However, the Council is brokering the sale for housing and the District Valuer has found the site to offer a profitable housing opportunity. There are no constraints and it would be realistic to include the site in the 5 year supply.³⁸

- 5.2.28 In respect of delivery rates and lead-in times, the parties agree that specific information may be used or standardised information based on the average performance of other sites. Consequently, the differences are matters of judgement that relate to the build out rates of traditional family housing in the outer areas rather than the inner areas and city centre.³⁹
- 5.2.29 The Council's delivery rate is an average from completed sites in the district of 78 dpa and should be preferred to the unsubstantiated standardised figure of 50 dpa. The up-to-date averaged figures cannot be called unrealistic and suggest the house builders' figures are pessimistic, as the Bagley Lane Inspector concluded. The figures for flats are based on specific information from developers. Different views may be reasonable but the house builders seem to have been influenced by a pessimistic view of delivery by the Private Rented Sector (PRS) model.⁴⁰
- 5.2.30 In addition, the SHLAA is based on 2015-2020 whereas the 5 year supply covers the period 2016-2021 and the lead-in times have been reconsidered as a result. As an example at East Leeds (707) the Appellants have only included 365 units but it is the single largest allocation in the district, it is high value greenfield land that will be central to the SAP and deliver a wide range of unit types. The capacity to 2028 is 4446 units. No allowance has been made until 2018-19. The Council has reasonably assumed 50 dpa and it would be realistic to assume a number of outlets. In addition, the East Leeds site and Skelton Gate (5217) are examples of where infrastructure requirements have been considered for provision alongside housing development.⁴¹
- 5.2.31 No sites have had their viability questioned and it is acknowledged that the primary and secondary markets are attractive to developers and investors. Indeed, in the tertiary market there is an active land market with specialist developers successfully developing and keen to acquire more land. Measures by the Council to make land available are highly relevant.⁴²
- 5.2.32 The Appellants raise capability concerns relating to the specialist development sector. There is no evidence that sites identified through the SHLAA and SAP process would not be developed and the concern appears to be based on only three letters, each of which sets out plans for expansion. There is no justification for a blanket restriction on supply just because the development industry is not up to the job. This matter was

³⁸ LCC/18 Paras 97-98

³⁹ LCC/18 Paras 99-101

⁴⁰ LCC/10/A Para 4.112, LCC/18 Para 102-103

⁴¹ See SHLAA, LCC/18 Paras 104-105

⁴² LCC/18 Paras 106-108, Mr Roebuck XX Mr Williams

also raised at Bagley Lane but the Inspector concluded, in a worse economic climate, that a supply of 26,500 units was deliverable.⁴³

- 5.2.33 The ability of the PRS to perform, particularly in the city centre, is also questioned by the Appellants but their view is pessimistic and does not reflect the evidence. The clearest example is site 407 the Dandara scheme in the Holbeck Urban Village area. The Appellant's stance is that the site is only potentially viable, and is in a fringe location with doubts over funding and commitment. However, planning permission has been granted and the developer has committed to completion within two years of commencement. Public statements demonstrate that the PRS has looked at Leeds which is currently the single primary target for investment. Quarry Hill already mentioned above is another example. This is a PRS scheme promoted by Moda Living which is party to a joint venture fund of £1bn. Moda intends to commence in early 2017 and deliver the first homes by 2019 with all units completed within 5 years. Not to include this site, as the Appellants do not, is absurd on the evidence.⁴⁴
- 5.2.34 The note on tipping point indicates the safety margin that exists in the 5 year housing land supply figures. If the Council's position in relation to the 2015-16 completions is accepted, then after the round table session and with a 5% buffer the safety margin would be 6,249 houses. Even with a 20% buffer it would be 2,262.⁴⁵
- 5.2.35 A view must be formed on the realism of the Council's position. Sites will come and go over time, and delivery rates alter, but with a safety margin of this magnitude, even accepting the Appellants' full case on requirement there would be a margin of 1,546 units. The Council's position is entirely realistic and reasonable and the Inspector and the SoS can have every confidence that there is a 5 year supply of land.⁴⁶

5.3 Assessment Against Development Plan Policy

- 5.3.1 The Council considers that the proposal deliberately steps outside the plan-led system by seeking the release of the site for housing whilst it is under consideration for such a use through the SAP process. Only the SAP process, and not a Section 78 appeal, can conduct a comprehensive review of the relative merits of sites to allow the most sustainable to be chosen to provide housing. The proposal is contrary to the development plan and would cause significant harm to the plan-led system.⁴⁷
- 5.3.2 The same position was adopted at the Bagley Lane appeal. The Inspector concluded UDPR Policy N34 was a saved policy that allowed review of PAS land through the plan system consistent with *Framework* paragraph 85. The SoS concluded in March 2015 that the CS was up to date, and that the Council had a 5 year supply of housing land, as a result of which it was appropriate for the SAP process to continue and it has advanced since that date. Although the SoS's decision on Bagley Lane has since been quashed,

⁴³ LCC/10/A Para 4.82, LCC/18 Para 109

⁴⁴ CD/A/32 Paras 4.10, 4.14iii) App 2, LCC/10/A Para 4.64, LCC/18 Paras 111-114

⁴⁵ CD/A/38A, LCC/18 Para 115

⁴⁶ LCC/18 Para 115

⁴⁷ LCC/18 Para 10

it was not on grounds relating to those conclusions. The judgement concluded that UDPR Policy N34 was not out of date and that there was no legal error in the approach to the issue of 5 year HLS.⁴⁸

- 5.3.3 N34 remains an up to date, saved, policy as the written justification for the policy sets out. "The suitability of the protected sites for development will be comprehensively reviewed as part of the preparation of the Local Development Framework, and in the light of the next Regional Spatial Strategy. Meanwhile, it is intended that no development should be permitted on this land that would prejudice the possibility of longer-term development, and any proposals for such development will be treated as departures from the Plan".⁴⁹
- 5.3.4 This is reinforced by the UDPR Inspector who stated "the Policy does not and should not contain a presumption in favour of long-term development of these sites as firm decisions as to whether they should or should not be allocated for development cannot and should not be made until such time as the present plan is reviewed. The Appellant treats the PAS sites as akin to reserve housing allocations and maintains that they have been judged suitable and sustainable sites for development although they need to be assessed against the current policy context. However, they are not allocated for housing but placed in a policy restriction. The need for them, their role, their suitability and their specific function was all left to be considered at the end of the plan period."⁵⁰
- 5.3.5 The Appellants rely on extracts from *Planning Policy Guidance 2: Green Belts* but it is clear that a high level assessment was to be followed by a local plan review after 2016. In any event, the approach to sustainability as set out in the *Framework* is now different. The local plan review is underway and to grant permission now would be contrary to N34 which is in line with *Framework* paragraph 85.⁵¹
- 5.3.6 The Appellants' view is that PAS sites should be released for housing rather than Green Belt sites reviewed or released. The Council does not intend to allocate all the PAS sites but does intend to release a substantial amount of Green Belt land. However, that does not go to the weight to N34 or its breach. It is playing out the strategy endorsed by the CS which in turn was found by an Inspector to be sound and compliant with the *Framework*. The large housing requirement makes it unsurprising that both Green Belt and non-Green Belt land will be required and a full review would enable the most sustainable to be identified.⁵²
- 5.3.7 The Council is accused of being inconsistent, particularly in respect of Headley Hall, a large site in the Green Belt. Policy in *Framework* Paragraph 52, and CS Policy SP10, indicate that a new settlement can be sustainable by providing the infrastructure it needs. The alleged inconsistency would not warrant doing away with the process and simply planning by appeal. Whether the site should be released for housing is a question for the SAP

⁴⁸ CD/G/17 Paras 14 - 22 and 215-220, CD/G/18

⁴⁹ CD/A/5, LCC/18 Para 12

⁵⁰ CD/A6 Paras 106.7-13, LCC/18 Para 13

⁵¹ LCC/18 Paras 14-17

⁵² CD/A/39, LCC/18/19

and CS objective. The plan process allows for the relative assessment of a large number of competing sites and full public engagement.⁵³

- 5.3.8 The fact that the UDPR has a plan period to 31 March 2016 does not render UDPR Policy N34 out of date. It is saved with a role of ensuring that safeguarded land is assessed through a local plan review which is underway.⁵⁴
- 5.3.9 Turning to the CS, it was adopted in November 2014 and is up-to-date. The spatial strategy within it is contained most relevantly in Policies SP1, SP6 and SP7, together with the role of the SAP. It includes a balance between greenfield and brownfield land, in Policy H1, and a quantum to be provided in the MUA, see Policy SP1 Table 2 and SP7. The CS must be read as a whole.⁵⁵
- 5.3.10 It is also accepted that the CS has a development control function and CS Policies SP1 and SP6 should be used to assess development for conformity with the development strategy. The Policies should be applied in a common-sense way and when that is done the proposals are contrary to the central strategy of the CS. The site is agricultural land that contributes to the character and identity of the 'small settlement' which is below the MUA and Major Settlements in the development hierarchy and only provides basic services. Providing a significant amount of housing in such a settlement would not accord with CS Policies SP1 and SP6.⁵⁶
- 5.3.11 CS Policy SP1 refers to the distribution and scale of development reflecting the hierarchy. The Appellants appear to suggest that any development in a smaller settlement would be acceptable in principle but this is difficult to square with the considered settlement hierarchy and spatial strategy. The proposals fail to accord with the development plan through CS Policies SP1, SP6, SP7 and H1. There are approximately 1516 homes in Bramhope and the proposed 380 additional homes would increase the size of the village by around 25%. This would be in the Outer North West HMCA where the CS seeks broadly 2,000 units in the plan period of which 1145 have been identified. To suggest that applying CS policies here would automatically be consistent with the hierarchy and spatial strategy ignores the principles and priorities, as well as consideration of sustainability and impact on services, identified in CS Policies SP1, SP6 and SP7. The proposal would be contrary to those development plan policies⁵⁷
- 5.3.12 The phased release of housing allocations is to support CS Policies SP1, SP6, SP7, and SP10. The SAP identifies existing permissions and former allocations and the balance is allocated by applying CS Policies. This includes the spatial strategy, with its focus on Major Urban Area (MUA) and major settlements, as well as its priorities for previously developed land and regeneration. Greenfield land in outer areas and smaller settlements fall well down the hierarchy and CS Policies H1 and SP6 require a relative assessment of sites to consider their overall sustainability and

⁵³ LCC/18 Paras 19-21

⁵⁴ LCC/18 para 46

⁵⁵ LCC/18 Para 22-24

⁵⁶ LCC/18 Paras 25 and 26

⁵⁷ LCC/18 Paras 28-29

appropriateness in the light of the CS strategy. In advance of the SAP debate, the proposal must be considered against the CS Policies. Phasing reflects the relative performance against CS strategy and the need for other more sustainable sites to come forward first.⁵⁸

- 5.3.13 The Council's SAP is progressing and the Bramhope site has been identified as a phase 3 housing site under CS Policy HG2. However, the allocation of sites involves inter-related issues such as provision of necessary infrastructure. There is a site specific requirement that the Bramhope site should not come forward without the delivery of a mitigation transport scheme for the A660 corridor such as NGT. When considered in the round a Green Belt site may be more sustainable than a non-Green Belt site. The SAP has already identified some 33,000 sites from the target of 66,000 and allocates housing to make up the difference through CS Policy H2 as explained in the supporting text. Policy H3 follows *Framework* paragraph 85 and identifies safeguarded land that is not allocated pending a local plan review.⁵⁹
- 5.3.14 The Council accepts that the proposal, in itself, would not give rise to a prematurity reason for refusal but it would pre-judge the outcome of the SAP and undermine the process as the Inspector and SOS concluded in the Bagley Lane, Farsley case. This is what UDPR Policy N34 and CS Policies SP10 and H1 seek to avoid. Moreover there are about half a dozen appeals on safeguarded land currently undetermined. Even without the SAP there is a large supply of housing permissions, in 2014/15 permission was granted for 8,000 units. Consequently, the release of the site is unnecessary.⁶⁰
- 5.3.15 UDPR Policy N34 is consistent with *Framework* paragraph 85, as the Farsley Inspector concluded, and identifies land safeguarded to meet longer-term development plan needs following a local plan review. It does not allocate such land. Moreover, this policy approach was recently endorsed by the CS Inspector as sound and consistent with the *Framework*.⁶¹
- 5.3.16 Reference has been made to Colman v SSCLG [2013] EWHC 1138 but that did not consider a safeguarding policy. The *Framework* is straightforward, the detailed merits of the sites should be addressed through a local plan review. N34 is consistent with the *Framework* and any balancing exercise should be considered through Section 38(6) and an appraisal as to whether the proposals amount to sustainable development applying the *Framework*. The Appellant's argument is hard to square with a refusal to accept that paragraph 85 is not a policy within the meaning of Footnote 9 which "indicate(s) development should be restricted".⁶²
- 5.3.17 *Framework* paragraph 85 is a policy that "indicates development should be restricted" within the meaning of paragraph 14. It expressly stipulates that planning permission should only be granted following a local plan

⁵⁸ CD/A/10 5.2.2, Sect 1 and 2, table 1 p14, LCC/18 Paras 30-31

⁵⁹ CD/A/10, LCC/18 Paras 32-34

⁶⁰ LCC/18/Paras 35-36

⁶¹ LCC/18 Paras 38-39

⁶² CD/G4, LCC/18 Para 40

review. Footnote 9 only provides examples. The Appellants maintain that restrictions in Footnote 9 are permanent but any restriction can be created, amended, or ended.⁶³

5.3.18 The Appellants refer to "a policy vacuum on where new housing will come from". *Framework* paragraph 14 refers to the development plan being silent in relation to decision taking and the consequence of the Appellant's approach is that any authority that did not have an allocations plan would have a silent development plan, which is obviously absurd. The development plan is not silent in this case. Relevant policies are stated in the reasons for refusal and apply for development control purposes. The Council has granted permission for 8,000 units in the last year using those development plan policies.⁶⁴

5.3.19 The CS is accepted as up-to-date. The Council accepts that UDPR Policy N34 is out of date in the absence of a 5 year HLS, in light of the Hopkins judgment, but there remains the question of what weight to give it given the consistency with the *Framework* and its objectives. The fact that the UDPR has a plan period to 31 March 2016 does not render it out of date. Policy EN34 is saved and in force. Its purpose of safeguarding land is current and not out of date and was always intended to last beyond the plan period. Indeed, the Bagley Lane Inspector considered N34 to be up to date. Although that decision was prior to the end of the plan period that does not affect the policy's purpose or currency. To argue otherwise would simply repeat the view that the PAS sites should be considered as reserve housing allocations with an identified trigger point, which they are not. The proposal fails to accord with development plan policies.⁶⁵

5.4 Whether Occupants of the Proposed Development Would Have Acceptable Access to Shops and Services

5.4.1 CS Policy SP1 requires regard to be had to a settlement's size, function and sustainability. The proposal would add up to 380 homes to a village of 1516, an increase of approximately 25%.⁶⁶

5.4.2 The proposals would generate 95 children of primary school age and 38 secondary but it is common ground that both the local primary and secondary schools are at capacity. The SAP looks at housing and infrastructure together as the Council's CIL Regulation 123 list allows Section 106 contributions. In contrast, by stepping outside the plan led system, the provision of a school will depend on future decisions on the expenditure of CIL as collected. Until a school is provided children who cannot attend the local school would have to travel further afield which would not be sustainable. The scale and distribution of housing would be inappropriate.⁶⁷

5.4.3 Sustainability is a relative concept. Where development is contrary to the settlement hierarchy, as here, then CS Policy SP1 requires accessibility to

⁶³ MHH/12 Para 157

⁶⁴ LCC/18 Paras 42-43, MHH/3/A&B Para 3.2

⁶⁵ CD/L/8, LCC/18 Paras 44-47, MHH/3/A&B Para 3.2

⁶⁶ LCC/18 Para 136

⁶⁷ LCC/18 PARas 139-140

be carefully assessed. This is also addressed through CS Policy SP6 i) and the supporting text. This is done through Accessibility Standards in the CS. These “define the minimum standard that a new development will need to meet” echoing *Framework* paragraphs 32 and 34.⁶⁸

5.4.4 There is only a very basic level of local services in Bramhope. Whilst some shops and services are within 1200 metres of the site, the village centre is not. Indeed, the site is large and it is estimated that around 250 houses would not be within a 5 minutes walk of a bus stop.⁶⁹

5.4.5 The bus service is relatively frequent but there is only one route which would limit its attractiveness. Journey times to Leeds bus station in the am/pm peak are around 40 to 44 minutes. With a walk each end the Standard would not be met. Indeed, residents comment that actual times are much longer. A journey to the city centre is suggested to take 33-38 minutes but again with a walk each end the Standard would not be met. The nearest secondary school is well beyond walking distance and requires a bus change, thus failing the Standard. Reliance on a school bus is not sustainable. The 6 school buses to Otley only have a capacity for 30 children illustrating the impact on resources of having to bus them to schools remote from their homes.

5.5 Effect on the Highway Network

5.5.1 The Council’s objection to the proposal is that its impact on the highly congested A660 corridor would be unacceptable. The whole corridor, a primary radial into the city, is one of the two most congested corridors. Congestion currently adds over 100% to the journey time in both the am and pm peaks and traffic on the radial routes is anticipated to grow by 15% over the plan period, further increasing journey times by almost 20%. On the Appellant’s own figures the proposal would add 1067 vehicles daily onto the A660, an increase of over 7% and would add up to 7.9% (Lawnswood) and 13.5% (Farrer Lane) when regard is had to the busiest arms of the roundabout/junction. The suggestion that the Council’s objection should be dropped because the Appellant would only build at 40 dpa is laughable.⁷⁰

5.5.2 The Council intends to implement a new generation transport trolley bus scheme (NGT), if it secures consent and final funding. Consequently, the Appellant contends that impacts on the A660 corridor do not have to be considered. However, the NGT is not a commitment. It still has to receive its Transport and Works Act (TWA) decision and have its funding confirmed through two further stages. This is not a problem for the SAP as the NGT TWA outcome will be known by the time of the SAP EiP. Consequently the Appellant was asked in December 2013 to carry out assessments at two junctions south of the appeal site but has so far refused to do so. The result is that the Appellant cannot tell the SoS what the impact of the proposal would be and there is no alternative. This is surprising as the draft allocation of the site as a phase 3 site is subject to the express

⁶⁸ CD/A/3 Para 5.4.3, LCC/18 Para 124-125

⁶⁹ LCC/18 Para 142

⁷⁰ CD/10/Folder 5 4th tab, Table 1, 4.11-4.12, LCC/18 Para 145-150

requirement that it cannot be released until congestion on the corridor is mitigated by a scheme such as NGT.⁷¹

- 5.5.3 It is clear that the proposals should not come forward without the NGT in place which is the situation with the draft SAP.⁷²

5.6 Effect on the Character and Identity of Bramhope

- 5.6.1 CS Policy SP1(iii), which is consistent with paragraph 64 of the *Framework*, requires development to respect and enhance the local character and identity of places. The site, which is agricultural land, has an area of over 20 hectares and it is agreed that it contributes to the character and identity of Bramhope.⁷³

- 5.6.2 It was agreed that the countryside setting is important and the site is visible in public views, primarily from the A660, on the eastern side of the village. The view across the site from Breary Lane East is identified in the Bramhope Conservation Area appraisal as an important mid-distance view as the lane gives access to the Ebor Way. The *Village Design Statement* also identifies the importance of the countryside setting and refers to views towards Spring Wood. The site is characteristic of the Eccup Plateau where the management strategy is to preserve its open nature and protect it from suburbanisation.⁷⁴

- 5.6.3 The village has evolved and has been the subject of much development over the years. However, the eastern part of the village is furthest from the historic core and has retained a linear character along the A660 and Breary Lane East that would be lost due to the development.⁷⁵

- 5.6.4 The Council has identified the site as a phase 3 site. If that allocation is accepted in the SAP the site will be developed. It is correct that if that happens there will be some harm. However, the impacts have to be balanced against the development plan and *Framework*. The Council disagrees that the setting role is reduced because of the site's visual enclosure and this stance is supported by the *Conservation Area Appraisal* and the *Village Design Statement*.⁷⁶

5.7 Other Matters

- 5.7.1 A number of reports relating to Flood Risk Assessment, and ecological and tree surveys, have been submitted. Whilst some identify mitigation measures that would require conditions, none identify any measures that would justify refusing planning permission.

