



Ministry of Housing,
Communities &
Local Government

Ms Kate Thompson
Pegasus Planning Group
4 The Courtyard
Lockington
Derby
DE74 2SL

Our ref: APP/N4720/W/17/3168897
Your ref: EMS.2738

12 July 2018

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY ROCKSPRING HANOVER PROPERTY UNIT TRUST
LAND WEST OF STREET 5, THORP ARCH ESTATE, WETHERBY
APPLICATION REF: 16/05226/OT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Richard Clegg BA(Hons) DMS MRTPI, who held a public local inquiry between 12-15, 19-22 and 26-29 September and 20-24 and 27 November 2017 into your client's appeal against the failure of Leeds City Council to determine your client's application for outline planning permission for up to 874 dwellings (a maximum of 840 dwellings with two or more bedrooms); a 66 bed care home; a one form entry primary school; a new local centre including a class A1 convenience store (up to 420m²), a five unit parade of small retail units (up to 400m²), and class D1 uses (up to 750m²); on-site open space, including areas for both public access and biodiversity enhancements; together with associated highway and drainage and infrastructure, in accordance with application ref: 16/05226/OT, dated 10 August 2016.
2. On 27 February 2017, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that that the appeal be dismissed and outline planning permission be refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where noted, and agrees with his recommendation. He has decided to dismiss the appeal and refuse 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. Having taken account of the Inspector's comments at IR6 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. He agrees with the Inspector (IR7) that the ES Addendum is capable of being taken into account in this appeal, and to do so would not cause prejudice to any other parties.

Policy and statutory considerations

6. 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.
7. The adopted development plan consists of in this case, the adopted development plan for the area comprises of the saved policies of the Leeds Unitary Development Plan Review (UDPR) 2001, Leeds Core Strategy (CS) 2012-2028, the Natural Resources and Waste Local Plan (NRWLP) 2013 and the Thorp Arch Neighbourhood Plan (NP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR21-30.
8. The Boston Spa NP does not include any part of the appeal site though provides a range of facilities within a relatively close distance. The Secretary of State considers that the most relevant policies are those set out at IR32.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
10. 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 those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
11. 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.

Emerging site allocation plan

12. The Secretary of State considers that the emerging Site Allocation Plan (SAP) is of relevance to this case, and the most relevant policies are those set out at IR33. Although examination of the SAP commenced in October 2017, housing and mixed-use policies will not be examined until July- August 2018.
13. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. Given that the hearings on the housing elements of the SAP have only just begun, and that there are unresolved objections to it, the Secretary of State gives the SAP only little weight.
14. The Walton Neighbourhood Plan is not at an advanced stage, and the Secretary of State affords its policies only limited weight.

Procedural matters

15. The Secretary of State has had regard to representations by Thorp Arch Trading Estate Action Group (1 February 2018) and Pegasus Group (4 July 2018) on an appeal relating to a development on land off Walton Road. His conclusions are set out below. As all parties were aware of the Council's evidence at that appeal he has not found it necessary to refer back to them for comments.

Main issues

Housing land supply

16. The Secretary of State notes that it is common ground between the parties that the Council cannot demonstrate a five year supply of housing land. The Secretary of State agrees, for the reasons given at IR233 – 243, that the Council has adopted a thorough and proactive approach to land availability, and that on the evidence before him on this case the supply of housing land is closer to the figure of 4.38 years than the 2.74 years suggested by the appellant.

Sustainability of the site's location

17. For the reasons set out at IR222-233, the Secretary of State agrees that the proposal would not be consistent with policy SP1 of the Core Strategy. For the reasons given at IR224, the Secretary of State agrees that policy SP7 does not represent a commitment to residential development at Thorp Arch Estate. However, he also agrees that the fact that a substantial part of the area intended for built development is previously developed land, which provides support for the proposal (IR225).
18. The Secretary of State agrees for the reasons given at IR226-232 that the proposal would not fully meet the accessibility standards set out in the Core Strategy. He further agrees that the location is not, or would as a result of the proposal not be, adequately served by public transport, and would thus conflict with Policy T2 of the Core Strategy. He also agrees that opportunities for pedestrian access are limited. As such, he concludes that the site is not a sustainable location for the proposed development.

19. The Secretary of State agrees (IR295) that policies SP6, SP7 and H2 are relevant policies for the supply of housing, and thus not up-to-date in the absence of a five year supply of housing land.