- 5.7.2 Affordable housing would be provided in accordance with policy requirements and the Council accepts that noise, archaeology and heritage matters have no implications for developing the site and would not provide a basis for refusing planning permission.⁷⁷

⁷¹ LCC/18 Para 143

⁷² LCC/18 Para 150

⁷³ LCC/18 Para 131

⁷⁴ CD/A/18, CD/A/29, LCC/16/B Para 6.9, LCC/18 Para 132

⁷⁵ LCC/18 Para 135

⁷⁶ LCC/18 Paras 133-134

⁷⁷ LCC/13/B Paras 4.6, 6.2 and 6.5

5.8 Section 106 Agreement and Conditions

- 5.8.1 At application stage, planning obligations were to be provided by an agreement or undertaking. A CIL was subsequently adopted in April 2015 and the CIL amount in this case would be £90/m² of residential floor space. However, some matters, affordable housing and a verification fee, a Metro Card contribution, an off-site works contribution, provision of cycle parking at Bramhope School, a Travel Plan and a review fee, and the reservation of land for a school still require to be addressed through the S106 procedure. A note setting out the justification for the measures in the Agreement in respect of the tests set out in *Framework* paragraph 204 has been submitted.⁷⁸
- 5.8.2 Through a process of iteration, the two main parties have agreed a list of suggested conditions for the Inspector's consideration against the tests set out in *Framework* paragraph 206.⁷⁹

5.9 Planning Balance

- 5.9.1 The overall planning balance will be affected by the situation in respect of HLS. The approach in Suffolk Coastal DC v Hopkins Homes Ltd [2016] EWCA Civ 168 should be followed. If there is no 5 year HLS the policies relevant to the supply of housing will be deemed out-of-date. UDPR Policy N34 is such a policy but even so the weight to be given to the policy, and its breach, is a matter of judgement reflecting consistency with the *Framework*, the purpose of the policy and potentially the degree of any housing shortfall. In this case, N34 is the only policy suggested to be out-of-date and it should be given very substantial weight.⁸⁰
- 5.9.2 The presumption against the development through Section 38(6) is very strong, regardless of whether there is a 5 year HLS. The benefits would to a large extent be generic and in any event would be provided if the SAP were allowed to run its course but in a comprehensive and balanced way. No case is made of any local need or benefit and no additional affordable housing is offered.⁸¹
- 5.9.3 The proposal would be contrary to, and undermine, the adopted CS and *Framework* paragraph 85. They deny the public expectation that PAS sites would be considered through a local plan review, to which the SoS gave very considerable weight in a *Gilden Way, Harlow* decision APP/N1540/A/11/2167480, a process already begun in Leeds.⁸²
- 5.9.4 The appeal would cause significant and demonstrated harm, through breach of the development plan, through undermining the plan led system, through predetermining decisions that are progressing through the due process, as well as the specific social and environmental harms caused by breaches of the spatial strategy and the settlement hierarchy, the lack of sustainability and accessibility relatively within Leeds, the harm to the

⁷⁸ CD/P/8A, CD/P/7, LCC/13/B Sect 8

⁷⁹ CD/P/6/C

⁸⁰ MHH/12/Paras 151-152, CD/L/8 Para 49

⁸¹ MHH/12 Para153 and 155

⁸² MHH/3/C App ID15, MHH/12 Para 154

environment, to the character of villages and the unsustainable strain on services, due to the scale of development and harm to the highway network.⁸³

- 5.9.5 The proposals would be contrary to the development plan and the issues raised in this appeal are most properly addressed through the plan-led system and the conclusion of the SAP. In these circumstances, however struck, the development would be unacceptable, unsustainable and should be refused.⁸⁴

6. The Case for Miller Homes

6.1. Introduction

- 6.1.1 In the Bramhope section of the Inquiry the Council called 3 witnesses, and the Appellant 3, as ecology evidence was not required. A number of interested persons also spoke. The 5 year HLS session for all three appeals received 3 days of evidence from 6 witnesses.⁸⁵
- 6.1.2 This gives rise to two observations. Firstly, there can be no basis for anyone, including the public, to contend they have not had an opportunity to be heard. The sites have been put under a microscope for three weeks and slots have been set aside for members of the public to comment. All planning points made have been addressed in evidence and submissions. Secondly, although the process is lengthy, the evidence of both sides has been tested in a thorough, fair and robust manner.⁸⁶

6.2 Assessment of Housing Land Supply

- 6.2.1 The basis for taking this decision is set out in the *Framework* and *Guidance*. *Framework* paragraph 47 requires an objective assessment of housing need in the relevant administrative district, in this case Leeds City Council, and then to identify and update annually a supply of specific deliverable sites. That is sites which not only can, but will, come forward for housing. Paragraph 47 is refined by the *Guidance* which requires robust, up-to-date evidence to support the deliverability of sites ensuring its judgements are clearly and transparently set out.⁸⁷
- 6.2.2 The adopted development plan sets out the housing requirement in CS Policy SP6. For the first 5 years, 2012 to 2017, the annual requirement is 3,660 units. For the next 11 years to 1 April 2028 the requirement is 4,700 units. An average over 16 years of 4,375 dwellings per annum.⁸⁸
- 6.2.3 *Framework* paragraph 49 states that relevant policies for the supply of housing will be considered out of date if the local planning authority cannot demonstrate a 5 year supply of housing. Paragraph 14 states that if relevant policies are out of date then permission should be granted unless any adverse impacts of doing so would significantly and demonstrably

⁸³ MHH/12 Para 155

⁸⁴ MHH/12 Paras 158 and 156

⁸⁵ MHH/12 Paras 1-2

⁸⁶ MHH/12 Paras 3-5

⁸⁷ BDW/8 Paras 4.10-4.10.3

⁸⁸ BDW/7 Paras 13.1-13.6

outweigh the benefits when assessed against the policies of the *Framework* taken as a whole.⁸⁹

- 6.2.4 There needs to be a balancing exercise, but within the parameter that there is a presumption in favour of granting permission. In doing that the Council needs to demonstrate that the harm from any grant would cause adverse impacts that would significantly and demonstrably outweigh the benefits. That is a high hurdle that is not met in these appeals.⁹⁰
- 6.2.5 Significantly boosting the supply of housing is of critical importance but the supply of housing land is fraught with difficulties as judgements have to be made about what will happen in the future. The Appellants' experts have consistently stated that Leeds over predicts supply. The experts' evidence in relation to 2015-16 was only 16 units out which is 99% accurate. In contrast the Council has a dismal record. Over the past 4 years of the CS requirement it has always got it completely and utterly wrong.⁹¹
- 6.2.6 It is agreed that the base line requirement in Leeds is 22,460. To that the shortfall must be added which is between 4,122-4,718 depending on which figure for empty homes is used. This shortfall has emerged during the lower requirement in the CS of 3,660 dwellings per annum that is set to rise to 4,700 a year in the coming years. The shortfall is to be met using the Sedgefield method with the full shortfall being met during 2016-2021.⁹²
- 6.2.7 A buffer, of either 5% or 20%, required by *Framework* paragraph 47, needs to be added to the requirement. The Council has missed its target in each of the last 7 years and its evidence is that they will fail for another two years. In the first three years of the CS there has been a failure to meet targets every year and 2015-16 looks as if it will be no different on current figures. The shortfall for the three CS years at the lower target of 3,700 amounts to the equivalent of almost a whole year without any delivery.⁹³
- 6.2.8 On past performance the buffer must be 20%. When the shortfall and the buffer are added to the requirement it comes to over 6,000 units in Leeds for the next 5 years. A daunting target. Statistics such as these prompted the SoS at Hardingstone to find a 20% buffer was required. All are agreed that the 20% buffer is not a punishment and would not require more houses in the plan period overall. 20% is justified because it is the only means, as paragraph 47 requires "...to provide a realistic prospect of achieving the planned supply".⁹⁴
- 6.2.9 It is agreed that the base requirement in CS Policy SP6 is 22,460. It is also agreed that the shortfall and buffer have to be applied to the base requirement. The Council's figure with 5% buffer and more empties would be 27,911 whilst the Appellants' figure with less empties and 20% buffer

⁸⁹ BDW/8 Paras 4.10.4-4.10.5

⁹⁰ BDW/8 Paras 4.11-4.14

⁹¹ BDW/8 Paras 5.1.1-5.3.3

⁹² CD/A/38A, BDW/8 Pra6.2.1-6.2.7, CD/A/3 Para 4.1.3, Table 1 p24, Map 3 facing p25, MHH/12 Paras 12-13, 16 and 6 BDW/7 Paras 13.1-13.62,

⁹³ BDW/7 Paras 13.7-13.11, BDW/8 Paras 5.4.1-5.4.4

⁹⁴ BDW/7 Paras 13.7-13.11, BDW/8 Paras 5.4.1-5.4.4

would be 32,614. That equates to either 5,582 or 6,523 but the Appellant's should be preferred as the Council relies heavily on empties with no evidential basis.⁹⁵

- 6.2.10 The requirement is a minimum as CS Policy SP6 seeks "at least" the requirement set. The magnitude of the task is shown by the fact that before this Inquiry Leeds best year of completions was 3,800 in 2008. It is also material to look at completion levels for comparative cities. None gets even close to a figure of at least 5,582 units per annum.⁹⁶
- 6.2.11 The position on supply is difficult as the timetable for adopting the SAP has not been met. Adoption is not now expected until at least December 2017. The best proxy is the December draft SHMAA 2015 but this is only a draft and is not finalised. Consequently there are a number of criticisms of the Council's assessment of housing land supply. Some of the sites will not deliver housing in the next 5 years and the document would not comply with Footnote 11 of the *Framework*, the *Guidance*, or the views of the Court in Wain Homes.⁹⁷
- 6.2.12 Secondly, the document has emerged with little involvement of the house building industry, despite the *Framework* requiring them to be involved. Effectively Leeds has given up on the house builders as it considers them to be too pessimistic.⁹⁸
- 6.2.13 Much turns on the Council's assertion that City centre sites will come forward, but in the past it has seriously overcalculated its area of supply. The volume house builders cannot bring forward viable development on City centre sites. Some low cost builders with a different financial model can and whilst new low cost builders might pick up some slack there is no evidence that all sites will come forward. The Private Rented Sector (PRS) will not in itself solve the problem. As a concept it has not delivered in the past but what is needed is certainty now.⁹⁹
- 6.2.14 The document also fails as there is a serious shortfall of supply in the next two years and it would not meet the requirement for 2016-17 and 2017-18. In addition it relies on sites, some 6,000 dwellings, which are not available now as there are other uses on them. Moreover there is speculative expectation of delivery of sites that do not have planning permission. Wain Homes determined that a factory that has not been derequisitioned was not available.¹⁰⁰
- 6.2.15 The supply would be dependent on a huge number, 18,000, city centre units. An over optimistic reduction factor of 16.8% alone means that a tipping point is reached on the Appellants' figures with a 20% buffer. The document is also dependent on 15,347 dwellings, almost half the Council's supply case, that do not have planning permission. If 15,347 dwelling are

⁹⁵ CD/A/38A, BDW/8 Paras 7.1-7.7

⁹⁶ LCC/11/B App 1, BDW/8 Paras 7.7-7.12

⁹⁷ BDW/8 Paras 8.1-8.4.1.3

⁹⁸ BDW/8 Paras 8.4.2.1-8.4.2.3

⁹⁹ BDW/8 Paras 8.4.2.4.1-8.4.2.4.5

¹⁰⁰ BDW/8 Para 8.4.2.4.6-8.4.4.3

removed then a tipping point is reached irrespective of which figures or buffer is used.¹⁰¹

- 6.2.16 Blanket lead in times based on site area have been used by the Council whereas the Appellants have used a more sophisticated approach, including speaking with house builders, that is to be preferred. In any event the estimate of supply does not conform with CD policies. The Farsley Inspector noted that the reliance on City centre sites would restrict delivery of affordable housing because policy only requires 5% in such locations. The distribution strategy SP7 would not be complied with because the vast majority of supply would be in just two areas.¹⁰²
- 6.2.17 There is an element of double counting of windfalls. The Council has included a 2,500 windfall allowance but has also included 764 houses approved post 1 April 2015. There is also an allowance for large windfalls but there is no such provision in the CS and no evidence to justify an amount of 500. Finally the introduction of national space standards and optional Building Regulations will affect the actual numbers that can be physically achieved on sites.¹⁰³
- 6.2.18 The position of the Council following the latest round table session is a supply of 34,160 dwellings. Unfortunately its approach does not meet the requirement for such sites to be robust and supported by evidence. Rather it is better characterised as if a site has a possibility of development then it must be considered in the supply. That leads only to a failure to hit the requirement which is what has happened far too often. The Appellants only accept around 55% of the Council's predicted supply. This would lead to it only having 2.87 years of supply if a 20% buffer is applied together with a proper assessment of supply.¹⁰⁴
- 6.2.19 The Council repeatedly falls back on the Farsley decision. However, there can be no doubt that if the Farsley Inspector had known that there would be two subsequent years of under supply he would not have found a 5 year supply. The Inspector was misled by the Council's evidence to conclude that the Appellants' evidence was 'pessimistic'. However, on the contrary it has been proven to be accurate.¹⁰⁵
- 6.2.20 The Council's delivery record for affordable housing is also poor and the target amounts to over 1,000 units a year. Delivery over the last 5 years is only around 49% of the SHMA requirement, a serious record of failure. There is therefore, a massive need for additional delivery for both market and affordable housing.¹⁰⁶
- 6.2.21 The need for additional delivery is even more marked since March 2016 as there is no development plan for delivery. The failure to produce an adopted SAP until December 2017 means there is no policy to set out how

¹⁰¹ BDW/8 Paras 8.4.5.1-8.4.6.2

¹⁰² BDW/8 Paras 8.4.7.1-8.4.8.3

¹⁰³ BDW/8 Paras 8.4.9-8.4.11.1

¹⁰⁴ BDW/8 Para 8.5

¹⁰⁵ BDW/8 Para 5.3.4

¹⁰⁶ BDW/7 Paras 13.11-13.13

delivery of any houses, never mind the magnitude required, will actually take place. Housing in Leeds is at breaking point.¹⁰⁷

- 6.2.22 The only hope offered by the Council is an expectation that the SAP will be adopted in December 2017. However, Leeds has failed to meet targets on any timetable and its optimism has always been misplaced. The only solution is to deliver housing now, not in December 2017 when even after the adoption of the SAP there will be a significant lead-in time. If the adoption of the SAP is awaited there would be no delivery until late 2018 early 2019.¹⁰⁸

6.3 Assessment Against Development Plan Policy

- 6.3.1 The 2009 SSD required completion of the development plan "promptly" but nearly 7 years later there is still no completed development plan in Leeds. The UDPR only makes housing land allocations up to 31 March 2016, whilst the CS indicates that it is not its role to identify individual sites and that the SAP will identify specific housing sites for 2012-2028. The SAP has not yet been adopted, or even submitted to the SoS for examination.¹⁰⁹

- 6.3.2 In 2001 and 2006 two UDP Inspectors tested the suitability of the site against the criteria in PPG2 Annex B and found it was: genuinely capable of development when required; located so as to promote sustainable development; and had regard to PPG3 Housing, PPG13 Transport, and environmental and landscape quality. The reasons for refusal ignore this development plan pedigree.¹¹⁰

- 6.3.3 Paragraph 14 of the *Framework* addresses the situation where the development plan is absent, silent, or where relevant policies are out-of-date. In those circumstances, permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the *Framework* as a whole or specific policies of the *Framework* indicate development should be restricted.¹¹¹

- 6.3.4 Having regard to Colman [2013] EWHC 1138 (Admin) and Bloor [2014] EWHC 754 (Admin) the text of UDPR Policy N34 must be compared to *Framework* paragraphs 49 and 197. UDPR Policy N34 is clearly inconsistent with paragraphs 49 and 197 of the *Framework* as it acts as an outright bar to development with no allowance for any counteracting benefits. The reference to safeguarded land is in the context of expecting to have an up-to-date plan. With an up-to-date plan there would be no need to release safeguarded land. That does not apply here because the SAP is silent. There is no development plan document for allocation of housing, the development plan is silent and *Framework* paragraph 14 is engaged. Moreover, if there is no 5 year HLS the obvious choice for

¹⁰⁷ BDW/7 Paras 13.14-13.16.4

¹⁰⁸ BDW/7 Paras 13.16.5-13.17

¹⁰⁹ CD/A/3 Para 4.6.14, MHH/12 Paras 9 and 35

¹¹⁰ CD/A/22 Annex B B2, B3, B4, MHH/12 Para 57

¹¹¹ MHH/12 Para 70, CD/A/1 Para 14

housing would be sites, such as the appeal site, safeguarded for that purpose.¹¹²

- 6.3.5 The Council confirmed that N34 is a policy for the supply of land and that it was drawn up under a different policy regime and is not in accordance with guidance. The UDPR expired on 31 March 2016 and there is no adopted development plan policy for housing allocation. Moreover the UDP policies relating to housing are time limited by the document itself as being "Over the period covered by the housing land policies of this plan (2003-16)." Despite this the Council was unable to concede that N34 is out of date although it confirmed that if a 5 year land supply could not be demonstrated then it would be.¹¹³
- 6.3.6 The argument that N34 is a Footnote 9 policy is misguided as those policies are intended to have long term effect, many are based in statute, and exclude housing use. By contrast N34 is expressly temporary in effect, controls land whose suitability has been assessed pursuant to PPG2 Annex B and during the intervening period protects against uses that would prejudice the uses of the land for development. N34 is, therefore, out of date on its own terms, inconsistent with Colman, and out of date on that basis, and is only relevant as far as the development plan history demonstrates the suitability of the site in terms of PPG2 Annex B criteria.¹¹⁴
- 6.3.7 The development plan is silent on where 66,000 dwellings should be located. Bloor [2014] EWHC 754 (Admin) found the development plan in that case was not silent because although there was no site allocation DPD to direct the delivery of 110 homes, there was a green wedge policy that prevented housing development on that site. This case differs as all 66,000 homes need to be allocated and there is no equivalent of the green wedge policy. There is only UDPR Policy N34 that is out-of-date due to being time expired, failing the test of consistency in *Framework* paragraph 215, and because policies for the supply of housing are out of date as there is no 5 year HLS. The development plan is clearly 'silent' on the facts of this case.¹¹⁵
- 6.3.8 The CS was adopted after the introduction of the *Framework* and is up-to-date. It is ambitious as "The level of growth expected to occur by 2028 within Leeds is greater than any other authority within England".
- 6.3.9 A Settlement Hierarchy is at the heart of CS Policy SP1: Location of Development. The policy uses the principle of settlement hierarchy to locate development in general terms. Whilst most development would be in the MUA, smaller settlements like Bramhope will "contribute to development needs". The site has been through the SAP process and has been determined to satisfy the criteria in SP1.¹¹⁶

¹¹² MHH/12 Paras 38-39, 58,60 and 71

¹¹³ MHH/12 Paras 59 and 72, CD/A/5 Para 7.1.3

¹¹⁴ MHH/12 Paras 45-46 and 73

¹¹⁵ MHH/12 Paras 10 and 61

¹¹⁶ CD/A/3 p27, MHH/12/Paras 132-133

- 6.3.10 CS Policy SP6 indicates that the Settlement Hierarchy will “guide” the identification of where 66,000 new dwellings would be located. In addition to the housing requirement, CS Policy SP6 sets out a number of considerations to aid identification of sites including:
- i) Sustainable locations (which meet standards of public transport accessibility) supported by existing, or access to new, local facilities and services,(including Educational and Health Infrastructure);
 - ii) Preference for brownfield and regeneration sites;
 - iii) The least impact on Green Belt purposes;
 - iv) Opportunities to reinforce or enhance the distinctiveness of existing neighbourhoods and quality of life of local communities through the design and standard of new homes;
 - v) The need for realistic lead-in-times and build-out rates for housing construction;
 - vi) The least negative and most positive impacts on green infrastructure, green corridors, green space and nature conservation; and,
 - vii) Generally avoiding or mitigating areas of flood risk.

Policy SP6 feeds directly into the SAP process. Although the Council’s highways department and development control challenge the site on accessibility and character, the site has already been assessed against SP6 and found to be compliant in the wider planning balance of the allocations process.¹¹⁷

- 6.3.11 CS Policy SP7 sets out the spatial strategy by allocating housing development to HMCAs. The Outer North West (ONW) HMCA has a requirement of 2,000 dwellings, 3% of the overall target. The SAP itself under delivers on this requirement by over 200 dwellings, over 10% of the HMCA target. Even if all Phase 1,2 and 3 sites were to proceed as planned the appeal site would comply with SP7. Indeed, its SAP capacity of 376 dwellings is nearly 20% of the HMCA requirement and it is essential that the scheme proceeds within the plan period. It is agreed that if the Council does not have a 5 year HLS then the immediate release of Phase 1 and 2 sites could not remedy that and Phase 3 sites would have to be released earlier than planned.¹¹⁸

- 6.3.12 CS Policy H1 commits the Council to maintaining a 5 year HLS. It also requires the SAP to phase the release of its allocations based on:
- i) Geographical distribution in accordance with SP7;
 - ii) Previously developed land targets (65% first five years and 55% thereafter;
 - iii) Locations that have the best public transport accessibility;

¹¹⁷ CD/A/3 SP6, MHH/12 Paras 14-18, 63-64 and 134

¹¹⁸ MHH/12 Para 135

- iv) Locations with the best accessibility to local services; and,
- v) Locations with least impact on Green Belt objectives.¹¹⁹

- 6.3.13 The appeal proposal would be compliant with the CS and its policies and should not be used to withhold planning permission. This conclusion brings the CS 'General Policy' into play which requires that proposals that accord with the CS "will be approved without delay unless material considerations indicate otherwise."¹²⁰
- 6.3.14 The Publication Draft SAP was published in September 2015, over two years after publication of the Issues and Options Plan that generated 7,000 representations. The realism of having a plan ready for submission to the SoS by December 2017 when the Draft SAP has generated 10,000 representations needs to be considered. Indeed, the SCG states that the Council consider that limited weight can be accorded to the emerging SAP whilst the Appellant considers that only very limited weight should be afforded to it.¹²¹
- 6.3.15 The only policy issue between the parties in terms of delivering the Bramhope proposals is that of timing. The phasing of sites has been determined by a comparative balance where Phases 1 and 2 are considered by the Council to be most compliant with CS Policies H1, SP1, SP6, and SP7. The site is allocated in the SAP as a Phase 3 housing site. It is therefore suitable for housing and is expected to deliver 376 units by the end of the plan period in 2018.¹²²
- 6.3.16 Indeed, the appeal site is critical to the Outer North West HMCA target of 2,000 by 2028. At a delivery rate of 40dpa the site would require nearly 10 years from start to completion ignoring lead-in times and reserved matters applications. Construction therefore needs to start in 2018, not some undetermined future date, to deliver in accord with the CS. Planning permission is required now.¹²³
- 6.3.17 It is the unanswerable case that planning permission should be granted as the proposal accords with the CS as interpreted by the Council itself. It is no answer to point to the SAP phasing policy as that has unresolved objections and can be afforded little weight until tested at EIP.¹²⁴
- 6.3.18 Turning to prematurity, the only issue is phasing. It was suggested that granting permission for the appeal scheme would deprive local residents of the opportunity to comment through the SAP EIP. That argument does not stand up when weighed against the following factors:
- i) The draft SAP has been to consultation and had some 10,000 responses some of which relate to the appeal site;

¹¹⁹ CD/A/3 Policy H1, Mr Elliot XE by App, MHH/12 Para 27

¹²⁰ MHH/12 Para 137

¹²¹ CD/L/4 Para 5.9, MHH/12 Paras 47 and 51

¹²² CD/A/25 pp362-363, MHH/12/Para 130-131

¹²³ MHH/12 Para 136

¹²⁴ MHH/12 Para 137

ii) The site is subject to a S78 appeal where residents and Councillors have had the opportunity to address the Inspector and they have availed themselves of that opportunity;

iii) The S78 appeal has exposed the site to greater scrutiny than it would have been under the SAP EIP as a phase 3 allocation; and

iv) The site has been considered previously in the public forum in 2001 and 2006 as part of the safeguarding process.¹²⁵

6.3.19 The prematurity argument is hopeless. In any event, the outcome sought by the Council, allocation and delivery of the site, is effectively what will happen if planning permission were granted.¹²⁶

6.4 Whether Occupants of the Proposed Development Would Have Acceptable Access to Shops and Services

6.4.1 The Council weighs compliance with the CS Accessibility Standards along with all other factors for potential sites and does not treat non-compliance with the Standards as an 'absolute' leading to rejection.¹²⁷

6.4.2 On a number of occasions the Council has granted planning permission for sites that do not reach full compliance with the Standards. Indeed, as the appeal site has been allocated in the SAP it has been deemed in principle acceptable in accessibility terms. It is common ground that the site complies with Criterion 1, Access to local services, and Criterion 3, Access to Primary Education/Healthcare.¹²⁸

6.4.3 It is accepted that the appeal site does not comply exactly with Criteria 2, Access to employment, 4, Access to secondary education and 5, Access to city/town centres, but the shortfall in compliance is marginal with a service every 20 minutes rather than the preferred 15 minutes. Indeed, the SAP Site Requirements sheet notes that "site layout and access points should maximise the accessibility of the site to public transport and local facilities."¹²⁹

6.4.4 The site scores well under the Standards and the shortfall of 5 minutes in bus frequency is not a justifiable reason for refusal as waiting a little longer for a bus can hardly amount to a "severe" problem in terms of *Framework* paragraph 32. The site is well served by public transport as recognised in the SAP allocation and is not unsustainable.¹³⁰

6.4.5 Significant benefits flow from the scheme and, when properly considered, no adverse impacts. Economic benefits include construction and retail jobs, National Homes Bonus, spend in the local economy and the provision of land for a primary school. In terms of social benefits, market housing would be provided in a location where demand is high and supply low, affordable housing would be provided, land would be provided for a school

¹²⁵ MHH/12 Para138

¹²⁶ MHH/12 Para139

¹²⁷ MHH/12 Para 144

¹²⁸ LCC/17/B Para 5.2.23, MHH/12/Para 144

¹²⁹ MHH/12 Para 145

¹³⁰ MHH/12 Para146

together with a community orchard, new allotments and a village green, and the vitality and viability of the village would be improved. Finally in environmental terms there would be ecological and bio-diversity benefits associated with the green infrastructure and the extension of Spring Wood. There would be less reliance on Green Belt sites to meet CS housing targets. There would also be a reduced reliance on the private car as a result of increased local shopping, Travel Plan measures, potential for increased provision of local school places and potential for patronage of the NGT or similar scheme once completed.

6.5 Effect on the Highway Network

- 6.5.1 As the appeal site is an allocated site it is agreed, in principle, that an appropriate access solution can be achieved and that access should come directly from the A660. There are two alternative access schemes relating to the site. The first was originally part of this appeal whilst the second is subject to a second appeal that has not been conjoined. The Applicant considers that both are acceptable but the second scheme, which is not before this Inquiry, is preferred by the Council. Consequently the parties agree that the most appropriate solution is to reserve access for later consideration rather than consider it at this Inquiry. It is agreed that site access, pedestrian crossings, trip rates and access to the proposed school are no longer in issue.¹³¹
- 6.5.2 The Council's remaining concern is the impact on the highways infrastructure at the Farrar Lane/Church Lane junction and at the Lawnswood roundabout should the NGT not go ahead. It is accepted that once the NGT North scheme, which is projected for completion in 2020, is complete the highway authority would not object to the proposal. This is one of the reasons for allocation as a Phase 3 site rather than an earlier phase. The Bodington Park and Ride proposal south of Bramhope on the A660 and the NGT would be attractive to those living in Bramhope.¹³²
- 6.5.3 Whilst NGT is not a commitment, the view is not pessimistic. If the DfT turns down the NGT it will be because the Council has exaggerated its benefits against costs. The CS requirement is for transport improvements in identified areas, one of which is the A660 corridor. The SAP Infrastructure Background Paper, September 2015, noted that funding of £572.9 million had been secured from the Local Growth Fund and that the West Yorkshire Combined Authority has secured funding of £1 billion for the West Yorkshire Plus Transport Fund. The Paper notes that LCC has a good track record of delivering major transport schemes.¹³³
- 6.5.4 The SAP paper notes that whilst NGT is the preferred option, if it does not go ahead LCC will implement an alternative scheme delivering similar benefits. NGT is a mechanism allied to the wider Park and Ride, the provision of which has not been questioned. An alternative in this location might be simply the provision of a conventional bus system. Moreover, the

¹³¹ CD//A/25 p373, MHH/12 Paras 142-143

¹³² MHH/12 Para 143

¹³³ CD/A/10.6, p96 Para 6.3, MHH/12 Para 148 and 152

improvements identified by the NGT, at Farrar Lane and Lawnswood roundabout, are capable of implementation without NGT.¹³⁴

- 6.5.5 The SAP Infrastructure analysis takes NGT for granted and there is no explanation as to why development control decisions should not do the same. In any event, despite concerns about congestion on the A660, the SAP considers that Outer North West HMCA Phase 1 and 2 sites can come forward in advance of NGT or its equivalent and it is agreed that the number of houses in those Phases which have the A660 as the most direct route into the City is 1055. The contention that they would have less impact as they are individually smaller sites is untenable as an additional trip along the A660 is an additional trip regardless of where it originated.¹³⁵
- 6.5.6 Whilst there are concerns about Farrar Lane/ Church Land and the Lawnswood roundabout, the former does not feature in the list of 70 worst junctions and Lawnswood is at no 45 with a peak delay of 6 minutes. The 'new' traffic on that junction from the appeal site would only be a small percentage. Even if it doubled the delay it would be roughly the average delay in the worst 30 junctions and the Council has not allowed delays to prevent development in those areas. Moreover imagining the doubling of delay ignores the benefits of requiring a Travel Plan, free Metrocard, use of Park and Ride, which it agreed will be in place, encouraging increased car occupancy through the Travel Plan and the provision of a new shop to reduce the need to use a car.¹³⁶
- 6.5.7 The Council's case has not relied on safety. Indeed, comparing the 2008 accident rate with more recent lower figures rebuts the Council's view that overburdened islands have higher accident rates. The issue is one of delay, not safety, and waiting for a few more minutes in a non NGT world would not be a 'severe' problem.¹³⁷
- 6.5.8 To ensure the appeal site is built out by 2028 development would have to commence prior to the anticipated completion of NGT in February 2020. At 40 dpa the site would need to start in 2018, and approximately 80 new houses would be built prior to NGT becoming operational. This is a small number and should not weigh against the grant of planning permission now to enable the site to meet its SAP delivery target. There would be no unacceptable burden on the highway network if planning permission were granted now, even if NGT were to fail.

6.6 Effect on the Character and Identity of Bramhope

- 6.6.1 The site has been subject to a Landscape and Visual Impact Assessment and the approach to methodology, scoping and findings are agreed as appropriate and satisfactory. The proposal does not breach the ridgeline as existing development in Bramhope sits higher than the appeal site. The site is largely screened by Spring Wood when viewed from the east and

¹³⁴ CD/A/10.6 p15 Para 1.53, CD/A/25 p373, MHH/12 Para 149

¹³⁵ MHH/12 Para 150

¹³⁶ MHH/12/Para 151

¹³⁷ MHH/12 Para 153

from the west is seen in the context of existing housing along Breary Lane East.¹³⁸

6.6.2 The site used to lie within the Green Belt until its removal and allocation as PAS land in the 2001 UDP. The Inspector commented on the screening and went on to state: "Views of the site can be obtained mainly from the A660 and from Breary Lane, These are indeed pleasant, but they are not of especial importance in themselves, neither do they define the visual character of Bramhope". Unsurprisingly the 2006 Inspector agreed with the continued allocation as PAS land and recently the Council allocated the site as a Phase 3 housing site in the SAP under Policy HG2 considering it capable of delivering 376 dwellings.¹³⁹

6.6.3 The Council's witness considered the site to be open, providing a transition between countryside and the built-up area, and providing a rural setting. This is contrary to the views of the UDP Inspectors, and the Council's decision to allocate the site as PAS in the UDP, UDPR and the SAP. The contention that the site plays a vital role in the character of Bramhope and should not be developed runs entirely contrary to the Council's own position in relation to the site.¹⁴⁰

6.6.4 The impact on walkers along Breary Lane to join the Ebor Way was raised. Whilst there would be change, they would have just passed through the built-up area and the transition to countryside would be delayed for a short while until the walkers enter a field with wide open views. This would be far from significant in the context of a long distance footpath some 90 miles long. The 2001 Inspector noted that "the loss of these views on one side of Breary Lane would not have a material effect on the quality of the footpath as a whole or even of shorter lengths". Additionally, the visual impact would be ameliorated by green infrastructure including a community orchard, village green and community allotments.¹⁴¹

6.6.5 In terms of scale, the proposal would significantly increase the size of the settlement. However, a historical development plan indicates that this is not a new phenomenon in Bramhope. In 1956-68 the village grew by a half to a third and in 1968-1991 a large estate increased the size of the village by around 25%. As the village has grown north and east the character has varied and the conservation area has five character areas. It is agreed that the proposal would not have an adverse impact on the Bramhope Conservation Area nor on designated or non-designated heritage assets. The village does not have a single distinct form and consequently is readily capable of accepting change.¹⁴²

6.7 Other Matters

6.7.1 The need for additional Affordable Housing in Leeds is acute and the most recent SHMA (2011) identified an annual need of 1,158 affordable dwellings. On the Council's latest figures 54% of overall delivery would be

¹³⁸ CD/P/4 Para 3.2, MHH/12/Para155-156

¹³⁹ CD/A/25 p363, MHH/12 Paras 157-158

¹⁴⁰ MHH/12 Para159

¹⁴¹ CD/A/4 Chapter 14 Para 318.6, MHH/12 Para 160

¹⁴² CD/P/4 Para 6.13, MHH/11/B Fig RT2, MHH/12 Para 161

in the city centre and inner area where only 5% of units would be required to be affordable. In these circumstances one might expect considerable weight to be attached to the delivery of Affordable Houses in Bramhope. The proposal would provide 133 affordable houses if 380 dwellings were built.¹⁴³

- 6.7.2 A Flood Risk Assessment report was submitted with the application. No flood risk or drainage matters have been identified that would justify refusing planning permission. It is agreed that there is no basis to refuse planning permission relating to noise subject to the attachment of certain conditions.¹⁴⁴
- 6.7.3 An extensive suite of ecological surveys and a detailed tree survey were submitted. On the basis of that information it is agreed that there is no reason to refuse permission in respect of effects on trees, flora or fauna¹⁴⁵
- 6.7.4 Similarly, an Agricultural Land Classification report was also submitted and it was agreed that on balance the appeal site has the least local impact on best and most versatile land when assessed against other potential urban extensions. There is no agricultural land quality reason for refusing permission.¹⁴⁶
- 6.7.5 There are no archaeological or heritage implications to developing the site, subject to conditions requiring further archaeological investigation. The Council has not identified any conflict with CS Policy P11: Conservation or saved UDP Policy N19: Conservation Areas. It is agreed that the proposal would not have an adverse impact on the Bramhope Conservation Area or designated and non-designated heritage assets.¹⁴⁷

6.8 Section 106 Agreement and Conditions

- 6.8.1 A signed Section 106 Agreement was submitted to the Inquiry which would provide for affordable housing, public transport, travel planning, off-site highway works, cycle parking at Bramhope School and reservation of land for a school. In the event permission is granted, CIL will be payable in accordance with the Council's Charging Schedule. Consequently, reason for refusal 7 no longer stands.¹⁴⁸
- 6.8.2 An agreed list of suggested conditions has been prepared by the parties and is a matter for the Inspector.¹⁴⁹

6.9 Planning Balance

- 6.9.1 LCC faces a housing crisis as, on its own figures, housing delivery has not reached the minimum requirement for the last 7 consecutive years, and nor will it for a further 2 years. This is against the background of having the largest housing requirement in the country. The site has been appraised over the long term and identified as a potential residential site.

¹⁴³ MHH/12 Paras 30 and 122, CD/A/3 Para 5.2.13

¹⁴⁴ CD/P/4 Paras 6.10- 6.11

¹⁴⁵ CD/P/4 Para 6.9

¹⁴⁶ CD/P/4 Para 6.12

¹⁴⁷ CD/P/4 Para 6.13

¹⁴⁸ CD/P/8A

¹⁴⁹ CD/P/6C

The site is allocated in the draft SAP for development in phase 3 and planning permission should have been given for a number of reasons:

- i) It comes under CS General Policy;
- ii) LCC does not have a 5 year HLS;
- iii) Framework paragraph 14 is in play as policies are out of date and the development plan is silent; and,
- iv) The proposal represents sustainable development.