Traffic movement and highway safety

20. For the reasons set out IR244-249, the Secretary of State agrees with the Inspector in preferring the distribution and assignment of development traffic put forward in the appellants' Transport Assessment to that put forward by the Council.
21. The Secretary of State agrees, for the reasons given at IR250-261 that the traffic generated by the proposed development would be likely to seriously worsen existing problems of traffic movement on Thorp Arch Bridge. He has had regard to the representations referred to at paragraph 14 above as to the benefits of a resident only parking scheme in maintaining the free flow of traffic along Bridge Road in regard to the Walton Road scheme. However, the Secretary of State considers that the traffic impact of the Walton Road scheme (119 dwellings) would be significantly smaller than that of the Thorp Arch Estate scheme (up to 874 dwellings, plus care home and other development). As such he concludes that the traffic signal scheme does not offer the prospect of effectively mitigating the impact of the development in this location.
22. He agrees that the traffic generated by the appeal proposal would be accommodated on the Walton Road/A168 junction without causing adverse effect (IR262). He further agrees that the proposed pedestrian crossing at Wighill Lane would not present a risk to highway safety (IR263-265).
23. Overall he concludes that there would be a significant increase in movement through Boston Spa, and that the residual cumulative impact of the proposed development would be severe, contrary to paragraph 32 of the Framework (IR266). As the proposal would not be adequately served by the highway network, and congestion problems have not been resolved, it would be contrary to Policy T2 of the Core Strategy and Policy GP5 of the UDPR. These traffic impacts attract considerable weight.

Contamination

24. For the reasons given at IR267–273 the Secretary of State agrees (IR274) that the appeal proposal would be capable of addressing the contamination on the site, and as such would be consistent with Policy GP5 of the UDPR and Policy LAND1 or the NRWLP.

Affordable housing

25. The Secretary of State agrees, for the reasons set out at IR275-284, and having particular regard to the Inspector's analysis of the viability assessment at IR276-284, that the proposal would make adequate provision for affordable housing, and would thus be consistent with Policy H5. He further agrees that the provision of 131 affordable dwellings would make an important contribution to the need for such accommodation in Leeds.

Prematurity

26. The Secretary of State has given careful attention to the Inspector's analysis at IR285-287. While he agrees that the size of the proposed development would account for almost a quarter of the outstanding housing provision, he notes that the hearings for the

housing element of the SAP have only just begun, and that there are considerable outstanding objections to the housing proposals of the SAP. Having regard to paragraph 21b-014 of the Guidance, he thus finds that while the development is substantial, the emerging plan is not at an advanced state. As such he thus concludes that the appeal proposal cannot reasonably be regarded as undermining the plan making process in the terms set out in the Guidance.

Other issues - consistency with the development plan

27. Given the lack of access to a range of community facilities from the site, the Secretary of State concludes that the provision of a care home is not compliant with policy H8 (IR289).
28. For the reasons given at IR290 the Secretary of State agrees that the loss of employment land on the appeal site could be sufficiently offset within the surrounding area, and as such there would be no conflict with Policy EC3.
29. He further agrees, for the reasons set out at IR291, that Policy P8 does not require a sequential assessment for the retail component of the proposal. As the health facility would be in an accessible location for future residents of the scheme, it would comply with Policy P9.
30. The Secretary of State concludes, in agreement with the Inspector at IR292 that suggested condition and the planning obligation would adequately safeguard nature conservation interest on the appeal site, and also enhance biodiversity, and as such would comply with Policies G8 and G9.
31. For the reasons set out at IR293 the Secretary of State concludes that the appeal proposal would not detract from the significance or the setting of the Thorp Arch Conservation Area, nor would it detract from the contribution which setting makes to the significance of the two grade II listed buildings on the west side of the road, Thorp Arch Station House and Engine Shed. Accordingly the proposal would not conflict with Policy P11.
32. The Secretary of State further agrees that the local centre would comply with Policy P9, and that planning obligations are put forward in accordance with Policy ID2 (IR294).
33. While the proposal would not be compliant with Policy E3B in terms of the allocation of employment land, but as the proposal meets with the test set out in Policy EC3, the Secretary of State agrees that the conflict carries little weight (IR290).
34. For the reasons given at IR298, the Secretary of State agrees that there would be no conflict with Policy MINERALS 12.
35. The Secretary of State agrees that the proposal would be consistent with Policies BE1, CNE2 and CNE4 of the Thorp Arch NP. While the proposal does not reflect the aspiration to retain the Thorp Arch Estate for mixed use employment, that aspiration does not form part of the Development Plan.

Other benefits of the scheme

36. The Secretary of State has had regard to the fact that the construction programme would support 102 full time equivalent jobs over nine years (IR301). For the reasons set out at IR301, the Secretary of State agrees that there would be no more than a modest increase in permanent jobs as a result of the development.

37. He has further regard to the increase in household expenditure in the local economy and New Homes Bonus. However, for the reasons given, he gives limited weight to these (IR302). He concludes that the income by way of council tax revenues is not a material planning consideration.
38. The Secretary of State agrees that the provision of a country park and the associated extension of the Sustrans route would be important benefits of the proposal.

Planning conditions

39. The Secretary of State has given consideration to the Inspector's analysis at IR306-308, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. For the reasons given at IR305 he agrees that the potential measures for a highway and traffic scheme in Boston Spa, and the bus diversion, do not meet the test of necessity. He is satisfied that the other conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing outline planning permission.

Planning obligations

40. Having had regard to the Inspector's analysis at IR304, the planning obligation dated 22 December 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR305 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing outline planning permission.

Planning balance and overall conclusion

41. For the reasons given above, the Secretary of State considers that the appeal proposal would generally comply with relevant policies in the UDPR, the NRWLP, and the Thorp Arch Neighbourhood Plan. It would also comply with several policies in the Core Strategy, but conflict with SP1, SP6, SP7, H2 and T2. SP6, SP7 and Policy H2 are relevant policies for the supply of housing and are not up-to-date, but SP1 and Policy T2 attract full weight, and as such the Secretary of State concludes that the appeal scheme is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
42. In the absence of a 5-year supply of housing land, paragraph 14 of the Framework indicates that planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework as a whole or (b) specific policies in the Framework indicate development should be restricted.
43. The Secretary of State attaches significant weight to the contribution of the proposal to housing land supply at a time when Leeds does not have a five year supply of housing land. He gives further significant weight to the supply of affordable housing. He gives further moderate weight to the economic benefits of the proposal set out at paragraph 35-

36 above. He gives moderate weight to the benefit of remediating contaminated land, for the reasons given at IR312. The provision of the country park and Sustrans extension attract further significant weight.

44. Against these, the Secretary of State weighs the fact that the appeal site would not be a sustainable location for major residential development, to which he attaches substantial weight. He attaches further considerable weight to the residual cumulative impact of additional traffic on Thorp Arch Bridge and Bride Road. He attaches no weight to prematurity in respect of the emerging SAP.
45. Overall he concludes that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits. He thus finds no material considerations to justify determining the appeal other than in accordance with the development plan.

Formal decision

46. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for residential development of up to 874 dwellings (a maximum of 840 dwellings with two or more bedrooms); a 66 bed care home; a one form entry primary school; a new local centre including a class A1 convenience store (up to 420m²), a five unit parade of small retail units (up to 400m²), and class D1 uses (up to 750m²); on-site open space, including areas for both public access and biodiversity enhancements; together with associated highway and drainage and infrastructure, in accordance with application ref: No 16/05226/OT, dated 10 August 2016.

Right to challenge the decision

47. 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.
48. A copy of this letter has been sent to Leeds City Council and the Thorp Arch Estate Action Group, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by the Secretary of State to sign in that behalf



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

by Richard Clegg BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Date: 9 April 2018

TOWN AND COUNTRY PLANNING ACT 1990
LEEDS CITY COUNCIL
APPEAL BY
ROCKSPRING HANOVER PROPERTY UNIT TRUST

Inquiry opened on 12 September 2017

Land west of Street 5, Thorp Arch Estate, Wetherby

File Ref: APP/N4720/W/17/3168897

File Ref: APP/N4720/W/17/3168897

Land west of Street 5, Thorp Arch Estate, Wetherby

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Rockspring Hanover Property Unit Trust against Leeds City Council.
- The application Ref 16/05226/OT is dated 10 August 2016.
- The development proposed is up to 874 dwellings (a maximum of 840 dwellings with two or more bedrooms); a 66 bed care home; a one form entry primary school; a new local centre including a class A1 convenience store (up to 420m²), a five unit parade of small retail units (up to 400m²), and class D1 uses (up to 750m²); on-site open space, including areas for both public access and biodiversity enhancements; together with associated highway and drainage and infrastructure.
- The inquiry sat for 18 days: 12-15, 19-22, & 26-29 September, and 20-24 & 27 November 2017.
- Site visits took place on 15 & 28 September, 12 October, and 13 & 27 November 2017.

Summary of Recommendation: The appeal be dismissed.

Procedural Matters

1. The appeal was recovered for decision by the Secretary of State by a direction dated 27 February 2017, as it involves proposals for residential development of over 150 units or on sites of over 5ha, 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.
2. Thorp Arch Trading Estate Action Group (TAG) had served a statement of case in accordance with Rule 6(6) of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, and it took a full part in the proceedings of the inquiry.
3. On the application form, the location of the site is given as Street 5, Thorp Arch Estate. At the inquiry the main parties agreed that the site is more clearly referred to as land west of Street 5, Thorp Arch Estate, Wetherby, and I have identified it accordingly in the appeal details above.
4. The planning application was submitted in outline form, with all matters of detail reserved for subsequent consideration.
5. The appeal was made against a failure to give notice of a decision on the planning application within the prescribed period. Subsequently the Council resolved that, had it been in a position to do so, it would have refused planning permission for the following reasons¹:

1. *The Local Planning Authority considers that the Applicant has so far failed to demonstrate that the local highway infrastructure, specifically Thorp Arch Bridge and the junction of Bridge Road/ High Street in Boston Spa, which will be affected by additional traffic as a result of this development, is capable of safely accommodating the proposed development and absorbing the additional pressures placed on it by the increase in traffic which will be brought about by the proposed development. The proposal is*

¹ The Council's initial resolution in April 2017 concerned reasons 1-3 (CD F4). Subsequently, in July 2017, reasons 4 & 5 were added (CD F5).

therefore considered to be contrary to Policy T2 of the Leeds Core Strategy, Policy GP5 of the adopted UDP Review and the sustainable transport guidance contained in the National Planning Policy Framework which combined requires development not to create or materially add to problems of safety, environment or efficiency on the highway network.