The notion that any city could deliver over 11,000 units in a single year is absurd and over reliance on the, as yet untested, PRS model to solve the problem of delivery is naïve.¹⁵⁰

- 6.9.2 The appeal site is in a sustainable location. It is also compliant with the CS spatial distribution policy and would help meet the need for 2,000 homes in the Outer North West HMCA. The reasons for refusal have been thoroughly tested through the Inquiry process. There are clear economic, social and environmental benefits that stem from the proposal that far outweigh any adverse impacts identified and planning permission should be granted.¹⁵¹

7. The Cases for Interested Persons

- 7.1. At application stage, the 28 August 2014 report to the City Plans Panel states that there had been 866 representations relating to the proposal and summarises the issues raised. At appeal stage there were a number of written and oral representations made including those by Arthington Parish Council, Councillor Barry Anderson, George Hall, Sally Wilkinson, Hillary Harris, Bramhope Parish Council, Brenda Hawer, Graham Dewhurst, Helen Gordon, Peter Swift, E M Swift, Margaret MacKay, Judith Roberts, B R Wilson, Colin Fairburn, Mrs Sandra Fairburn, Mrs Patricia Wilson, Mr Christopher Wilson, Mr James Cooper, Mrs Sheila Jones, Greg Mulholland MP, Brian Ablett, Andrew Russell, Dr John Frazer, W H Mordy, Joyce Creswick, Tony Mulligan and Councillor Rachel Proctor.¹⁵²
- 7.2. The submissions generally reflect the issues identified and aired at the Inquiry except that a number of members of the public mentioned flooding /drainage and ecology as concerns although they were not raised as reasons for refusal by the Council. It is notable that there is now no objection from many consultees including, the Environment Agency, Flood Risk Management, Yorkshire Water, and the West Yorkshire Archaeology Advisory Service, albeit subject to conditions and/or additional information in some cases. No new matters have been raised that would justify a recommendation other than that reached in this report.¹⁵³

¹⁵⁰ MHH/12 Para 170-171

¹⁵¹ MHH/12 Paras 172-173

¹⁵² CD/O/2

¹⁵³ CD/O/2

8. The Inspector's Conclusions

8.1. Introduction

- 8.1.1 Matters in dispute were highlighted when the Inquiry opened. I consider that the main considerations are: whether the Council has a 5 year HLS; whether the proposals conform to the development plan policies; whether occupants of the proposed development would have acceptable access to shops and services; the effect on the highway network; the effect on the character and identity of the village; and, other matters including affordable housing.
- 8.1.2 Under the UDPR the site was designated as a Protected Area of Search (PAS) and Bramhope is a Smaller Settlement within the CS settlement hierarchy. The SAP, which will resolve the Council's view as to which PAS sites should be included on the basis of their planning merits, identifies the site as a draft phase 3 allocation. This accords with CS policies and meeting the Council's housing delivery and locational strategies.^[5.1.1]

8.2 Assessment of Housing Land Supply

- 8.2.1 *Framework* paragraph 47 sets out the objective of significantly boosting the supply of housing. Local plans are required to ensure that the full objectively assessed needs (FOAN) are met for both market, and affordable, housing. There is also a requirement to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years of housing against the housing requirement with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.^[5.2.1, 6.2.1]
- 8.2.2 It is common ground that the most appropriate period for consideration of the 5 year requirement is 1 April 2016 to 31 March 2021. The annual requirement derives from CS SP6 and is a minimum figure. For the first 5 years of the Plan, 2012 to 2017, the annual requirement is 3,660 units whilst for the next 11 years to 1 April 2028 the requirement will be 4,700 units. It is agreed that the base requirement is 22,460 in this case (1 year at 3,660 + 4 years at 4,700).^[5.2.1, 6.2.2, 6.2.6, 6.2.10]
- 8.2.3 Any shortfall, and a buffer, needs to be added to the requirement. The *Guidance* sets out that local planning authorities should aim to deal with any undersupply in the first 5 years of the plan period where possible. It is agreed in this case that the shortfall is to be met using the 'Sedgefield method' with the full shortfall being addressed during 2016-2021.^[5.2.3, 6.2.6]
- 8.2.4 There is common ground on completions against targets, except in relation to empties where there is disagreement for empties in 2015-2016. The agreed undersupply for 2012-2015 is 3,758.^[6.2.6, 6.2.9]
- 8.2.5 The disputed figure for empties has been compiled in the same way as other years, which are accepted by the Appellant, and is the same number

as that submitted to Government in relation to payment of New Homes Bonus. The base data involves individuals' Council Tax information and so cannot be disclosed. However, I see no reason to doubt the Council's figure which sits within the range of annual empties figures.^[5.2.4]

8.2.6 *Framework* paragraph 47 requires a buffer, of either 5% or 20%, to be added to the requirement but the parties disagree as to which. The higher buffer is required where there has been persistent undersupply. However, the *Guidance* states that identifying a record of persistent undersupply is a matter of judgement. There is no universally applicable test but it goes on to state that assessment of local delivery is likely to be more robust if a longer term view is taken.^[5.2.5, 5.2.8, 5.2.6, 6.2.7]

8.2.7 In five pre-recession years, from 2003/4, the requirement rose from 1930 to 2260 and there was an oversupply of around 5,000. In the three following recessionary years, the adopted targets were 2,260 and 4,300. The latter a step-up under the Regional Spatial Strategy. Against the lower figure supply exceeded the target by 643 whilst against the RSS, the requirement in which it is now acknowledged was unrealistic, there was an undersupply of 7,517. In the recovery/CS period 2012 to 2016 the requirement was 3,660 and there has been a cumulative undersupply of 4,122. Only when the RSS target is included is a cumulative undersupply shown for the housing market cycle. Whilst the Council considers that no weight should be given to the RSS target as it would be a meaningless exercise, to ignore it in favour of a lower requirement would produce a flawed assessment. The RSS figure was that adopted at the time and it was found to be incorrect only in hindsight. I do not consider that it should be ignored but the weight afforded to it should be significantly reduced.^[5.2.8, 5.2.9]

8.2.8 Notwithstanding that, an alternative approach, albeit that it does not cover a full financial cycle, is to consider performance against the CS. Whilst this does not follow the approach of the Bagley Lane Inspector which the Council endorses, it would reflect the *Guidance* which states that there is no universally applicable test. It would reflect the best available local evidence. The Housing Requirement is large and was adopted to be ambitious. It has not been met, albeit that completions are increasing.^[5.2.13]

8.2.9 The Council has missed its target in each of the last 7 years and its evidence is that it will fail for another two years. In the first three years of the CS there has been a failure to meet targets every year and 2015-16 looks as if it will be no different on current figures. The shortfall for the three CS years at the lower target of 3,700 amounts to the equivalent of almost a whole year without any delivery. I consider this demonstrates persistent undersupply indicating that a 20% buffer should be applied.^[6.2.7]

8.2.10 The Council maintains that the purpose of the buffer, which is to ensure choice and competition and, in the case of the 20% buffer, a realistic prospect of the planned supply being achieved, should be considered. I disagree that the application of a 20% buffer would have the opposite purpose to that suggested by the *Framework*. It would advance supply, such as PAS land, from later in the Plan period. There is a large volume of

permitted residential development in Leeds and large areas of Inner Areas and City Centre are available for development. The issue would, therefore, appear not to be due to an absence of competition and supply. However, there is little evidence that undersupply can be laid at the door of the volume house builders seeking to build other than in accordance with the Council's adopted strategy.^[5.2.14]

- 8.2.11 On past performance the buffer must be 20%. Indeed, even the Council accepts that if there was an under supply next year it could properly be considered a 20% authority. When the shortfall and the buffer are added to the requirement it comes to over 6,000 units in Leeds for the next 5 years. Similar statistics prompted the SoS at Hardingstone to find a 20% buffer was required. All are agreed that the 20% buffer is not a punishment but it is justified because it is the only means, as *Framework* paragraph 47 states "...to provide a realistic prospect of achieving the planned supply".^[6.2.8]
- 8.2.12 The Council's requirement figure assuming 5% buffer would be 27,911 whilst the Appellants' figure based on a 20% buffer would be 31,898. That equates to either 5,582 or 6,379 units required annually for the 5 year period.^[6.2.9]
- 8.2.13 The shortfall has emerged during the lower requirement in the CS of 3,660 dwellings per annum which is set to rise to 4,700 in the coming years. The size of the task is shown by the fact that prior to the Inquiry Leeds's best year for completions was 3,800 in 2008. No other authority gets close to a figure of at least 5,582 units a year.^[6.2.6, 6.2.10]
- 8.2.14 Turning to supply, sites are promoted through both the SHLAA and SAP processes. The Council then forms a view on sustainability, availability and achievability. The SHLAA relies on sites promoted through the SAP which raises a rebuttable presumption as to deliverability.^[5.2.19]
- 8.2.15 The SHLAA is based on an enormous amount of information resulting from an iterative process but is a snapshot in time. In Leeds there is a large number of sites, many relatively small. The 2015 SHLAA, from which the 5 year supply is derived, follows the same methodology as the 2014 SHLAA which was the subject of considerable consultation with the development industry. Differences between the parties have led to there being little consultation between the volume house builders and the Council on the 2015 SHLAA despite the *Framework* stating that the input of the development industry is important.^[6.2.11, 6.2.12]
- 8.2.16 The Council's adjusted 5 year supply position following the round table sessions is 34,160 units, marginally over the 5 years requirement of 31,898. A reduction of 2,262 units would lead to a tipping point where the housing supply would become less than 5 years. Rather than being robust and supported by evidence, the Council appears to add sites to the list when there is only a possibility of development. The Appellants only accept around 55% of the Council's predicted supply. This would lead to it only having 2.87 years of supply if a 20% buffer is applied together with the Appellant's assessment of supply. I consider the true position would be between the two but much closer to the Appellants.^[6.2.18]

- 8.2.17 Neither main party suggests that the decision maker should analyse every site and reassess them against the Footnote 11 test. The 'tipping point' note is acknowledged as helpful as it shows the 'safety margin' within the assessed supply. If the Council's figures in relation to completions is accepted then with a buffer of 5% there would be a safety margin of 6,249 following the round table session. With a 20% buffer, which I consider justified, the safety margin would be only 2,262.^[5.2.23]
- 8.2.18 *Framework* Footnote 11 states that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is no longer clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units, or sites have long term phasing plans.^[5.2.16]
- 8.2.19 The issues have narrowed as the Appellant does not claim that any sites are unviable. Viability assessment of sites in the city centre and inner areas for the Council indicates that a significant proportion would be viable, albeit not achieving the profit margins sought by the volume house builders. House price growth is now 6.5-7.5% in the city centre and inner areas.^[5.2.21]
- 8.2.20 *Guidance* is clear that the need for robust evidence in support of the SHLAA and 5 year supply means that the Council's assessment of a site as deliverable must be capable of being explained and evidenced. The Council assesses 30,385 units as deliverable but the realism of this view needs to be considered against the failure over a number of years to meet targets that have turned out to be optimistic, not realistic.^[5.3.23]
- 8.2.21 *Guidance* addresses Footnote 11 issues. Sites would be considered available when there is confidence that there are no legal or ownership problems. Where there are problems an assessment of when they could realistically be overcome must be made. Achievability is a judgement about viability and the timescale within which a site is capable of development. Sites should not be 'assumed' to be deliverable. The Council contends that it has considered each site against the Footnote 11 tests. Paragraph 47, refined by *Guidance* requires robust, up-to-date evidence to support the deliverability of sites ensuring its judgements are clearly and transparently set out. The judgements need to be realistic not optimistic. The Appellants' expert's evidence in relation to 2015-16 was only 16 units out, which is 99% accurate, whereas over the past few years of the CS requirement the Council has consistently got judgements wrong and under supplied. I therefore prefer the evidence of the Appellants.^[6.2.5]
- 8.2.22 Differences raised by the Appellant in relation to the SHLAA were considered at the Bagley Lane Inquiry. I agree that allocations, permissions, and the 5 year supply should reflect the CS policy focus on the City Centre and Inner Area. The Council maintains that around 18,000 City Centre sites will come forward. The volume house builders cannot

bring forward viable development on City Centre sites although some low cost builders with a different financial model can and would. [5.2.20, 6.2.15]

- 8.2.23 Whilst new low cost builders might pick up some slack, and the provision of City Centre sites would be assisted by regeneration projects, the emerging market for the private rental sector (PRS), the activity of low cost builders and improvements at Holbeck Urban Village, there is little evidence that all sites will be built out. Certainty is needed but the Private Rented Sector (PRS) has not delivered in the past. An 'over optimistic reduction' factor of 16.8% alone means that a tipping point would be reached on the Appellants' figures with a 20% buffer. [5.2.33, 6.2.15]
- 8.2.24 The Council repeatedly falls back on the Bagley Lane, Farsley decision. However, despite that judgement indicating that there was no error in law in the approach to housing land supply, the planning context has changed in the intervening period. Farsley was a different snapshot in time, the Interim Housing Supply Policy has since been withdrawn, the CS has been adopted, and undersupply has taken place for longer. Rather than being 'pessimistic', the Appellants view has been proven to be reasonably accurate and it is the Council's view that has proved to be overly optimistic. [6.2.19]
- 8.2.25 The position on supply is difficult as the SAP will not be adopted until at least December 2017 and the best proxy, the December draft SHMAA 2015, is not finalized. There is a serious shortfall of supply in the next two years. Moreover, the document is dependent on 15,347 dwellings, roughly half the Council's supply case, that do not have planning permission. If 15,347 dwellings are removed then a tipping point is reached irrespective of which figures or buffer is used. There is also a reliance on some sites, with around 6,000 dwellings, that are currently in other use.
- 8.2.26 Sources contributing to the Council's 5 year supply following the round table sessions consists of:
- i) 30,385 units on identified sites (15,347 of which do not have planning permission);
 - ii) 2,500 smaller windfalls over 5 years;
 - iii) 1,000 empty homes over 5 years;
 - iv) Minus 225 demolitions over 5 years; and,
 - v) 500 large windfalls over 5 years. [5.2.15]
- 8.2.27 Items ii) to v) are mainly agreed but in any event the figures are relatively insignificant compared to the numbers of units on identified sites. However, their acceptance adds to the robustness of the numbers. In addition, the introduction of national space standards and optional building regulations will affect the actual numbers that can physically be accommodated on sites. [5.2.15]
- 8.2.28 It is acknowledged that 16,571 units with planning permission derive from the 2015 to 2020 SHLAA whilst the equivalent figure in the 2016-21 trajectory is 14,770. In the absence of clear evidence that the permissions

would not be implemented in the 5 year period all these must count, although in reality some of these sites would 'fall by the wayside' and others would be brought forward. The main challenges relate to the achievability of sites or whether there is a realistic prospect of houses being delivered in the 5 year period.^[5.2.17]

- 8.2.29 Differences between the parties on delivery rates and lead-in times are matters of judgement and different views have been reached. The up-to-date 5 year supply covers the period 2016-21, not 2015 to 2020, consequently lead in times have been reconsidered. It is agreed that either site specific information, as favoured by the Appellant, or standardised information based on averages from other sites, as used by the Council, may be used. The Council's standardised delivery rate for houses is 78 dpa whilst the volume house builder's rate is 50. Likewise there is a difference in views about the realistic figure for flats although the Council accepts that a difference of view may not be unreasonable. Some differences were highlighted.^[5.2.28, 5.2.29]
- 8.2.30 A number of sites such as 649 Charity Farm are Council owned and the Council is brokering the sale of the land, which has been specifically assessed as representing a profitable housing opportunity. However, no evidence of developer interest has been provided for this Phase 3 UDPR site with no planning history. There is a difference between the parties of 60 units which I consider reflects the Council's strong optimism.^[5.2.24, 5.2.27]
- 8.2.31 Reference has been made to the Wain Homes judgement and sites in other uses. The inclusion of a site in the SHLAA or SAP provides some evidence of deliverability as the Brickyard Lane decision APP/E2001/A/13/2200981) illustrates but is not in itself necessarily evidence of achievability and availability.^[5.2.18, 5.2.24, 6.2.11]
- 8.2.32 A number of examples were highlighted. Site 445 Jack Lane/Sweet Street is a flat brownfield site in the city centre that is close to Holbeck Urban Village and has been sold to a developer. It is actively being promoted for development and no abnormal costs or impediments have been identified. However, although it had an outline consent for residential it is in active use as a car park. Lead in times, including extinguishing the car park use if necessary and addressing reserved matters, means that there would not be an immediate realistic prospect of housing delivery. There is a difference between the parties of 296 units again reflecting the Council's optimism.^[5.2.24]
- 8.2.33 Another example is Quarry Hill, site 200-411, which has also been in temporary use as a car park. The viability of the site is not in issue and it has recently been promoted for mixed use including 715 flats. Moreover it has an outline planning permission, was acquired by a developer in conjunction with Moda Living in 2015 and an newspaper article notes the intention to develop from early 2017 with the first homes ready to rent by 2019.^[5.2.25]
- 8.2.34 Notwithstanding this, the agent has indicated a 10 year delivery programme with no certainty over which elements would come forward first. Moreover a multi storey car park is required for WYP before any residential development can take place. Even though Leeds city centre is

now the regional target for growth in the PRS sector there must be significant doubt over how many units would be completed in the 5 year period and there is a difference of about 600 units between the parties.^[5.2.24, 5.2.25]

- 8.2.35 Finally, East Leeds Extension is the largest single location in the district and is stated to be central to the SAP. It is a greenfield site in a very high value area and will offer a wide range of unit types. The total capacity across the plan period to 2028 is 4,446. It is an example of where infrastructure has been considered alongside development. Given the scale of the site the Council considers that it would be reasonable to assume 50 dpa, below the average build out rates, but to assume a number of outlets.^[5.2.30]
- 8.2.36 However, the Appellants' witnesses are agents for the majority of land owners involved. Delivery rates have been sought direct from the developers, there are no live applications in the middle or southern sections of the site, and the current application has been with the Council for 4 years. 20% of the site covered by live applications is in the control of Persimmon who will be the only party that could submit reserved matters applications once outline application and Section 106 matters are resolved. Parcels of land in separate ownership are yet to be marketed and there is a requirement for infrastructure that has not been delivered and will take time. In East Leeds as a whole the difference between the parties is 1,115 units. The Appellants' approach has been branded as pessimistic as they only include 365 units for the East Leeds Extension but in my view the approach is realistic compared to the highly optimistic approach of the Council.^[5.2.30]
- 8.2.37 Another difference between the parties appears to be the prospect of delivery by the PRS model. An example of the model is the Dandara scheme in Holbeck Urban Village (Site 407). Although the Appellants consider this a fringe site with doubts about funding and commitment, the site has planning permission, the developer is on site and has committed to deliver the units within two years of commencement.^[5.2.33]
- 8.2.38 In the MUA and inner areas there is a wide range of developers active in the market. Both the primary and secondary markets are attractive to developers and investors alike and even in tertiary areas there is an active land market with specialist developers keen to acquire more. The Appellants' concern, albeit based on three letters that also outline expansion plans, is the capability of developers in this tertiary market to increase capacity. The lack of capacity in the specialist low cost market could affect the 5 year supply as specialist developers are a finite resource. A different view was reached at Bagley Lane but I am not aware of the evidence that conclusion was based on.^[5.2.31]
- 8.2.39 The need for additional delivery is even more marked since March 2016 as there is no longer a development plan for delivery. The failure to produce an adopted SAP until December 2017 means there is no policy to set out how delivery of any houses, never mind the magnitude required, will actually take place. The only hope offered by the Council is an expectation that the SAP will be adopted in December 2017. However, Leeds has failed

to meet targets in the past. Although accused of being pessimistic I consider that the house builders have been realistic. The resultant figures are not definitive, but they clearly indicate that the safety margin of 2,262 is soon whittled away when realism is applied. I consider that it is the Council which has been overly optimistic and has failed to demonstrate a robust 5 year housing land supply. The solution is to deliver housing now, not in December 2017 when even after the adoption of the SAP there will be significant lead-in times with no delivery likely until late 2018 early 2019. Even considering the cumulative number of dwellings in Appeals A, B and C would have no material bearing on my conclusions concerning supply [6.2.21, 6.2.22]

- 8.2.40 The Council's delivery record for affordable housing is also poor and the target amounts to over 1,000 units a year. Delivery over the last 5 years is only around 49% of the SHMA requirement, a serious failure. There is, therefore, a significant need for additional delivery of both market and affordable housing. [6.2.20]
- 8.2.41 The proposals would make a contribution to affordable housing as part of the strategy to meet the area's needs over the plan period. However, the housing strategy relies on centre and inner area sites which compared to the appeal proposal would effectively restrict the delivery of affordable housing because policy only requires 5% in such locations whilst some sites will provide no affordable housing at all Whilst the proposals would only provide affordable housing in accordance with development plan policies, such provision should be welcomed. [5.7.1, 5.7.2, 6.7.1, 6.7.2, 6.7.3]

8.3 Assessment Against Development Plan Policy

- 8.3.1 Section 38(6) of the *Planning and Compulsory Purchase Act 2004* indicates that determinations under the Planning Acts should be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan in this case includes the saved provisions in the UDPR 2006 and the CS adopted in November 2014. The proposal should be considered against the development plan as a whole, and the *Framework* is also a material factor to be considered. [4.1, 6.3.1]
- 8.3.2 As I have concluded that there is no 5 year HLS, *Framework* paragraphs 49 and 14 must be applied. I consider that UDPR policy N34 is a policy for the supply of Housing, as did the Inspector in the Farsley case, and as there is no HLS the policy cannot be considered up to date and paragraph 14 must be considered. The Council considers that paragraph 85 is a specific policy under *Framework* Footnote 9 that indicates that development should be restricted. However, rather than being a restrictive policy paragraph 85, at bullet points three and 4, specifically indicates that safeguarded land, whilst not allocated at the present time, is to meet longer term development needs. It is not, therefore, restrictive, on the contrary it envisages development. The test that then applies is whether any adverse impacts of granting permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* as a whole. The conclusion of this test will be a material consideration to be weighed in the balance when considering whether material considerations

exist to outweigh the presumption in favour of the development plan in accordance with Section 38(6).

- 8.3.3 At the time the Council reached its decision on this proposal, an Interim Housing Delivery Policy was in place. However, that Policy was withdrawn in February 2015 due, in part at least, to the stage reached by the SAP process, and the adoption of the CS. The SAP will resolve the Council's view as to which PAS sites should be included on the basis of their planning merits. Consequently, assessment against the Interim Policy was not appropriate and the proposal was taken back to the Plans Panel for assessment in the light of the current policy context. The amended reasons for refusal are the outcome of that reassessment and, although the Appellants expressed some 'unease' at the revised reasons for refusal, the evidence at the Inquiry addressed the amended position. I do not, therefore, consider that anyone has been disadvantaged by considering the revised reasons for refusal.^[4.1]
- 8.3.4 The 2009 SSD required completion of the development plan "promptly" but nearly 7 years later there is still no completed development plan in Leeds.^[6.2.1]
- 8.3.5 UDPR Policy N34, which was saved, is the most relevant UDPR policy in this case. It addresses PAS sites and indicates that they will be reviewed as part of the local plan process. A comparative SAP process is underway to address the delivery of housing in the District. The explanatory text sets out the purpose of Policy N34 as "to achieve now a definition of the Green Belt and its boundaries which will survive 'well into the next century'". Importantly the text goes on to say "ie beyond the Plan period for land use allocations (which is approximately to 2006)". It also states "It is intended that no development should be permitted on this land that would prejudice the possibility of longer-term development, and any proposals for such development will be treated as departures from the Plan".^[5.3.3]
- 8.3.6 There are four reasons why an incomplete development plan might be important.
- i) The development plan might be silent as to where housing allocations might go;
 - ii) UDPR Policy N34 might be out of date as it relates to a period of time that has now passed;
 - iii) UDPR Policy N34 might be out of date if it fails the test of consistency with the Framework; and
 - iv) UDPR Policies for the supply of housing might be out of date as there is no 5 year HLS.
- 8.3.7 In 2001 and 2006 the UDP and UDPR Inspectors tested the suitability of the site against the criteria in *Planning Policy Guidance 2: Green Belts* Annex B and found it was: genuinely capable of development when required; located so as to promote sustainable development; and had regard to PPG3 Housing, PPG13 Transport, and environmental and landscape quality.^[6.3.2]

- 8.3.8 The approach to sustainability as set out in the *Framework* is now different. A local plan review is underway and to grant permission now would be contrary to *Framework* paragraph 85 and UDPR Policy N34.^[5.3.5]
- 8.3.9 The Council states that it does not intend to allocate all the PAS sites but does intend to release a substantial amount of Green Belt land. That is endorsed by the CS, which has been found to be sound and compliant with the *Framework*. The large housing requirement makes it unsurprising that both Green Belt and non-Green Belt land will be required and a full review would enable the most sustainable to be identified.^[5.3.6]
- 8.3.10 The Council considers that the proposal deliberately steps outside the planned system by seeking the release of the site for housing whilst it is under consideration for such a use through the SAP process. I agree that only the SAP process, and not a Section 78 appeal, can allow for the relative assessment of a large number of competing sites. In a Section 78 appeal the proposal has to be considered on its planning merits against development plan policies.^[5.3.1]
- 8.3.11 The Council confirmed that N34 is a policy for the supply of land, a conclusion also reached by the Farsley Inspector who concluded that it could be considered up-to-date in the context that pertained at that time, including the existence of a 5 year land supply. However, the SoS decision has since been quashed in its entirety. The UDPR Plan period was 1998 to 2016 and Policy N34 was not at that point time expired. That context has since changed as the Plan period for land use allocations ended in March 2016. UDP policies relating to housing are time limited by the document itself as being "Over the period covered by the housing land policies of this plan (2003-16)". The Policy is therefore now out of date.^[5.3.2, 6.3.5]
- 8.3.12 The CS indicates that it is not its role to identify individual sites and that the SAP will identify specific housing sites for 2012-2028. The SAP has not yet been adopted, or even submitted to the SoS for examination. Policy N34 is now time expired.^[5.3.18]
- 8.3.13 The use of UDPR Policy N34 to prevent development would be contrary to the *Framework*. In addition, as N34 is a policy for the supply of housing, in the absence of a 5 year HLS the provisions of *Framework* paragraph 49 would apply. This states that relevant policies for the supply of housing will be considered out of date if the local planning authority cannot demonstrate a 5 year supply of housing. Paragraph 14 states that if relevant policies are out of date then permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the *Framework* taken as a whole.
- 8.3.14 The Council maintains that UDPR Policy N34 is not out of date but that conflicts with the subsequent conclusion of the Boston Spa appeal Inspector who notes that the Council "acknowledges that it needed to release sites beyond those in the UDPR and in advance of the Core Strategy, and sought to do so in a controlled way using the Interim Policy. However, that approach indicates that Policy N34 and, thus, the provision of housing land within the UDPR were out of date". I concur with this view, as did the SoS.

- 8.3.15 Paragraph 14 of the *Framework* addresses the situation where the development plan is absent, silent or where relevant policies are out-of-date. In those circumstances permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the *Framework* as a whole, or specific policies of the *Framework* indicate development should be restricted.^[6.3.3]
- 8.3.16 The written justification for N34 indicates that any proposals for long term development “will be treated as departures from the Plan”. This is reinforced by the UDPR Inspector who stated “the Policy does not and should not contain a presumption in favour of long-term development of these sites as firm decisions as to whether they should or should not be allocated for development cannot and should not be made until such time as the present plan is reviewed.”^[5.3.3]
- 8.3.17 The purpose of the PAS land is to protect the Green Belt by providing a generous amount of land for long term development. This has already taken place, which is not to say that every PAS site is suitable for housing development. The application of the Policy does not, therefore, indicate permission should be refused. However, to grant permission now would pre-judge the outcome of the SAP process in relation to some sites, and so would to some extent undermine it. The need for housing means that this would have to be weighed in the planning balance.
- 8.3.18 Having regard to Colman [2013] EWHC 1138 (Admin) and Bloor [2014] EWHC 754 (Admin) in the context of consistency with the *Framework*, the text of UDPR Policy N34 should be compared to *Framework* paragraphs 49 and 197. Although the Appellant considers that the policy is inconsistent with those paragraphs of the *Framework* as it acts as an outright bar to development with no allowance for any counteracting benefits, the explanatory text requires a review of the site’s suitability which seems to me to be an allowance for counteracting matters to be weighed.^[6.3.4]
- 8.3.19 The reference to safeguarded land in Framework paragraph 85 is in the context of expecting to have an up-to-date plan. With an up-to-date plan there would be no need to release safeguarded land. That does not apply here. There is no development plan document for the allocation of housing, the plan is silent and *Framework* paragraph 14 is engaged. Moreover, if there is no 5 year HLS the obvious choice for housing would be sites safeguarded for that purpose.^[5.3.15]
- 8.3.20 I note the Council’s view that the consequence of the Appellants’ approach is that any authority without an allocations plan would have a silent development plan. That might be the case if there is no allocation of sites elsewhere but each case should be considered on its merits. Whilst development plan decisions have been made, as is the case in this report, that is not the same as allocating sites.^[5.3.15]
- 8.3.21 The *Framework* notes that sites should be assessed through a local plan review. UDPR Policy N34 is consistent with Framework paragraph 85 in that respect. Reference has been made to Colman v SSCLG [2013] EWHC 1138 but that case did not consider a safeguarding policy. However, N34 is out of date and inconsistent with Colman. It is only relevant as far as

- the development plan history demonstrates the suitability of the site in terms of PPG2 Annex B criteria. Reference has been made to Bloor [2014] EWHC 754 (Admin) but this case differs from that as there is no equivalent of the Bloor green wedge policy.^[6.3.7]
- 8.3.22 The Council accepts that in the absence of a 5 year HLS, and in light of the Hopkins judgment, UDPR Policy N34 would be out of date but there remains the question of what weight to give it given any consistency with the *Framework* and its objectives. As the policy is time expired I consider that it should only be given little weight.^[5.3.19]
- 8.3.23 Any adverse impacts due to the development should be balanced against the benefits of granting planning permission now to see if they significantly and demonstrably outweigh them leading to a presumption in favour of sustainable development.
- 8.3.24 The CS is up-to-date. It was produced after the *Framework* and was found to be sound and consistent with it. It contains a distribution strategy that was considered at the EiP and is set out in CS Policies SP1, SP6 and SP7 in particular. These policies focus on regeneration and, amongst other matters, promote a settlement hierarchy reflecting greenfield/brownfield locations and the ability of sites to respect and enhance the local character and integrity of places. The CS is ambitious as "The level of growth expected to occur by 2028 within Leeds is greater than any other authority within England".^[5.3.9, 6.3.8]
- 8.3.25 A Settlement Hierarchy is at the heart of CS Policy SP1, whilst CS Policy SP6 indicates that the Settlement Hierarchy will "guide" the identification of where 66,000 new dwellings would be located. The draft SAP allocates the site for housing albeit in phase 3. I conclude that the Council therefore considers the site sustainable and suitable for housing in accordance with the settlement and spatial strategies.^[6.3.9]
- 8.3.26 CS Policies SP1 and SP6 should be applied in a common-sense way and used to assess development for conformity with the development strategy. The site is agricultural land that contributes to the character and identity of the 'small settlement' which is below the MUA and Major Settlements in the development hierarchy and only provides basic services. Policy SP1 refers to the distribution and scale of development reflecting the hierarchy.^[5.3.10]
- 8.3.27 CS Policy SP6 sets a target of 'at least' 3,660 units a year from 2012/13 to the end of 2016/17 but it is accepted that in the first 4 years the Council has fallen behind its target by over 4,000. Worse still it has not met the minimum annual target of 3,660 in any of the first 4 years.^[6.3.8]
- 8.3.28 CS Policy SP7 addresses housing provision in Smaller Settlements and also a distribution across Housing Market Characteristic Areas. The proposal would accord with all these policies.^[6.3.11]
- 8.3.29 Indeed, the supporting text to CS Policy SP10 refers back to the UDPR and introduces PAS land that "will provide one of the prime sources for housing allocations in the LDF".^[6.3.11]
- 8.3.30 CS Policy H1 commits the Council to maintaining a 5 year HLS. It also requires the SAP to phase the release of its allocations based on

geographical distribution in accordance with SP7 and previously developed land targets (65% first five years and 55% thereafter). The 5 criteria for release include:

- ii) Locations that have the best public transport accessibility;
- iii) Locations with the best accessibility to local services; and,
- iv) Locations with least impact on Green Belt objectives.

CS Policy H5 would be met as the proposal would provide affordable housing as required by the CS.^[6.3.12]

- 8.3.31 The phased release of housing allocations is to support CS Policies SP1, SP6, SP7, and SP10. The SAP identifies existing permissions and former allocations and the balance is allocated by applying CS Policies. This includes the spatial strategy, with its focus on MUA and major settlements, as well as its priorities for previously developed land and regeneration. Greenfield land in outer areas and smaller settlements falls well down the hierarchy. In advance of the SAP debate the proposal must be considered against the CS Policies. Phasing reflects the relative performance against CS strategy and the need for other more sustainable sites to come forward first.
- 8.3.32 It has been suggested that monitoring cannot be undertaken as the SAP is not adopted and consequently there are no allocated sites. If true the supply in the HMCAs would remain unaddressed until the SAP is adopted in 2017 at the earliest. This is inconsistent with the *Framework's* commitment to boost housing.^[6.3.13]
- 8.3.33 Overall, the appeal proposal would be compliant with the CS and its policies should not be used to withhold planning permission. This conclusion brings the CS 'General Policy' into play which requires that proposals that accord with the CS "will be approved without delay unless material considerations indicate otherwise. The CS has been adopted since 2014 and I do not consider that the proposal would undermine its implementation.^[6.3.14]
- 8.3.34 In terms of the development plan, only UDPR Policy N34 would be breached but this should attract little weight as it is time expired. The most relevant policies of the up-to-date CS, Policies H5, SP1, SP6 and SP7 would be complied with and overall there would be general compliance with the Plan. There needs to be a balancing exercise, but within the parameter that there is a presumption in favour of granting permission. To justify refusal would require it to be demonstrated that the harm from any grant would cause adverse impacts that would significantly and demonstrably outweigh the benefits.
- 8.3.35 The Council is progressing its SAP identifying sites to be allocated. CS Policy HG2, and the explanatory text, explain the distribution with reference to the CS. The Council considers that the allocation of sites involves inter-related issues such as provision of necessary infrastructure and maintains that, when considered in the round, a Green Belt site may be more sustainable than a non-Green Belt site.

- 8.3.36 A Green Belt Release document shows that 14,372 homes are proposed to be provided on the Green Belt. The UDPR safeguarded land to avoid the use of Green Belt land when the UDPR was replaced. The Council will need to demonstrate very special circumstances to justify this release of land against a background of the SAP Examiner knowing that 5,285 of the 14,372 could be provided on non-Green Belt land previously removed from the Green Belt for exactly that purpose.^[6.3.16]
- 8.3.37 However, the SAP has not yet been adopted, or even submitted to the SoS for examination. The Publication Draft SAP was published in September 2015, over two years after publication of the Issues and Options Plan that generated 7,000 representations. The realism of having a plan ready for submission to the SoS by December 2017, when the Draft SAP has generated 10,000 representations, is questionable. Indeed, the SCG states that the Council consider that only limited weight can be accorded to the emerging SAP whilst the Appellant considers that only very limited weight should be afforded to it.^[6.3.15]
- 8.3.38 The SAP EiP is not a foregone conclusion when the SAP intention to release considerable Green Belt land has not been tested. There is no policy basis for allocating Green Belt sites and the Council could not identify another authority with a comparative approach. Even the Council considers that the SAP will not be adopted until winter 2017 at the earliest and accepts that only limited weight can be given to it at this time.^[6.3.17]
- 8.3.39 In terms of prematurity the *Guidance* notes “arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking policies in the *Framework* and any other material considerations into account”. The Council’s evidence does not carry out any balancing exercise and so would not justify refusal.^[6.3.18]
- 8.3.40 Moreover, paragraph 14 sets out two tests, both of which must be met to justify refusal. The test in *Guidance* paragraph 14 i) considers development that would be so substantial that to grant permission would undermine the plan process. I am unaware of the detailed evidence given to the Farsley Inquiry that led to the Inspector and SoS concluding that the scheme in that case would undermine the plan process. Notwithstanding the Council’s view on the cumulative effect of six appeals involving PAS land, the proposal in this case would represent only a tiny fraction of the overall need. The ‘scale’ test would not be met and in these circumstances the plan process would not be significantly undermined.^[6.3.18]
- 8.3.41 In respect of ii) the emerging plan in the form of the SAP is not at an advanced stage. There is a shortfall of around 6,000 units due to withdrawals of sites since the publication of the SAP. These will have to be replaced. There are some 10,000 representations, many related to the use of PAS sites, and further consultation will be necessary. There will have to be an EiP that is likely to be contested as the intention to release considerable Green Belt land has not been tested. The Inspector might also have modifications. At best the SAP might be adopted by the end of 2017 and the Council accepts that little weight can be given to it at this stage.

The second test is not met and the proposal would not be premature. Indeed, the Council accepts that the proposal, in itself, would not give rise to a prematurity reason for refusal. In any event, as the Council is unable to demonstrate a 5 year housing land supply then prematurity ceases to be an issue.

- 8.3.42 New sites may be coming forward, as the Council claims, but such sites should already be in the SAP and the PAS sites are not being revisited.^[5.3.18]

8.4 Whether Occupants of the Proposed Development would have Acceptable Access to Shops and Services

- 8.4.1 CS Policies SP1, SP6 i), and the supporting text requires accessibility to be carefully assessed. This is done through Accessibility Standards in the CS, which “define the minimum standard that a new development will need to meet” echoing *Framework* paragraphs 32 and 34.^[5.4.4]
- 8.4.2 CS Policy SP1 requires regard to be had to a settlement’s size, function and sustainability. The proposal would add up to 380 homes to a village of 1516, an increase of approximately 25%. Notwithstanding that, sustainability is a relative concept and SP1 requires accessibility to be carefully assessed using Accessibility Standards.^[5.4.1, 5.4.3]
- 8.4.3 Compliance with the CS Accessibility Standards is not treated as an ‘absolute’ leading to rejection. On a number of occasions the Council has granted permission for sites that do not fully comply with the Standards. The appeal site would be allocated in the draft SAP and so, in principle, will be deemed acceptable in accessibility terms. It is common ground that the site complies with Criterion 1, Access to local services, and Criterion 3, Access to Primary Education/Healthcare.^[6.4.1, 6.4.2]
- 8.4.4 It is accepted that the appeal site does not fully comply with Criteria 2, Access to employment, 4, Access to secondary education and 5, Access to city/town centres.^[6.4.3]
- 8.4.5 The site is large and it is estimated that around 250 of the proposed houses would not be within a 5 minutes walk of a bus stop. The service is relatively frequent but there is only one route which would, to some extent, limit its attractiveness. Journey times to Leeds bus station in the am/pm peak are 40 to 44 minutes. With a walk each end the Standard would not be met. Indeed, residents comment that actual times are much longer. A journey to the city centre is suggested to take 33-38 minutes but again, with a walk at each end, the Standard would not be met. The nearest secondary school is well beyond walking distance and requires a bus change, thus failing the Standard. The Council maintains that reliance on a school bus is not sustainable but there are already 6 school buses to Otley with a capacity for 30 children attending schools remote from their homes.^[5.4.5]
- 8.4.6 Notwithstanding this, the site scores relatively well under the Standards. The shortfall in compliance is marginal with a service every 20 minutes rather than the preferred 15 minutes. The shortfall of 5 minutes in bus frequency is not a justifiable reason for refusal as waiting a little longer for

a bus can hardly be described as a “severe” problem in terms of *Framework* paragraph 32. The site is reasonably well served by public transport as recognised in the SAP allocation and in that respect is not unsustainable.^[6.4.3, 6.4.4]