- 2. The Local Planning Authority considers that the information submitted with the application fails to demonstrate that an acceptable level of accessibility can be achieved for the scale of development proposed. In the absence of sufficiently robust and viable measures, there is a danger that future residents will be overly reliant on the private car, resulting in an unsustainable form of development. The proposals are therefore considered to be contrary to Policies SP1, T2 and H2 of the Leeds Core Strategy, Policy GP5 of the adopted UDP Review and guidance in the National Planning Policy Framework.*
- 3. In the absence of a signed Section 106 agreement the proposed development fails to provide necessary contributions and/ or obligations for the provision and delivery of affordable housing, housing for independent living, greenspace, travel planning, public transport enhancements, local facilities and off-site highway works, without which (it) would result in an unsustainable form of development that fails to meet the identified needs of the city and prospective residents, contrary to the requirements of Policies H5, H8, P9, T2, G4 and ID2 of the Leeds Core Strategy, Policy GP5 of the adopted UDP Review and related Supplementary Planning Documents and guidance in the National Planning Policy Framework.*
- 4. The proposals fail to make satisfactory provision for affordable housing, resulting in an unsustainable form of development that does not adequately address the identified need for such housing, contrary to Core Strategy Policy H5 and guidance in the NPPF.*
- 5. Development of the appeal site would predetermine decisions relating to the scale and phasing of new housing development set out within the (highly advanced) Submission Draft Site Allocations Plan (SAP). The proposal would have a prejudicial, pre-determinative effect on decision-taking with regard to directing new development through the SAP and community involvement in the plan-making process. The appeal site would account for 25% of the total housing site allocations for the Outer North East Housing Market Characteristic Area (HMCA). The development is considered to be unacceptably premature, contrary to the Planning Practice Guidance.*
6. An environmental statement (ES) accompanied the planning application (Core Documents (CDs) A7-9)². Subsequently, during adjournment of the inquiry, the Appellant submitted an ES Addendum (in ID-92). Both the City Council and TAG

² On 16 May 2017 the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 came into force. Regulation 76 includes transitional arrangements for qualifying applications and appeals. I have considered the appeal in accordance with these Regulations, and I am content that it meets the requirements of the transitional arrangements in that an environmental statement had been submitted by the date when the 2017 Regulations came into force. Therefore the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 will continue to apply to this appeal.

have expressed reservations about the adequacy of the original ES in respect of highway matters and the status of the Addendum³. Insofar as the original ES is concerned, the highway impact of the proposal is addressed not only in Chapter 6, but also in the accompanying documents in Appendix 6 which include the transport assessment (TA) and travel plan (CD A9). The Council raised specific concern about coverage of mitigation in the ES. A signalisation scheme in Boston Spa is no longer put forward as part of the scheme by the Appellant but it was discussed at the inquiry. Signalisation of the Wighill Lane/ Street 5 junction, provision of a pedestrian crossing on Wighill Lane, and traffic calming in Walton and Thorp Arch are put forward as mitigation measures. Both signalisation schemes are referred to in the TA, and the travel plan refers to a pedestrian crossing on Wighill Lane. Although not all details are covered, I consider that the original ES met the requirements of Schedule 4 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011. The ES accompanied the planning application which was the subject of publicity and consultation.

7. The ES Addendum was submitted following discussion between the Appellant and BAE Systems (BAE) which led to further detail and clarification in respect of the remediation proposed for the contaminated land. It also responds to concerns raised by objectors. Interpretation of the status of the Addendum is a matter of law, but whilst the Addendum provides additional information concerning the approach to remediation, it does not seem to me that the original ES needed repair. Having regard to the judgement in Corbett⁴, I do not consider that the Addendum provides information needed to ensure that the requirements for an ES are met. I note, moreover, that the Addendum has been the subject of publicity, and TAG has had the opportunity to submit a detailed response to this document. In my view the ES Addendum is capable of being taken into account in this appeal, and to do so would not cause prejudice to any other parties.
8. A draft planning agreement and a draft unilateral undertaking were discussed at the inquiry, with the executed documents being submitted after the inquiry had closed. The planning agreement (Inquiry Document 142 (ID-142)), made between the Local Planning Authority (LPA) and the Trustees of Rockspring Hanover Property Unit Trust, includes obligations concerning affordable housing, travel plans, a country park, provision of a primary school site, community facilities, relocation of a concrete batching plant, and employment and training opportunities for local people. In addition, financial contributions would be made towards a bus route diversion scheme, bus stop works, the Sustrans route, traffic calming measures, and the cost of a school bus service. The unilateral undertaking (ID-143) given by the Trustees of Rockspring Hanover Property Unit Trust, provides for payment of a contribution for a highway and traffic scheme in Boston Spa.
9. The Appellant and the LPA agreed the preparation of a set of core documents. These are listed separately in Document G1. TAG submitted two DVDs concerning highway conditions on Bridge Road and Thorp Arch Bridge during the inquiry (IDs-14 & 124). Both these DVDs were viewed as part of the inquiry.

³ The City Council's concerns are set out in paras 55-59 of Mr Lopez's closing submissions (ID-131). TAG's concerns are set out in Mr Village's & Miss Jackson's submissions in response to the ES Addendum (ID-93).

⁴ R (Corbett) v Cornwall Council & Another [2013] EWHC 3958 (Admin).

10. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendation. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the Council, the Appellant and TAG are included as inquiry documents⁵: in delivery they were subject to a number of detailed alterations.

The Site and Surroundings

11. The appeal site forms part of Thorp Arch Estate, which includes a range of employment uses and a retail park. Thorp Arch Estate is situated to the north of the River Wharfe, about 3.2km to the east of Wetherby and about 4km to the north-west of Tadcaster. Leeds city centre is about 18km to the south-west. The small settlements of Walton and Thorp Arch lie just to the north and about 1km to the west respectively⁶. Boston Spa, which is somewhat larger with a good range of facilities and services⁷, is about 2.2km from the appeal site, on the opposite side of the river.
12. Thorp Arch Estate comprises the larger part of a former Royal Ordnance Factory (ROF)⁸. The production of munitions ceased in 1953, and the factory closed in 1958⁹. The appeal site lies on the western side of the Estate, to the west of Street 5 and to the north of Avenue D. On the opposite sides of these internal roads is a variety of industrial and commercial premises (see Plan A). Two covered reservoirs lie on the west side of Street 5 but are not included within the appeal site. Immediately to the north of the appeal site is Wealstun Prison and further to the north-east are the buildings of the British Library. Street 5 provides an access to Thorp Arch Estate at its junction with Wighill Lane, to the north of the British Library. A second vehicular access is at the roundabout junction of Avenue C and Wighill Lane, on the east side of the Estate. In the wider area, beyond the Estate and adjoining development, is open countryside.
13. To the west of the site a road runs from Walton and past the prison to Thorp Arch (the northern section is known as Walton Road and the southern and western section as Church Causeway). There is a group of housing between Walton Road, Wighill Lane and Street 5, and more recent residential development at Walton Chase and Woodland Drive on the west side of Walton Road. A former railway line provides a cycle path and a route for pedestrians and, in part, horse-riders between Thorp Arch Estate and Wetherby. This is referred to in the representations as the Sustrans route, and runs through the south-west side of the appeal site. Thorp Arch Conservation Area extends eastwards to Church Causeway/ Walton Road, and at the point where the Sustrans route crosses the road a small part of the conservation area falls within the appeal site. Two listed buildings on the west side of the road are a short distance outside the appeal site.

⁵ The versions of the closing submissions included as inquiry documents incorporate amendments made in delivery at the inquiry.

⁶ The location of Thorp Arch Estate in relation to nearby settlements is shown on the plan at ID-10.

⁷ A list of facilities and services in Boston Spa is provided in ID-56.

⁸ The ROF is shown in Plan 1 of Document A18 and in an aerial photograph from 1946 at Plan POE/06 of ID-38 and item 5 of ID-125.

⁹ Planning statement of common ground (CD G9), paragraph 2.5.

14. The extent of the appeal site, which covers 60.7ha, is shown on Plan A. In the south-east corner is a retail park largely accommodated in buildings erected for the former ROF¹⁰. Extending between Avenues B and D, to the west of the retail park, is the area known as Group 1. There is dense vegetation across much of this area, which contains earthworks and the remains of structures from the ROF. At the eastern end are some mounds of recently deposited material. Westminster Yard lies to the north of the Group 1 area. It comprises hard-surfaced land, with some industrial premises at the western end including a concrete batching plant. The Sustrans route commences at Street 1 and runs through a belt of woodland along the western side of the site. To the south of this point is an area of former landfill adjacent to the former railway line. The northern part of the appeal site is predominantly covered in dense vegetation, with an area of grassland between the covered reservoirs and the northern boundary.

Planning History

15. In 2003 the greater part of Thorp Arch Estate was considered as a possible strategic housing site during preparation of the Leeds Unitary Development Plan (UDP) Review¹¹. The UDP Inspector considered a proposal for 1,500 houses, but concluded that the site was unsustainable, and a housing allocation was not included in the UDP.
16. In 2013 an outline planning application for up to 2,000 dwellings at Thorp Arch Estate was submitted to the LPA. This scheme included the construction of a relief road to the west of the Estate. However the land required for the relief road could not be secured, and the application was withdrawn in 2016.

The Proposal

17. An illustrative masterplan (Plan B) shows built development across the southern part of the site. About 874 dwellings are proposed, many of which would be provided in blocks to the north of Avenue D and extending between the Sustrans route and Street 5. To the north of these blocks, the masterplan shows the primary school, the care home and the local centre. The primary school would be close to the linear park proposed along the line of the Sustrans route, with further blocks of housing extending towards the boundary with the prison. Both the care home and local centre are intended to be built at the other side of the site close to the vehicular access from Street 5. A second vehicular access would be taken from Avenue D, and a bus gate at Walton Road/ Church Causeway would enable the bus service between Leeds and Harrogate to be diverted through the appeal site. Much of the northern part of the site, which is predominantly grassland and covered by vegetation, would become a country park.
18. It is intended that the development would be carried out in three phases¹². Phase 1 would include housing, the sites for the school, local centre and care home, and the country park; whilst phases 2 and 3 would both provide housing, the former on land currently occupied by the greater part of the retail park; and the latter on the Group 1 area between Avenues B and D.