- 8.4.7 There is only a basic level of local services in Bramhope. Whilst some shops and services are within 1200 metres of the site, the village centre is not. However, compliance with the Standards is weighed with other factors but in any event is not an absolute. Permission has been granted for sites not in full compliance. In this case the site scores well against some Standards and a shortfall of 5 minutes in bus frequency would not constitute a severe detrimental impact.^[5.4.4, 6.4.1, 6.4.4]
- 8.4.8 I agree with the Appellant that Economic benefits would include construction and retail jobs, National Homes Bonus, spend in the local economy and the provision of land for a primary school. In terms of social benefits, market housing would be provided in a location where demand is high and supply low, affordable housing would be provided, land would be provided for a school together with a community orchard, new allotments and a village green, and the vitality and viability of the village would be improved. Finally in environmental terms there would be ecological and bio-diversity benefits associated with the green infrastructure and extension of Spring Wood. There would be less reliance on Green Belt sites to meet CS housing targets. There would also be a reduced reliance on the private car as a result of increased local shopping, Travel Plan measures, potential for increased provision of local school places and potential for patronage of the NGT or a similar scheme once completed.^[6.4.5]
- 8.4.9 It is common ground that both the local primary and secondary schools are at capacity. Until a school is provided children who cannot attend the local school would have to travel further afield which would not be sustainable. The proposals would generate 95 children of primary school age and 38 secondary. Consequently, land would be made available for a school and, although it would depend on future decisions by the Council, the Council’s CIL Regulation 123 list allows Section 106 contributions. The scale and distribution of housing would be appropriate.^[5.4.2]

8.5 Effect on the Highway Network

- 8.5.1 The appeal site is a Phase 3 allocated site and it is agreed, in principle, that an appropriate access solution can be achieved and that access should come directly from the A660. Two alternative access schemes exist. The first was originally part of this appeal whilst the second is subject to another appeal that has not been conjoined. The Applicant considers that both are acceptable but the second scheme, which is not before this Inquiry, is preferred by the Council. I am satisfied that either way suitable access can be arranged in highway safety terms. Consequently I agree with the parties that the most appropriate solution is to reserve access for later consideration rather than consider it at this Inquiry. It is agreed that site access, pedestrian crossings, trip rates and access to the proposed school are no longer in issue and I see no reason to disagree.^[6.5.1]

- 8.5.2 The remaining concern is the impact on the congested A660 corridor, particularly at the Farrar Lane/Church Lane junction and the Lawnswood roundabout, should the NGT not go ahead. The A660 corridor, a primary radial into the city, is one of the two most congested corridors. The Bodington Park and Ride proposal south of Bramhope on the A660 and the NGT would be attractive to those living in Bramhope and it is accepted that once the NGT North scheme, which is projected for completion in 2020, is complete the highway authority would not object to the appeal scheme. This is one of the reasons for allocation of the site as Phase 3 rather than an earlier release.^[5.5.1, 6.5.2]
- 8.5.3 Congestion currently adds over 100% to the journey time in both the am and pm peaks, and traffic on the radial routes is anticipated to grow by 15% over the plan period, further increasing journey times by almost 20%. On the Appellants' own figures the proposal would add 1067 vehicles daily onto the A660, an increase of over 7% and would add up to 7.9% (Lawnswood) and 13.5% (Farrar Lane) when regard is had to the busiest arms of those roundabout/junctions.^[5.5.1]
- 8.5.4 Because of this situation the Council intends to implement a (NGT), if it secures consent and final funding. The NGT is not a commitment and still has to receive its TWA decision and have its funding confirmed through two further stages. However, the view is not pessimistic. The CS requirement is for transport improvements in identified areas, one of which is the A660 corridor. A SAP Infrastructure Background Paper, dated September 2015, noted that funding of £572.9 million had been secured from the Local Growth Fund and that the West Yorkshire Combined Authority has secured funding of £1 billion for the West Yorkshire Plus Transport Fund.^[5.5.2, 6.5.3]
- 8.5.5 The NGT TWA outcome would be known by the time of the SAP EiP and the draft allocation of the site in Phase 3 is subject to the express requirement that it cannot be released until congestion on the corridor is mitigated by a scheme such as NGT. The Appellant has not assessed the two junctions, despite being requested to, and so cannot tell what the impact of the proposal would be.^[5.5.2]
- 8.5.6 However, the SAP paper notes that whilst NGT is the preferred option, if it does not go ahead the Council will implement an alternative scheme delivering similar benefits. An alternative in this location might be the provision of a conventional bus system. NGT is merely a mechanism allied to the wider Park and Ride, the provision of which has not been questioned. Moreover, the improvements identified by the NGT, at Farrar Lane and Lawnswood roundabout, are capable of implementation without NGT.^[6.5.4]
- 8.5.7 The SAP Infrastructure analysis takes NGT for granted and there is no indication as to why development control decisions shouldn't do the same. In any event, despite concerns about congestion on the A660, the SAP considers that Outer North West HMCA Phase 1 and 2 sites can come forward in advance of NGT or its equivalent and it is agreed that the number of houses in those Phases which have the A660 as the most direct route into the City is 1055, very similar to the proposal. They would have no less impact as a result of being smaller individual sites.^[6.5.5]

- 8.5.8 Indeed, whilst there are concerns about Farrar Lane/ Church Lane and the Lawnswood roundabout, the former does not feature in the list of 70 worst junctions and Lawnswood is at no 45 with a peak delay of 6 minutes. The 'new' traffic on that junction from the appeal site would only be a small percentage. Even if it doubled the delay it would be roughly the average delay in the worst 30 junctions and the Council has not allowed such delays to prevent development in those areas. Moreover imagining the doubling of delay ignores the benefits of requiring a Travel Plan, free Metrocard, use of Park and Ride, which it is agreed will be in place, encouraging increased car occupancy through the Travel Plan and the provision of a new shop to reduce the need to use a car.^[6.5.6]
- 8.5.9 The Council's case has not relied on safety. Indeed, comparing the 2008 higher accident rate with more recent lower figures rebuts the Council's view that overburdened islands have higher accident rates. The issue is one of delay, not safety, and waiting for a few more minutes in a non NGT world would not be a 'severe' problem.^[6.5.7]
- 8.5.10 To ensure the appeal site is built out by 2028 development would have to commence prior to the anticipated completion of NGT in February 2020. At 40 dpa the site would need to start in 2018, and approximately 80 new houses would be built prior to NGT or a similar scheme becoming operational. This is a relatively small number to weigh against any benefits. Whilst it would be preferable for NGT to be complete before the appeal scheme even without NGT the proposals would not amount to a 'severe' impact.^[6.5.8]

8.6 Effect on the Character and Integrity of Bramhope

- 8.6.1 CS Policy SP1(iii), which is consistent with paragraph 64 of the *Framework*, requires development to respect and enhance the local character and identity of places. The site, which is agricultural land, has an area of over 20 hectares and it is agreed that it contributes to the character and identity of Bramhope.^[5.6.1]
- 8.6.2 A Landscape and Visual Impact Assessment has been carried out using agreed methodology, scoping and findings. The proposal does not breach the ridgeline as existing development in Bramhope sits higher than the appeal site which is largely screened by Spring Wood when viewed from the east. From the west the site is seen in the context of existing housing along Breary Lane East.^[6.6.1]
- 8.6.3 The site was removed from the Green Belt and designation as PAS land in the 2001 UDP. The Inspector commented: "Views of the site can be obtained mainly from the A660 and from Breary Lane, These are indeed pleasant, but they are not of especial importance in themselves, neither do they define the visual character of Bramhope". The 2006 Inspector agreed with the continued allocation as PAS land and recently the Council allocated the site as a Phase 3 housing site in the emerging SAP under Policy HG2, considering it capable of delivering 376 dwellings. If that allocation is accepted the site will be developed and there will be some harm.^[5.6.4, 6.6.2]

- 8.6.4 In terms of scale, the proposal would significantly increase the size of the settlement. However, historical plans show that in 1956-68 the village grew by a half to a third and in 1968-1991 a large estate increased the size of the village by around 25%. The eastern part of the settlement is furthest from the historic core and has retained a linear character along the A660 and Breary Lane East.^[5.6.3, 6.6.5]
- 8.6.5 The countryside setting of the village is important and the site is visible in public views, primarily from the A660, on the eastern side of the village. The Council disagrees that the setting role is reduced due to visual enclosure. The view across the site from Breary Lane East is identified in the Bramhope *Conservation Area Appraisal* as an important mid-distance view as the lane gives access to the Ebor Way. The *Village Design Statement* also identifies the importance of the countryside setting and refers to views towards Spring Wood. The site is characteristic of the Eccup Plateau where the management strategy is to preserve its open nature and protect it from suburbanisation.^[5.6.2, 5.6.4, 6.6.3]
- 8.6.6 Whilst there would be change in surroundings, walkers along Breary Lane to join the Ebor Way would have just passed through the built-up area. The impact would only amount to a transition to countryside being delayed for a short while. This would be far from significant in the context of a long distance footpath some 90 miles long. The 2001 Inspector noted that "the loss of these views on one side of Breary Lane would not have a material effect on the quality of the footpath as a whole or even of shorter lengths". Additionally, the visual impact would be mitigated by greenery including a community orchard, village green and community allotments.^[6.6.4]
- 8.6.7 I disagree with the view of the Council's witness that the site is open and plays a vital role in the character of Bramhope. I note that it is also contrary to the views of the UDP Inspectors, and the Council's own decision to designate the site as PAS in the UDP,UDPR and SAP.^[6.6.3]
- 8.6.8 As the village has grown north and east the character has varied and the Conservation Area has five character areas. It is agreed that the proposal would not have an adverse impact on the Bramhope Conservation Area nor on designated or non-designated heritage assets. The village does not have a single distinct form and consequently is readily capable of accepting change. The proposal would conform with CS Policy SP1 iii) and *Framework* paragraph 64.^[6.6.5]

8.7 Other Matters

- 8.7.1 There is a desperate need for additional Affordable Housing and the most recent SHMA identified an annual need for 1,158 affordable dwellings. The Council's latest figures indicate that 54% of overall delivery would be in the city centre and inner area where only 5% of units, if any, would be required to be affordable. Against this background, in line with policy, the proposal would provide 133 affordable units in Bramhope if the proposed 380 dwellings were built and this should be welcomed.^[5.7.2, 6.7.1]
- 8.7.2 There are no archaeological or heritage implications to developing the site, subject to conditions requiring further archaeological investigation. The Council has not identified any conflict with CS Policy P11: Conservation or

saved UDP Policy N19: Conservation Areas. It is agreed that the proposal would not have an adverse impact on the Bramhope Conservation Area or designated and non-designated heritage assets.^[5.7.2, 6.7.5]

- 8.7.3 A Flood Risk Assessment report was submitted with the application. No flood risk or drainage matters have been identified that would justify refusing planning permission.^[5.7.1, 6.7.2]
- 8.7.4 Extensive ecological surveys and a detailed tree survey have been submitted. On the basis of that information it is agreed, subject to some mitigation matters that would be ensured by condition, that there is no reason to refuse permission in respect of effects on trees, flora or fauna. It is agreed that there is no basis to refuse planning permission relating to noise subject to the attachment of certain conditions.^[5.7.1, 6.7.2, 6.7.3]
- 8.7.5 Similarly, an Agricultural Land Classification report was also submitted and it was agreed that on balance the appeal site has the least local impact on best and most versatile land when assessed against other potential urban extensions. There is no agricultural land quality reason for refusing permission.^[6.7.4]

8.8 Section 106 Agreement and Conditions

- 8.8.1 At application stage, planning obligations were to be provided by an agreement or undertaking. Subsequently a CIL was adopted, in April 2015, which in this case would require a CIL charge of £90/m² of residential floor space. However, there are still some matters that require addressing by means of a Section 106 Obligation.
- 8.8.2 A signed Section 106 Agreement dated 29 April 2016 has been submitted. The matters it covers are, affordable housing and a verification fee, a Metro Card contribution, bus stop provision, an off-site works contribution, cycle parking at Bramhope school, a Travel Plan and a review fee, and reservation of land for a school. These still require to be addressed through the S106 procedure. A note setting out the justification for the measures in the Agreement in respect of the tests set out in *Framework* paragraph 204 has been submitted. Consequently, reasons for refusal 7 and 8 no longer stand.
- 8.8.3 Affordable housing is necessary to comply with CS Policy H5 that requires the provision of 35% affordable housing in this location. It would be provided on site and so be directly related to the development. It is fair and reasonable as the Policy is based on evidence regarding housing need. The Council would have to administer the affordable housing contribution which would be based on the actual staff time and resources expended in the verification process.
- 8.8.4 CS Policy T2 and the Council's Travel Plans SPD seek to improve the accessibility of the site. A Travel Plan would need to be monitored to ensure realistic targets were set. Reviewing the Travel Plan would be directly related to the development as there is a need to encourage the provision of alternative, more sustainable, transport. The monitoring fee is based on the scale of development and covers staff time. The SPD sets out a number of packages to make developments more sustainable,

including the requirement for a MetroCard for each dwelling, which would be directly related to the development. The measure is necessary to encourage alternative forms of transport, by directly covering the cost of a card per dwelling for one year and subsidising the provision for a further two years.

- 8.8.5 Some off-site works would also be needed. The site would generate demand for transportation and the provision of shelters, raised kerbs, information displays and Real Time information at two bus stops, one in each direction as interchanges in Leeds are outside the maximum travel time, would meet the tests. In addition, a contribution is necessary for highway safety improvements at the A660 Leeds Road junction with the A658 Pool Bank New Road. Cycle parking at the school is made necessary by the distance of the development to the local school and to comply with the Travel Plans SPD.
- 8.8.6 Finally, part of the site is allocated in the draft SAP for a school site due to lack of capacity in the area and the fact that the development would generate around 95 primary and 38 secondary pupils. Whilst most education contributions will come from CIL payments, they do not cover the cost of land. The reservation would be necessary to provide capacity and related to the development as it generates the need. The Agreement requires the transfer of land for a school at market value and so is fairly and reasonably related in scale and kind.
- 8.8.7 In addition, the two main parties have agreed a list of 33 suggested conditions. These address: approval of details; timing of implementation; Archaeology; Flood Risk and Drainage; Ground Conditions; Ecology; Public Open Space; Highways; Landscape and Materials.
- 8.8.8 Conditions 1 and 4 are standard outline permission time conditions, whilst condition 2 clarifies the development and sets a parameter in terms of the number of dwellings. In the interests of clarity and the avoidance of doubt the approved drawing is identified in condition 3.
- 8.8.9 The site lies within an area of archaeological significance and condition 5 would provide for investigation prior to any development on the appeal site. Conditions 6 to 11 are necessary to provide for suitable drainage. There is some duplication between conditions 6 and 11 and the two could be amalgamated. Ground conditions and contamination are the subject of conditions 12 to 14 which seek to ensure remediation of the site should it be found to be necessary.
- 8.8.10 The protection and enhancement of biodiversity in accordance with CS Policies G8 and G9 is sought by condition 15 whilst conditions 16 and 17 require the provision of on-site public open space and a landscape woodland edge buffer zone respectively to comply with policy requirements.
- 8.8.11 Access is now a reserved matter and consequently condition 20 is no longer relevant. Conditions 18 19 and 21 to 23 require various highway improvement works to address highway safety and the impact on the wider highway network. Provision for electric vehicle charging points, cycle storage and pedestrian and cycle links are also sought to encourage more

sustainable transportation options. Conditions 24 and 31 relate to landscape works and seek to safeguard the amenities of nearby residents together with an arboricultural method statement and a landscape management plan.

- 8.8.12 Finally, in the interests of preserving the character and integrity of the surrounding area conditions 32 and 33 would require details and samples of materials to be submitted for walls roofs and surfacing of hard surfaced areas.
- 8.8.13 I consider that the suggested conditions, with the slight amendments set out above, are all necessary and comply with the tests set out in *Framework* paragraph 206. Similarly, the Agreement provisions meet the tests in *Framework* paragraph 204 and are necessary to make the proposals acceptable.

8.9 Planning Balance

- 8.9.1 As the Council has not demonstrated a 5 year HLS the policies relevant to the supply of housing are deemed out-of-date. UDPR Policy N34 is the only relevant such policy and the proposal would not comply with it. The policy is still part of the development plan but the weight to be given to the policy, and its breach, is a matter of judgement. As the policy is out-of-date I consider that it can only be given little weight.
- 8.9.2 The Council maintains that the presumption against the development through Section 38(6) is very strong regardless of whether there is a 5 year HLS. The Appellants put no case for any local need or benefit and no additional affordable housing is offered. However, whilst the benefits might to some extent be generic, and would be provided if the SAP were allowed to run its course, this needs to be considered in the context of Leeds.
- 8.9.3 On Leeds's own figures, housing delivery has not reached the minimum requirement for the last 7 consecutive years, and nor will it for a further 2 years. This is against the background of having the largest housing requirement in the country. The site has been appraised over the long term and identified as a potential residential site. The site is allocated in the draft SAP for phase 3 housing and has previously been considered to be in a relatively accessible location.
- 8.9.4 Notwithstanding the Council's views, I consider that the appeal site is generally compliant with the CS spatial distribution policy and would help meet the need for 2,000 homes in the Outer North West HMCA. There are clear economic, social and environmental benefits that stem from the proposal that far outweigh any adverse impacts identified.
- 8.9.5 The Council maintains that the proposal would undermine the adopted CS and *Framework* paragraph 85, and the plan led system. It also considers it would deny the public expectation that PAS sites would be considered through a local plan review. This was a factor to which the SoS gave considerable weight in a Gildea Way, Harlow decision APP/N1540/A/11/2167480. However, the site has been under a microscope and time has been set aside for the public to comment. I am

not aware of the comparability of the position in Harlow but the severity of the housing shortfall in this case warrants the approach recommended in this report. [6.1.1, 6.1.2]

- 8.9.6 In addition to undermining the plan led system, through predetermining decisions that are progressing through the due process, the Council also alleges specific social and environmental harms caused by breaches of the spatial strategy and the settlement hierarchy, the lack of sustainability and accessibility relatively within Leeds, the harm to the environment, to the character of villages and the unsustainable strain on services due to the sale of development and harm to the highway network.
- 8.9.7 The proposals would be in line with the spatial strategy and settlement hierarchy and relatively sustainable. There would be little harm to the environment, or to the character of the village, and mitigation would be provided for the additional strain that would be put on local schools and other services. The difference between the parties is basically a difference as to when the site might be developed. I consider that given the pressing need for the provision of housing the earlier provision, with little detrimental impact other than a minor undermining of the SAP process, would justify allowing the appeal.

9. Overall Conclusions and Recommendation

9.1. Overall Conclusion

- 9.1.1 Considering the balance required by *Framework* paragraph 14, UDPR Policy N34 is out-of-date and attracts little weight. Any adverse impacts due to granting permission would not significantly and demonstrably outweigh the benefits of boosting significantly the supply of housing when assessed against the policies in the *Framework* taken as a whole. Applying both the paragraph 14 and Section 38(6) tests the proposal should be allowed.

9.2 Recommendation

- 9.2.1 I recommend that the appeal be allowed and planning permission be granted, subject to the S106 Agreement, and the conditions set out in Appendix C of this report.

Ken Barton

INSPECTOR

INTERESTED PERSONS:

Cllr Rachel Proctor

Cllr Barry Anderson

George Hall

Sally Wilkinson

Hillary Harris

APPENDIX B - DOCUMENTS

Core Documents

National and Local Planning Policy

CD/A1	National Planning Policy Framework
CD/A2	National Planning Policy Guidance
CD/A3	Leeds City Council Core Strategy 12 November 2014
CD/A4	Unitary Development Plan 2001 Extract Chapter 14 Aireborough, Horsforth and Bramhope Chapter 17 Morley Chapter 24 Wetherby
CD/A4(A)	Unitary Development Plan Volume 1 Written Statement
CD/A5	Unitary Development Plan Review 2006 Vols 1 and 2
CD/A5(A)	Unitary Development Plan Review 2006 Volume 1 Written Statement
CD/A6	Unitary Development Plan Inspector Reports
CD/A6(A)	Inspectors Report Chapter 5
CD/A7	Unitary Development Review Inspector Reports
CD/A7(A)	Unitary Development Review Inspector Reports Foreword
CD/A8	Interim Policy – Potential Release of Sites of Protected Areas of Search
CD/A9	Leeds City Council Natural Resources and Waste Local Plan
CD/A9A	Leeds City Council Natural Resources and Waste Local Plan September 2015 Adopted Policies Minerals 13 and 14
CD/A10	Leeds City Council Consultation Draft SAP & Background Documents 2015
CD/A11	Leeds City Council Community Infrastructure Levy Charging Schedule April 2015
CD/A12	Leeds City Council Community Infrastructure Levy Regulation 123 List September 2014
CD/A12A	Leeds City Council Community Infrastructure Levy Regulation 123 List Amendments November 2015
CD/A13	Leeds City Council Open Space, Sport and Recreation Assessment July 2011
CD/A14	SPG4: Greenspace Relating to New Housing Development
CD/A15	SPG:25 Greening the Built Edge
CD/A16	Collingham Conservation Area Appraisal and Management Plan
CD/A17	Village Design Statement: Collingham with Linton
CD/A18	Bramhope Conservation Area Appraisal and Management Plan

CD/A19	Extract Appendix D to BS4102:2013 Biodiversity – Code of Practice for Planning and Development
CD/A20	Extracts from Hundt L (2013) Bat Surveys: Good Practice Guidelines 2 nd Edition
CD/A21	DCLG – Consultation on Proposed Changes to National Planning Policy December 2015
CD/A22	PPG2: Green Belts
CD/A23	Site Allocations Plan Sustainability Appraisal - Publication Draft September 2015
CD/A24	Site Allocations Plan and AVLAAP – Infrastructure Background Paper September 2015
CD/A25	Site Allocations Plan Section 3: Area Proposals: 7 Outer North West – Publication Draft September 2015
CD/A26	Site Allocations Plan Site Assessment Document Breary Lane East, Bramhope LS16 Site Plan HG2-17 SHLAA Ref 1080 3367A
CD/A27	Site Allocations Plan Section 3: Area Proposals: 6 Outer North East – Publication Draft September 2015
CD/A28	Site Allocations Plan Site Assessment Document Leeds Road, Collingham Site Plan HG3-18 SHLAA Ref 2135
CD/A29	Bramhope Village Design Statement
CD/A/30	Leeds District Valuer's Report May 2014
CD/A/31	Leeds District Valuer's Report October 2014
CD/A/32	David Newham's Rebuttal of Philip Roebuck's Evidence
CD/A/33	Collingham Neighbourhood Plan Draft
CD/A/34	Housing Land Supply Schedule
CD/A/34A	Housing Land Supply Schedule with LCC comments
CD/A/34B	Agreed Housing Land Supply Schedule
CD/A/35	Press Article about Morgan Agents
CD/A/36	Newham Brief and Viability Appraisal Information
CD/A/37	Extracts from SHLAA of disputed sites
CD/A/38	5 Year Housing Land Supply Tipping Point
CD/A/38A	Amended 5 Year Housing Land Supply Tipping Point
CD/A/39	Green Belt Releases in SAP

Appeal A Application Documents

CD/B1	Application Letter 25 November 2013
CD/B2	Application Letter (2) 27 November 2013
CD/B3	Application Form (without personal data) 22 November 2013
CD/B4	Site Location Plan (drawing no P12 4567 02) 14 November 2013
CD/B5	Site Survey Plan (S7898) June 2013

CD/B6	Indicative Development Master Plan (D12 4567 51 Rev B) 25 March 2014
CD/B7	Development Master Plan (D12 4567 50) 14 November 2013
CD/B8	Proposed Access Arrangements Plan (ITM8086-GA-012 Rev A) August 2014
CD/B9	Planning Case Report November 2013
CD/B10	Design and Access Statement November 2013
CD/B11	Statement of Community Involvement Report November 2013
CD/B12	Draft Heads of Terms
CD/B13	Minerals Recovery Statement
CD/B14	Transport Assessment (Volume 1 Reports and Figures) November 2013
CD/B15	Transport Assessment (Volume 2 Appendices) November 2013
CD/B16	Travel Plan (updated version) July 2014
CD/B17	Stage 1 Desk Study Report June 2013
CD/B18	Tree Survey July 2013
CD/B19	Cultural Heritage – Desk Based Assessment Report July 2013
CD/B20	Flood Risk Assessment November 2013
CD/B21	Foul and Surface Water Drainage Strategy October 2013
CD/B22	Ecological Appraisal July 2013
CD/B23	Noise Impact Assessment July 2013
CD/B24	Agricultural Land Appraisal July 2013
CD/B25	Affordable Housing Pro-forma
CD/B26	Archaeological Investigations Evaluation Report March 2014
CD/B27	Planning Performance Agreement 28 March 2014
CD/B28	Major Site Notice 13 December 2013
CD/B29	Site Notice 10 January 2014
CD/B30	Site Notice 23 January 2014
CD/B31	Site Notice 14 March 2014
CD/B32	Site Notice 11 April 2014

Appeal A Correspondence with Local Planning Authority

CD/C1	Acknowledgement of Receipt of a Request for Pre-Application Advice 12 July 2013
CD/C2	Letter – JB Pre-Application Letter 7 August 2013
CD/C3	Email – Pre-Application Meeting Request 9 August 2013
CD/C4	Email – Arrangement of Pre-Application 16 August 2013

CD/C5	Letter – Screening Opinion 1 November 2013
CD/C6	Email – Planning Performance Agreement 28 November 2013
CD/C7	Email – Correspondence regarding Sustainability Appraisal 3 December 2013
CD/C8	Email – Correspondence regarding Planning Performance Agreement 4 December 2013
CD/C9	Acknowledgement Letter 5 December 2013
CD/C10	Email – Archaeological Works 27 January 2014
CD/C11	Email – Position Statement to CPP 27 January 2014
CD/C12	Email – Transport – S106 4 February 2014
CD/C13	Email – withdrawal from CPP 12 February 2014
CD/C14	Email – JB Request for Consultee Responses 20 February 2014
CD/C15	Email – LCC Request for Progress Meeting 27 February 2014
CD/C16	Email – Trail Trenching Report 18 March 2014
CD/C17	Email – Application to Plans Panel 20 March 2014
CD/C18	Email – Confirmation of Revised Scheme and LCC Acknowledgement 27 March 2014
CD/C19	Email – Confirmation of Plans Panel 28 March 2014
CD/C20	Email – I Transport Response to LCC Highways Comments 8 May 2014
CD/C21	Email – Revised Masterplan for discussion, including plan (reference: D14 4567 OP3) 12 May 2014
CD/C22	Email – I-Transport and LCC Transport Models, including attachments 9 July 2014
CD/C23	Email - JB and LCC Outstanding Highway Issues 17 July 2014
CD/C24	Email - I-Transport – Submit updated Travel Plan (attachment is CD/BDW/B(3)/16) 18 July 2014
CD/C25	Email - I-Transport – location for Bus Stop, including updated drawings (references: ITM8086-GA-008 and ITM8086-GA-009) <i>[both superseded by ITM8086-GA-Rev A]</i> . 18 July 2014
CD/C26	Email - I-Transport – Submit Transport Model, including updated LINSIG Model (A650/Common Lane Junction) 23 July 2014 with further emails dated 23.07.2014 and 29.07.2014 containing additional commentary.
CD/C27	Email - Comments – Transport – S106 28 July 2014
CD/C28	Email - Extension of PPA 29 July 2014
CD/C29	Letter – City Plans Panel 30 July 2014
CD/C30	Email - Submission of Revised Access Plan, including site access drawing (reference: ITM8086/GA/12/Rev A) 7 August 2014
CD/C31	Email - Highways Update 7 August 2014
CD/C32	Planning Performance Agreement 31 March 2013
CD/C33	Planning Performance Agreement 28 March 2014

Appeal A Consultee Responses

CD/D1	Natural England 10 December 2013
CD/D2	Waste Management 11 December 2013
CD/D3	Neighbourhood and Housing (Environmental Protection) 19 December 2013
CD/D4	Environment Agency 20 December 2013
CD/D5	Coal Authority 19 December 2013
CD/D6	Yorkshire Water 2 January 2014
CD/D7	Public Rights of Way and Map 7 January 2014
CD/D8	West Yorkshire Archaeology 7 January 2014
CD/D9	Mains Drainage 7 January 2014
CD/D10	West Yorkshire Archaeology Advisory Service January 2014
CD/D11	Metro 29 January 2014
CD/D12	Transport Development Services (Highways) 30 January 2014
CD/D13	Transport Policy (Travel Wise) 3 February 2014
CD/D14	Highways Agency 18 February 2014
CD/D15	Transport Development Services (Highways) 4 April 2014
CD/D16	Public Rights of Way 14 April 2014
CD/D17	LCC Children's Services Calculation 14 January 2014
CD/D18	Travel Plan (Travel Wise) 6 August 2014

Appeal A Committee Reports, Correspondence and Decision Notice

CD/E1	City Plans Panel Committee Report 13 February 2014
CD/E2	Plans Panel Committee Report 10 April 2014
CD/E3	Minutes – City Plans Panel 7 August 2014
CD/E4	City Centre Panel Report 7 August 2014
CD/E5	City Plans Committee Report 7 August 2014
CD/E6	Decision - Refusal of Planning Permission 8 August 2014
CD/E7	City Plans Committee Covering Report 5 November 2015
CD/E8	City Plans Committee Report 7 August 2014
CD/E9	Minutes – City Development Plans 7 August 2014
CD/E10	Development Plans Panel Report & Minutes 19 January 2016
CD/E11	City Plans Panel Committee Report 19 January 2016

CD/E12	Plans Panel Committee Report 13 February 2015
CD/E/13	Report to Environment & Housing Scrutiny Board 22 March 2016

Appeal A Appeal Documentation

CD/F1	Appeal Form 4 February 2015
CD/F2	Bespoke Timetable
CD/F3	Leeds City Council Statement of Case
CD/F4	Appellant's Statement of Case
CD/F5	Planning Statement of Common Ground – General December 2015 (Signed)
CD/F5(A)	Amended list of Planning Conditions
CD/F5(B)	Amended list of Planning Conditions
CD/F5(C)	Agreed list of Planning Conditions including Reasons
CD/F6	Planning Statement of Common Ground – 5 Year Housing Land Supply (Signed)
CD/F7	Planning Statement of Common Ground – Highways (Signed)
CD/F7A	Technical Note Updated Highways Statement of Common Ground (Signed)
CD/F8	Letter – The Planning Inspectorate – ID1
CD/F9	Letter – The Planning Inspectorate – ID2
CD/F10	Letter – The Planning Inspectorate – ID3
CD/F11	Bundle of submissions made by interested parties at Appeal Stage
CD/F12	Unilateral Undertaking
CD/F12(A)	Amended Unilateral Undertaking
CD/F13A	East Ardsley Settlement Boundary as drawn by a resident for Councillor Dunn
CD/F13B	Submission read by Mr Aveyard
CD/F13C	Skeleton of submission by Mr Bywater and extract from a report referred to
CD/F14	Affordable Housing Statement of Common Ground 25 Feb 2016
CD/F14(A)	Affordable Housing Statement of Common Ground 29 Feb 2016 Unsigned
CD/F14(B)	Affordable Housing Statement of Common Ground 29 Feb 2016 Signed
CD/F15	Justification for Unilateral Undertaking

Appeals A B and C Housing Documents

CD/G1	Planning for Growth Ministerial Statement 31 March 2011
CD/G2	Laying the Foundations: A Housing Strategy for England
CD/G3	Statement on Housing and Growth 6 December 2012

CD/G4	Inspectors Report to Leeds City Council 5 December 2014
CD/G5	Report of the Director of City Development 13 March 2013
CD/G6	Leeds Strategic Housing Market Assessment Update May 2011
CD/G7	Leeds Strategic Housing Land Availability 2014
CD/G8	Leeds Local Development Framework Authority Monitoring Report 2011/2012
CD/G9	Leeds Unitary Development Plan – Chapter 17 Morley
CD/G10	Leeds City Council Housing Land Supply Spring Statement 31 March 2014
CD/G11	Building the homes we need: A Programme for the 2015 Government 2014
CD/G12	Fixing the foundations: Creating a more prosperous nation July 2015
CD/G13	Leeds City Council Draft Strategic Housing Land Availability Assessment update December 2015
CD/G14	Neighbourhoods for Living: Guide for Residential Design for Leeds SPG 2003
CD/G15	Designing for Community Safety May 2007
CD/G16	Sustainable Urban Drainage June 2004
CD/G17	S78 Town and County Planning Act 1990 – Appeal Decision –Bagley Lane Inspector 1 Report APP/N4720/A/13/2200640 – (Inquiry opened 19 November 2013) Bagley Lane Inspector Report 2 APP/N4720/A/13/2200640 (Reopened Inquiry 11, 12, 13, 14 November 2014) Secretary of State for Department of Community and Local Government Decision Letter Bagley Lane
CD/G18	Thornhill Estates v Secretary of State for CLG (1) Leeds City Council (2) and Farsley Residents Group (3) [CO/1791/2015]
CD/G19	Miller Homes Limited v Leeds City Council Case No: CO/6890/2013

Appeals A B and C Highway Documents

CD/H1	My Journey West Yorkshire Local Transport Plan 2011-2026, West Yorkshire Local Transport Plan Partnership October 2012
CD/H2	Design Manual for Roads & Bridges – TD42/95 - Geometric Design of Major/Minor Priority Junctions, Volume 6, Section 2, Part 6
CD/H3	Manual for Streets – Department of Transport 2007
CD/H4	Manual for Streets 2 – Chartered Institution of Highways and Transportation September 2010
CD/H5	Street Design Guide, Leeds Local Development Framework, Supplementary Planning Document, Main Report August 2009
CD/H6	Core Strategy, Leeds Local Development Framework, Development Plan Document, Consolidated Core Strategy comprising Publication Draft Feb 2012 and Pre-Submission Changes Dec 2012 (CD0A) April 2013
CD/H7	Public Transport Improvements and Developer Contributions, Leeds Local Development Framework, Supplementary Planning Document August 2008

CD/H8	Travel Plans, Leeds Local Development Framework, Supplementary Planning Document February 2015
CD/H9	Leeds Unitary Development Plan (Review 2006), Volume 1: Written Statement July 2006
CD/H10	Land at Bradford Road, East Ardsley, Transpor Assessment, Volume 1 Report and Figures (ITM8086-003A R) 19 November 2013
CD/H11	Land at Bradford Road, East Ardsley, TransporAssessment, Volume 2 Appendices (ITM8086-003A R) 19 November 2013
CD/H12	Land at Bradford Road, East Ardsley, Travel Plan, (ITM8086-004B R) 15 July 2014
CD/H13	Planning for Public Transport in Developments – IHT 1999
CD/H14	Guidelines for Providing for Journeys on Foot – IHT 2000
CD/H15	Inclusive Mobility DoT December 2005
CD/H16	Planning Practice Guidance – Travel Plans, Transport Assessments and Statements in Decision Taking.
CD/H17	TRICS Good Practice Guide 2013
CD/H18	See CD/H14
CD/H19	Transport Evidence Bases in Plan Making and Decision Taking (was originally CD/H15)

Appeals A B and C Landscape Documents

CD/I1	Leeds Landscape Character Assessment 1994
CD/I2	Landscape Character Assessment Guidance for England and Scotland 2002
CD/I3	Guidelines on Landscape and Visual Impact Assessment (LI/IEMA) 2013
CD/I4	Natural England National Character Area 38 2015

Appeal B (Collingham) Application Documents

CD/J1	Decision Notice 30 October 2014
CD/J2	City Plans Panel Report 30 October 2014
CD/J3	Application Letter 17 January 2014
CD/J4	Notice 1 and Covering Letters 17 January 2014
CD/J5	Planning Application Form 17 January 2014
CD/J6	Archaeological Desk Based Assessment February 2014
CD/J7	Sustainability Statement January 2014
CD/J8	Statement of Community Involvement January 2014
CD/J9	Noise Assessment 17 January 2014
CD/J10	Gas Risk Assessment 20 November 2013
CD/J11	Flood Risk Sequential Test January 2014
CD/J12	Geo-Environmental Appraisal September 2013

CD/J13	Air Quality Assessment 13 September 2013
CD/J14	Artificial Lighting Assessment 16 January 2013
CD/J15	Transport Assessment January 20104
CD/J16	Travel Plan October 20103
CD/J17	Flood Risk Assessment January 2014
CD/J18	Collingham Beck Modelling Study and Mitigation Proposals May and June 2013
CD/J19	Ecological Appraisal January 2014
CD/J20	Kingfisher Survey October 2013
CD/J21	Bat Activity Survey October 20103
CD/J22	Great Crested Newt Survey 2 July 2014
CD/J23	Riparian Mammal Survey July 2014
CD/J24	Design and Access Survey January 2014
CD/J25	Tree Survey 15 April 2013
CD/J26	Draft Heads of Terms for S106 Agreement 2014
CD/J27	Masterplan 18 December 2013
CD/J28	Location Plan Ref P134827-O2 December 2013
CD/J29	Plan and Elevation of Bridge over Collingham Beck Drawing 35800/001 Rev A 9 April 2013
CD/J30	Tree Report Proposed Access 2 September 2013
CD/J31	Ecological Management Plan October 2015
CD/J32	Bat Impact Assessment October 2015
CD/J33	Planning Statement
CD/J34	Plans Panel Report November 2015
CD/J35	White Clawed Crayfish Survey

Appeal B (Collinham) Consultee Responses

CD/K1	LCC Ecology Consultation Response 14 January 2016
CD/K2	Scoping Letter to LCC dated 3 July 2013
CD/K3	LCC Consultation Note dated 12 August 2013
CD/K4	Scoping Letter to Highways England (Formerly Highways Agency) dated 26 June 2013
CD/K5	Highways England e-mail dated 4 July 2013
CD/K6	Consultation Comments dated 19 March 2014
CD/K7	Consultation Comment from NGT Team (Undated)
CD/K8	Consultation Comment re Travel Plan 11 February 2014

CD/K9	E-mail from Neil Chamberlin (Highways) dated 29 April 2014
CD/K10	E-mail from Neil Chamberlin (Highways) dated 15 August 2014
CD/K11	E-mail from Neil Chamberlin (Highways) dated 16 October 2014
CD/K12	E-mail from Nathan Huntley (NGT Group) dated 6 May 2014
CD/K13	E-mail from David Stocks (Bridges Section) dated 19 September 2014
CD/K14	E-mail from David Stocks (Bridges Section) dated 8 October 2014
CD/K15	E-mail to Neil Chamberlin, including attachments, dated 27 March 2014
CD/K16	E-mail to Neil Chamberlin, including attachments, dated 7 April 2014
CD/K17	E-mail to Neil Chamberlin attaching Location of Flood Wall Plan dated 7 April 2014
CD/K18	E-mail to Nathan Huntley, including attachments, dated 11 April 2014
CD/K19	E-mail, including attachments, dated 10 September 2014
CD/K20	E-mail to Christine Hamshere, attaching revised Travel Plan, dated 17 October 2014
CD/K21	E-mail to Neil Chamberlin, including attachments, dated 28 November 2014

Appeal B (Collingham) Appeal Documents

CD/L1	Appeal Form
CD/L2	Appellant's Statement of Case December 2014
CD/L3	Council's Statement of Case December 2014
CD/L4	Planning Statement of Common Ground – General
CD/L5	Planning Statement of Common Ground – 5 Year Housing Land Supply
CD/L6A	Planning Statement of Common Ground – Highways February 2016
CD/L6B	Appendices to Highways SCG
CD/L/6C	Addendum to Highways Statement of Common Ground
CD/L/7	Draft S106 Agreement
CD/L/8	Suffolk Coastal District Council v Hopkins Homes Ltd and SoS
CD/L/9	Wychavon District Council v SoS & Crown House Developments
CD/L/10	Walton & Co representation on behalf of Bramhope Parish Council
CD/L/11	Bloor Homes v SoS & Hinkley and Bosworth B C
CD/L/12	Colman v SoS & North Devon DC & RWE Renewables Ltd
CD/L/13	APP/R0660/A/13/2203282 Alsager decision
CD/L/14	Note re 5 Year Requirement
CD/L/15	Representation read by Collingham Residents' Action Group
CD/L/16	Representation read by Collingham with Linton Parish Council