¹⁰ The existing site layout is shown on Plan POE/01 in ID-38.

¹¹ A plan of the site considered as part of the UDP Review is at ID-137.

¹² The phases are shown on the plan at Appendix 14 of Document A19.

19. The scheme also proposes alterations to the junction of Street 5 with Wighill Lane¹³, a pedestrian crossing to the west of that junction, and traffic calming measures in Walton and Thorp Arch. Indicative traffic calming schemes are shown on the plans at ID-116 & ID-117. Although the transport assessment refers to mitigation works involving the signalisation of the junction of High Street and Bridge Road in Boston Spa, together with traffic signals at Thorp Arch Bridge¹⁴, at the inquiry the Appellant made it clear that it did not consider that such highway works are necessary. Nevertheless, the unilateral undertaking (ID-143) provides for funding for the Boston Spa scheme, comprising signalisation and/ or other highway works in this location should the Secretary of State consider this to be necessary.

Planning Policy and Guidance

The Development Plan

20. The Development Plan for this part of Leeds comprises the Leeds Core Strategy (CD C1), the saved policies of the Leeds Unitary Development Plan Review (UDPR) which have not been subsequently superseded (CD C8), the Natural Resources and Waste Local Plan (NRWLP C4), and the Thorp Arch Neighbourhood Plan (NP) (ID-109). A composite policies map relates to the UDP and the NRWLP (ID-57).

The Core Strategy

21. The Core Strategy was adopted in 2014, and covers the period 2012-2028. Spatial Policy 1 (SP1) seeks to locate most development in the Main Urban Area (MUA) and major settlements. Smaller settlements should also contribute to development needs, with the scale of growth related to the settlement's size, function and sustainability. A housing requirement of 70,000 additional dwellings is set in SP6, and 66,000 dwellings (gross) are to be provided on identified sites, guided by the settlement hierarchy. Amongst the considerations to be taken into account in allocating housing land are sustainable locations and a preference for brownfield and regeneration sites. Of the 66,000 dwellings expected to be provided on identified sites, 5,000 (8%) should come forward in the Outer North East Housing Market Characteristic Area (HMCA) which includes Thorp Arch Estate (SP7)¹⁵. The policy also intends that most of this housing (70%) should be provided within existing settlements with a lesser amount as urban extensions, as set out in table 2. Notwithstanding this distribution, the supporting text explains that opportunities for housing outside the settlement hierarchy will be considered where the delivery of sites would be consistent with the overall principles of the Core Strategy, including the regeneration of previously developed land, and where sites are in locations which are or can be made sustainable. Land at Thorp Arch is given as an example of such a possible opportunity¹⁶.
22. New housing will be acceptable in principle on non-allocated sites, provided that the capacity of infrastructure is not exceeded, and that for five or more dwellings

¹³ See plan SK 006/ P1, Appendix Y of the transport assessment (CD A9, Appendix 6).

¹⁴ Paragraphs 8.11 & 8.12 and Appendix AA of the transport assessment (CD A9, Appendix 6).

¹⁵ Map 7 in CD C1 shows the HMCAs.

¹⁶ Paragraph 4.6.16, CD C1.

- the location accords with the specified accessibility standards (Policy H2)¹⁷. Additional criteria apply to greenfield land and sites in the Green Belt. Affordable housing provision is sought as part of all new residential development in accordance with Policy H5. Thorp Arch Estate is in affordable housing market zone 1¹⁸ where 35% affordable housing should normally be provided on site in schemes of 10 or more dwellings. Policy H8 stipulates that developments of 50 or more dwellings should make a contribution to supporting needs for independent living, for example by the provision of bungalows or sheltered housing.
23. To cater for potential job growth, SP9 seeks the provision of a minimum 493ha of general employment land across the District. The supporting text explains that 143ha need to be identified since 350ha have planning permission or are already allocated. Policy EC3 safeguards existing employment allocations: proposals for other development should only be permitted if certain requirements are met.
 24. Policy P7 explains that new centres may be required where there is a need for additional convenience and local service facilities due to significant housing growth, if existing centres are not capable of expansion amongst other considerations. The circumstances in which sequential and impact assessments for main town centre uses should be undertaken are set out in Policy P8. Policy P9 requires that new community facilities are accessible by foot, cycling or public transport: where possible and appropriate they should be located in centres with other community uses. Conservation is the subject of Policy P11, which makes it clear that the historic environment will be conserved and enhanced. New development generally should be located in accessible locations which are adequately served by existing or programmed highways, public transport, and safe and secure access for pedestrians, cyclists and people with impaired mobility (Policy T2).
 25. Policy G4 sets out requirements for the provision or improvement of green space in connection with housing schemes. Policy ID2 seeks developer contributions through planning obligations and the community infrastructure levy (CIL) to provide infrastructure and facilities to support the growth of Leeds.
 26. Within the appeal site, the northern part of the former railway line and land to the north and east of the retail park are shown on the Local Development Framework Policies Map (ID-57, Plan 1) as sites of ecological or geological importance (SEGIs 28 & 29)¹⁹. The extent of SEGIs 28 & 29 is shown more clearly on the plans included in ID-138. These are sites of importance within West Yorkshire, and Policy G8 specifies that development will not be permitted which would seriously harm sites designated as being of regional or local importance for biodiversity or geology. Policy G9 makes it clear that new development should achieve biodiversity improvements

¹⁷ The accessibility standards for housing are in table 2 of Appendix 3 of the Core Strategy.

¹⁸ Map 12 in CD C1 shows the affordable market housing zones.

¹⁹ The Policies Map is an iterative document which is updated to reflect the latest version of the Development Plan. The most recent version of the Policies Map is dated 2016, and does not show the SEGIs but local wildlife and geological sites which are the replacement designation (ID-112, Plan 6b). At the inquiry the Council explained that the local wildlife sites on Map 6b of the 2016 Policies Map did not form part of the Development Plan, whereas Map 6 of the 2013 Policies Map (ID-57) which does show the SEGIs is part of the Development Plan.

The UDPR

27. The UDP was originally adopted in 2001 and a Review was adopted in 2006. The Review plan period ran from 1 April 2003 to 31 March 2016. Policy GP5 is referred to in the putative reasons for refusal: it specifies that, amongst other matters, proposals should resolve contamination, avoid congestion, and maximise highway safety.
28. The Group 1 area is shown as part of the existing supply of employment land on the Policies Map (sites E3B:21 (part) & E3B:22). Policy E3B is relevant and provides for the carrying forward of unimplemented employment use allocations from adopted local plans.

The NRWLP

29. The NRWLP was adopted in 2013. Policy WASTE 5 identifies certain industrial areas, including Thorp Arch, as preferred locations where new waste management facilities will be supported. The policy applies to most of Thorp Arch Estate, including the southern part of the appeal site²⁰. Policy MINERALS 12 safeguards minerals processing sites shown on the Policies Map from alternative use unless it can be demonstrated that the site in question is no longer required to produce a supply of processed minerals. Site 28 is the concrete batching plant on the western part of the appeal site. Contaminated land is the subject of Policy LAND 1. The principle of the development of previously developed land in preference to greenfield sites is supported. Applications should include information concerning contamination, and the City Council will assist with the identification of a remediation solution where necessary.

Thorp Arch NP

30. The Neighbourhood Plan was approved by referendum in December 2017²¹. It covers the western part of Thorp Arch Estate and virtually the whole of the appeal site (see Map 1 in ID-109). Policy BE1 is concerned with design and development within the conservation area, where, amongst other considerations, the setting of the listed former station and engine shed on the west side of Walton Road/ Church Causeway should be protected. The former railway line, which runs partly within the appeal site, is identified as a green corridor. Policy CNE2 encourages development proposals to connect with green corridors and to enhance their operation as multifunctional corridors for the movement of wildlife and people. Map 2 shows the SEGIs and additional local wildlife sites within the appeal sites: development proposals which affect such locations should seek to enhance biodiversity (Policy CNE4). Residential development is the subject of Policy H1, which sets out a series of design features to be incorporated in proposals. Policy H2 specifies that the size of new dwellings should in the first instance reflect demand from within the parish.
31. The NP includes a series of aspirations, one of which (A5) refers to Thorp Arch Estate. This section of the Plan refers to concerns about the effect of housing development at the Estate, making specific mention of the rural highway network, the requirement for decontamination, and ecologically sensitive sites.

²⁰ The relevant inset policies maps are at ID-136.

²¹ The referendum result is at ID-140.

Accordingly the Parish Council will support the retention/ allocation of Thorp Arch Estate for mixed use employment.

Boston Spa NP

32. This NP (ID-65) was approved by referendum in October 2017²². Although the plan area does not include any part of the appeal site, Boston Spa provides a range of facilities and services within a relatively close distance, and one of the routes to and from the site includes Thorp Arch Bridge and Bridge Road, which were the subject of considerable discussion at the inquiry. Policy CP12 explains that development which would reduce the provision of off-road parking in the village envelope will not be supported, and community action CPA1 expresses support for the introduction of residents-only parking on designated streets. Community action PFVC1 encourages development to contribute to making the centre of Boston Spa more people friendly.