CD/L/17A	Superseded Draft List of Conditions
CD/L/17B	Draft List of Conditions (Track Changes)
CD/L/17C	Agreed List of Draft Conditions
CD/L/18	Justification for S 106 Agreement
CD/L/19	Unsigned S106 Agreement

Appeal C (Bramhope) Application Documents

CD/O1	Decision Notice 28 August 2014
CD/O2	City Plans Panel Report 28 August 2014
CD/O3	Application Letter 31 October 2013
CD/O4	Planning Application Form and Certificates 31 October 2013
CD/O5	Red Line Boundary Plan 488A/20B 1 May 2013
CD/O6	Illustrative Masterplan 488A/30A 20 August 2013
CD/O7	Proposed Access and Junction Improvements Plan 7120-005\Rev\B September 2013
CD/O8	Design and Access Statement 17 October 2013
CD/O9	Environmental Statement Volume 1 – Main Text and Figures October 2013
CD/O10	Environmental Statement Volume 2 - Technical Appendices October 2013
CD/O11	Environmental Statement Non Technical Summary October 2013
CD/O12	Planning Statement October 2013
CD/O13	Retail Statement October 2013
CD/O14A	Draft Heads of Terms for Section 106 Obligation October 2013
CD/O/14B	Draft Section 106 Agreement
CD/O15	Statement of Community Involvement October 2013
CD/O16	Transport Assessment October 2013
CD/O17	Travel Plan October 2013
CD/O18	Transport Assessment Addendum July 20104
CD/O19	Sandersons Submission to Highways relating to Access Drawing 7120-005 28 April 2015
CD/O20	EIA – Reg 22 Submission 14 January 2016

Appeal C (Bramhope) Appeal Documents

CD/P1	Appeal Form
CD/P2	Leeds City Council's Statement of Case
CD/P3	Appellant's Statement of Case February 2015
CD/P4	Planning Statement of Common Ground February 2015

CD/P/5A	Planning Statement of Common Ground – Highways February 2015
CD/P/5B	Appendices to Highways SCG
CD/P/5C	Addendum Highways SCG
CD/P/6A	Superseded Draft List of Conditions
CD/P/6B	Draft List of Conditions (Track Changes)
CD/P/6C	Agreed List of Draft Conditions
CD/P/7	Justification for S106
CD/P/8	Unsigned S106 Agreement
CD/P/8A	Signed S106 Agreement
CD/P/9A	Superseded S106 relating to Alternative Roundabout Access
CD/P/9B	Unsigned S106 relating to Alternative Roundabout Access
CD/P/10	Submission read by Cllr Anderson

Leeds City Council's Documents Appeal A

LCC/1	Council's Statement of Case – see CD/F3
LCC/2	Council's Opening Statement
LCC/3/A	Adam Harvatt's Summary Proof of Evidence
LCC/3/B	Adam Harvatt's Proof of Evidence and Appendices (Planning Policy)
LCC/3/C	Adam Harvatt's Note on Land Proposed for Release for Housing
LCC/4/A	Victoria Hinchliff Walker's Summary Proof of Evidence
LCC/4/B	Victoria Hinchliff Walker's Proof of Evidence (Planning Balance and Planning Obligations)
LCC/4/C	Appendices to Victoria Hinchliff Walker's Proof of Evidence
LCC/4/D	A3 copy of HMCA Area Outer South West plan
LCC/5/A	James Howe's Summary Proof of Evidence
LCC/5/B	James Howe's Proof of Evidence (Highways)
LCC/5/C	Appendices to James Howe's Proof of Evidence
LCC/5/D	James Howe's Rebuttal Proof of Evidence
LCC/5/E	Appendices to James Howe's Rebuttal Proof of Evidence
LCC/5/F	Note to Inquiry Regarding Site Access Assessment
LCC/5/G	E-mail dated 4 February re Junction Modelling
LCC/6A	Maggie Gjessing's Rebuttal Proof of Evidence (Affordable Housing)

- LCC/6B Appendices to Maggie Gjessing's Rebuttal Proof of Evidence
LCC/7 Closing Submissions (other than Housing Land Supply)

Leeds City Council's Documents Appeal B

- LCC/8 Council's Statement of Case (Collingham) – see CD/L3
LCC/9 Council's Opening Statement
LCC/10/A Martin Elliot's Proof of Evidence Appeals B and C
LCC/10/B Appendices to Martin Elliot's Proof of Evidence Appeals B and C
LCC/10/C Martin Elliot's Rebuttal Proof of Evidence
LCC/10/D Council's 5 year supply position 1 April 2016 – 31 March 2021
LCC/10/E Photographs of SHLAA sites
LCC/10/F Nathaniel Lichfield and Partners submission to SAP Publication Draft
LCC/10/G E-mail dated 17 December 2015 re Tyersal SHLAA site
LCC/10/H Bundle of documents forming Council's comments on Grove Road, Boston Spa Decision
LCC/11/A Matthew Brook's Summary Proof of Evidence Appeals B and C
LCC/11/B Matthew Brook's Proof of Evidence Appeals B and C
LCC/11/C Update on five year housing land supply requirement
LCC/12/A Adam Harvatt's Summary Proof of Evidence Appeals B and C
LCC/12/B Adam Harvatt's Proof of Evidence Appeals B and C
LCC/13/A Adam Ward's Summary Proof of Evidence
LCC/13/B Adam Ward's Proof of Evidence
LCC/13/C Appendices to Adam Ward's Proof of Evidence
LCC/14/A Adrian Hodgson's Summary Proof of Evidence
LCC/14/B Adrian Hodgson's Proof of Evidence
LCC/14/C Appendices to Adrian Hodgson's Proof of Evidence
LCC/14/D Adrian Hodgson's Rebuttal Proof of Evidence Appeal B

Leeds City Council's Documents Appeal C

- LCC/15 Council's Statement of Case (Bramhope)
LCC/16/A Carol Cunningham's Summary Proof of Evidence
LCC/16/B Carol Cunningham's Proof of Evidence

LCC/16/C	Appendices to Carol Cunningham's Proof of Evidence
LCC/17/A	Adrian Hodgson's Summary Proof of Evidence
LCC/17/B	Adrian Hodgson's Proof of Evidence
LCC/17/C	Appendices to Adrian Hodgson's Proof of Evidence
LCC/17/D	Adrian Hodgson's Rebuttal Proof of Evidence Appeal C
LCC/18	Closing Submissions
LCC/19	SoS Decision on Brickyard Lane Melton Park APP/E2001/A/2200981
LCC/19A	Judgement on Brickyard Lane Melton Park

Barratt David Wilson Homes and The Ramsden Partnership's Documents

BDW/1	Appellants' Statement of Case – see CD/F4
BDW/2	Appellants' Opening Statement
BDW/3/A	James Stacey's Summary Proof of Evidence
BDW/3/B	James Stacey's Proof of Evidence (Planning and Affordable Housing)
BDW/3/C	Appendices to James Stacey's Proof of Evidence
BDW/4/A	Jeremy Smith's Proof of Evidence (Landscape)
BDW/4/B	Appendices to Jeremy Smith's Proof of Evidence
BDW/4/C	Jeremy Smith's Summary Proof of Evidence
BDW/4/D	Parish Boundary on Modern OS Base
BDW/5/A	Mark Johnson's Executive Summary, Proof of Evidence, and Appendices (Planning)
BDW/5/A App 18	Appendix 18 to Mark Johnson's Proof of Evidence
BDW/5/B	Site Allocations Plan Overview
BDW/5/C	Bundle of documents forming Barratt David Wilson Homes's response to the Council's comments on Grove Road, Boston Spa Decision
BDW/6/A	Vanessa Eggleston's Proof of Evidence (Transport and Highways)
BDW/6/B	Appendices to Vanessa Eggleston's Proof of Evidence
BDW/6/C	Vanessa Eggleston's Summary Proof of Evidence
BDW/6/D	Vanessa Eggleston's Rebuttal Proof of Evidence
BDW/6/E	Appendices to Vanessa Eggleston's Rebuttal Proof of Evidence
BDW/7	Closing Submissions (except for 5 Year HLS)
BDW/8	Closing Submission on 5 Year HLS on behalf of both Appellants

Miller Homes and The Hill Family's Documents Appeal B (Collingham)

MHH/1	Appellants' Statement of Case – see CD/L2
MHH/2	Appellants' Opening Statement
MHH/3/A&B	Jonathan Dunbavin's Proof and Summary Proof of Evidence
MHH/3/C	Appendices to Jonathan Dunbavin's Proof of Evidence
MHH/3/D	Undated letter from Morgans
MHH/3/E	Keepmote/Strata Sites purchased from LCC
MHH/3/F	Press article dated 6 April 2016
MHH/3/G	Press article dated 2 December 2015
MHH/3/H	Agenda item dated 26 November 2015
MHH/4/A	Philip Roebuck's Proof of Evidence (Appeals B & C)
MHH/4/B	List of Sites falling within certain categories
MHH/4/C	E-mail confirmation of sale of Westland Road to Spinko Ltd
MHH/5/A	David Colley's Summary Proof of Evidence
MHH/5/B	David Colley's Proof of Evidence
MHH/5/C	Appendices to David Colley's Proof of Evidence
MHH/6/A	Kevin Tilford's Summary Proof of Evidence
MHH/6/B	Kevin Tilford's Proof of Evidence
MHH/6/C	Appendices to Kevin Tilford's Proof of Evidence
MHH/6/D	A3 version of maps in appendices
MHH/6/E	Comparison between baseline and proposed 1 in 100yr CC event
MHH/7/A	Dick Longdin's Summary Proof of Evidence
MHH/7/B	Dick Longdin's Proof of Evidence
MHH/7/C1	Appendices Vol 1 to Dick Longdin's Proof of Evidence
MHH/7/C2	Appendices Vol 2 (A3) to Dick Longdin's Proof of Evidence
MHH/7/D	Erratum sheet to Appendices Vol 2

Miller Homes Documents Appeal C (Bramhope)

MHH/8/A&B	Jonathan Dunbavin's Proof and Summary Proof of Evidence
MHH/8/C	Appendices to Jonathan Dunbavin's Proof of Evidence
MHH/8/D	Bundle of documents forming Miller Homes and the Hills family's response to the Council's comments on Grove Road, Boston Spa Decision

MHH/9/A	Philip Roebuck's Proof of Evidence (See MHH/4/A)
MHH/10/A	Ian Ladbroke's Summary Proof of Evidence
MHH/10/B	Ian Ladbroke's Proof of Evidence (utilising the original site access point)
MHH/10/C	Ian Ladbroke's Proof of Evidence (utilising the alternative site access point opposite The Poplars)
MHH/10/D	Appendices to both of Ian Ladbroke's Proofs of Evidence
MHH/10/E	Ian Ladbroke's Rebuttal Proof of Evidence
MHH/11/A	Nicola Jacobs Summary Proof of Evidence
MHH/11/B	Nicola Jacobs Proof of Evidence
MHH/11/C	Appendices (A3) to Nicola Jacobs Proof of Evidence
MHH/11/D	Figures (A3) to Nicola Jacobs Proof of Evidence
MHH/12	Closing Submissions relating to Leeds Road, Collingham and Breary Lane East, Bramhope on behalf of Miller Homes and the Hills Family

APPENDIX C – SCHEDULE OF CONDITIONS APP/N4720/W/15/3004106

Land at Breary Lane East, Bramhope

Approval of details

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall comprise no more than 380 dwellings.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan 488A-02B.

Timing of Implementation

- 4) Application for approval of all reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. 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 agreed.

Archaeology

- 5) No development shall take place until the applicant or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.

Flood Risk and Drainage

- 6) Not used
- 7) No building or other obstruction shall be located over, or within three metres either side of the centre line of, the sewer that crosses the site.
- 8) No new tree planting shall be located over, or within five metres either side of the centre line of, the sewer that crosses the site.
- 9) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 10) No piped discharge of surface water from the site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to, and approved in writing by, the local planning authority before development commences.
- 11) Development shall not commence until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works or

off-site works, have been submitted to, and approved in writing by, the local planning authority. The works shall be implemented in accordance with the approved schemes before the development is brought into use, or as set out in the approved phasing details and subsequently maintained in accordance with the timing/phasing arrangements embodied within the scheme.

Ground Conditions

- 12) Development shall not commence until an intrusive investigation involving characterisation of contamination and site ground conditions has been undertaken, and the report has been submitted to, and approved in writing by, the local planning authority. The site investigation report shall explain the methodology employed, and provide an interpretive discussion of results and findings, a conceptual site model, a risk assessment and recommendations for further investigation/remediation.
- 13) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the local planning authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to and approved in writing by, the local planning authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised Remediation Statements.
- 14) Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works the verification report(s) shall be submitted to the local planning authority in accordance with the approved programme. The site, or phase of a site, shall not be brought into use until such time as all verification information relating to it has been approved in writing by the local planning authority.

Ecology

- 15) No development shall take place until the following ecological reports and details, including details for implementation, have been submitted to, and approved in writing by, the local planning authority:
 - a) A "Lighting Design Strategy for Bats";
 - b) A Construction Environmental Management Plan (CEMP);
 - c) A Biodiversity Enhancement and Management Plan (BEMP);
 - d) Details of bat roosting and bird nesting opportunities

The approved plans and reports shall be implemented in accordance with the approved details.

Public Open Space

- 16) The development hereby permitted shall not begin until a scheme has been submitted to, and approved in writing by, the local planning authority for the provision of 80m² of on-site public open space per dwelling or 3.04 hectares

overall based upon a maximum development of 380 dwellings. The scheme shall include details of the siting, layout, landscaping, maintenance, and long term management of the open space. The on-site public open space shall be provided prior to completion of the development in accordance with the approved scheme.

- 17) The development hereby permitted shall not begin until a scheme for the provision of a landscaped woodland edge buffer zone along the northern and western boundaries of Spring Wood, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the location, layout, planting plans, schedule of species, timetable for implementation and a long term management scheme. The scheme should include for the provision of native tree planting in order to provide a transition from the woodland to the development and should provide for the retention and improvement of any public rights of way that falls within it. The buffer zone shall be laid out in accordance with the approved details and maintained as a buffer zone for the lifetime of the development.

Highways

- 18) Details of site access works shall be submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented before the first occupation of any dwelling or the convenience store on the development and retained and maintained thereafter.
- 19) Details of off-site works together with a programme of implementation shall be submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in accordance with the approved programme before the first occupation of any dwelling or the convenience store on the development and retained and maintained thereafter.
- 20) Not used.
- 21) No development shall take place until details of the provision for an emergency/pedestrian/cycle link to High Ridge Way have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented prior to first occupation of any dwelling on the development and retained thereafter.
- 22) No development shall take place until details of cycle/motorcycle parking and facilities have been submitted to, and approved in writing by, the local planning authority. Details shall include the method of securing the cycles and their location and the approved details shall be implemented prior to occupation of the dwelling it relates to and thereafter retained for the lifetime of the development.
- 23) No development shall take place until a scheme for the provision of electric vehicle charging points, to be provided within each garage hereby approved, shall have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented prior to occupation of the respective dwellings.

Landscape

- 24) No development shall take place until details of the position, design, materials and type of all walls and/or fences or permanent boundary/screening treatment, whether or not shown to be erected on the approved plans, have been submitted to, and approved in writing by, the local planning authority. Such walls and fences shall be erected in accordance with the approved details, before the land/buildings to which they relate are occupied and shall thereafter be retained.
- 25) Development shall not commence until details of existing and proposed ground levels, including soft landscape areas, floors, paths, drives, walls, garages and parking areas, including a programme of implementation have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in line with the approved details and programme.
- 26) No development shall commence until a written arboricultural method statement for a tree care plan during construction in accordance with British Standard 5837 (2012) Trees in relation to design, demolition and construction has been submitted to, and approved in writing by, the Local Planning Authority. This should include details of access, scaffolding, storage, contractors parking, service runs and changes in levels. Development shall then be carried out in accordance with the approved method statement. For the duration of the construction works.
- 27) A landscaping management plan, including long term design objectives, management responsibilities and maintenance schedules shall be submitted to, and approved in writing by, the local planning authority prior to the first occupation of the development. The landscape management plan shall be carried out in accordance with the approved management responsibilities and maintenance schedules.
- 28) Development shall not commence until full details of both hard and soft landscape works including an implementation programme have been submitted to, and approved in writing by, the local planning authority. The landscaping shall be carried out in line with the approved details.
- 29) a) No works shall commence until all existing trees, hedges, and bushes shown to be retained on the approved landscape plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans and specifications and the provisions of British Standard 5837 (2012) Trees in relation to design, demolition and construction. Such measures shall be retained for the duration of any demolition and/or approved works.
- b) No works or development shall commence until a written arboricultural method statement for a tree care plan has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved method statement.
- c) No equipment, machinery or materials shall be used, stored or burnt within any protected area. Ground levels within these areas shall not be altered, nor any excavations undertaken including the provision of any underground services, without the prior written approval of the Local Planning Authority.

d) Seven days written notice shall be given to the Local Planning Authority that the protection measures are in place prior to demolition and/or approved works, to allow inspection and approval of the works.

30) a) No retained tree/hedge/bush shall be cut down, uprooted or destroyed nor any tree be pruned, topped or lopped or suffer root severance other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved pruning, topping or lopping shall be carried out in accordance with current British Standards and any tree survey approved by the Local Planning Authority.

c) If any retained tree/hedge/bush is removed, uprooted or destroyed or dies the local planning authority shall be notified forthwith in writing. Another tree/hedge/bush of an agreed size and species shall be planted at the same place and at such time as may be specified in writing by the local planning authority

Retained tree/hedge/bush refers to vegetation which is to be retained, as shown on the approved plans and particulars and the condition shall have effect until the expiration of five years from the date of occupation.

31) If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season

Planning Permission Outline - Materials

32) No building works shall take place until details and samples of all external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Samples shall be made available on site prior to the commencement of building works, for inspection by the Local Planning Authority which shall be notified in writing of their availability. The building works shall be carried out in accordance with the approved details and samples.

33) No building works shall take place until details and samples of all surfacing materials to the hardsurfaced areas have been submitted to and approved in writing by the Local Planning Authority. The surfacing works shall be constructed in accordance with the approved details and samples.

APPENDIX D – GLOSSARY

CIL	Community Infrastructure Levy
CS	Core Strategy 2014
EIP	Examination in Public
Framework	National Planning Policy Framework
FOAN	Full Objectively Assessed Need
Guidance	National Planning Practice Guidance
HLS	Housing Land Supply
HMCA	Housing Market Character Area
Km	Kilometres
LEAP	Local Equipped Area of Play
MUA	Major Urban Area
NGT	New Generation Trolley Bus
PAS	Protected Area of Search
PRS	Private Rented Sector
RFC	Ratio of Flow to Capacity
SAP	Site Allocations Plan
SCG	Statement of Common Ground
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoS	Secretary of State
SPD	Supplementary Planning Document
SSD	Secretary of State's Direction
TPO	Tree Preservation Order
TWA	Transport and Works Act
UDP	Unitary Development Plan
UDPR	Unitary Development Plan Review 2006



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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