Site Allocations Plan

33. The City Council is preparing the Site Allocations Plan (SAP), which was submitted for examination in May 2017. Stage 1 of the hearings took place in October 2017, and stage 2, concerning housing and review of the Green Belt, had not been programmed at the date of the inquiry. In the submission SAP (CD C12 & 13), Policy EG1 identifies sites for general employment use including those previously allocated for this purpose in the UDPR. The UDPR allocations on the appeal site (E3B:21 (part) & E3B:22) are brought forward as EG1-63 and EG1-65, although objections have been made to both allocations by the Appellant. New housing allocations are proposed under Policy HG2. No part of the appeal site is proposed for housing, although 142 dwellings are proposed on land to the north of Wealstun Prison. The largest allocation in the Outer North East HMCA is for 1,850 dwellings as part of a new settlement on greenfield land at Parlington Estate, Aberford. Over 6,000 objections have been made to this proposal²³.
34. Having regard to the Government's consultation on *Planning the right homes in the right places*, which includes a methodology indicating a lower housing trajectory, the City Council has proposed changes to the Submission draft of the SAP²⁴. These include the re-designation of some sites from housing allocations to be released from the Green Belt to broad locations (for possible housing) remaining in the Green Belt. In the Outer North East HMCA, the allocation at Parlington would be reduced in size to accommodate 792 dwellings, with the balance of the land being included as a broad location for possible housing development.

Walton NP

35. The NP area covers the eastern part of Thorp Arch Estate and includes two small portions of the appeal site immediately to the west of Street 5 (see Map 1 in CD C42). A pre-submission draft has been published, but the Neighbourhood Plan is not at an advanced stage, and accordingly its policies carry only limited weight. Two policies of the emerging Plan refer to Thorp Arch Estate. Policy HG6 refers to the Estate as the most complete remaining example of a Second World War

²² ID-100, para 37.

²³ Planning statement of common ground, CD G9 paragraph 5.12.

²⁴ The City Council's revised approach to the emerging SAP is explained in the note at ID-100 and its appendices.

Royal Ordnance Filling Factory in extent, surviving layout and range of structures. To recognise this national significance, the policy seeks the establishment of a design code and parameters to provide a robust framework for the details of future development and securing the heritage significance of the Estate. Policy BE3 supports the continued growth of small and medium sized enterprises on Thorp Arch Estate.

Other policies and guidance

36. Relevant supplementary planning guidance and supplementary planning documents are listed in the planning statement of common ground (CD G9, para 5.9). The Thorp Arch Conservation Area Appraisal and Management Plan explains that the conservation area was designated as much of the medieval croft and toft layout is retained, the uniformity of materials gives a sense of unity given by, and due to the influence of estate housing designs on this estate village of Thorp Hall²⁵. I have also had regard to national planning policy and guidance, in particular that contained in the National Planning Policy Framework (NPPF), and the Planning Practice Guidance (PPG).

Agreed Matters

37. Four statements of common ground have been agreed between the Appellant and the City Council. The planning statement of common ground (CD G9) covers the following matters:

- A description of the site and its surroundings.
- The proposed development.
- Planning history of the site.
- Planning policies. Reference is made to paragraph 4.6.16 of the Core Strategy which gives Thorp Arch Estate as an example of opportunities for development outside the settlement hierarchy where, amongst other matters, the delivery of sites would involve the regeneration of previously developed land (above, para 21). Whilst the whole of the Estate may be regarded as brownfield (but greenfield in parts), the appeal site includes areas which are unsuitable for development.
- The approach to dealing with contamination has been subject to detailed discussion with the City Council's Contaminated Land Team, and is appropriate. In the areas proposed for development, made ground would be removed by a confidence scrape. The cost of remediation is likely to be significant.
- The site contains about 20ha of land identified as local wildlife sites (LWSs, above, footnote 18), of which about 15% would be lost. Much of the larger area of LWSs in the north-eastern and north-western parts of the site would be kept free from development. Potential damage to LWSs has been assessed, together with the extent to which this could be reduced through protection, mitigation, enhancement and compensatory measures. The country park proposed in the northern part of the site would be managed by a body with

²⁵ Reported in Archaeology and Heritage Desk-Based Assessment for the appeal proposal, CD A9, Appendix 10.

specialist ecological management experience, secured through the planning obligation. It is considered that the ecological resource of the site would be protected, with the opportunity for enhancement.

- The proposed areas of open space generally reflect areas of nature conservation interest and would exceed policy requirements. The street pattern reflects the historic layout, and the schematic landscaping proposals reflect the landscape setting of much of the Estate.
 - The proposed housing mix would broadly comply with Policy H4 of the Core Strategy. The delivery of a care home, together with two-bed bungalows and apartments would help to meet the need for specialist accommodation in the Wetherby area.
 - Views into the site are screened by boundary planting and the prison buildings. The wider visual impact of the development would be limited.
 - The City Council's Conservation Officer considers that the proposals shown on the masterplan are the best opportunity for development of the former ROF, due to their limited impact on its special interest and retained character. A residential led scheme is an appropriate response to the heritage considerations.
 - The works associated with alterations to Church Causeway and provision of the bus gate, would preserve the character and appearance of Thorp Arch Conservation Area and the setting of the nearby listed buildings.
 - The site is within flood zone 1 and at low risk of flooding. Drainage consultees are satisfied with the flood risk assessment, subject to the imposition of conditions relating to surface water drainage and groundwater protection.
 - The concrete batching plant is a safeguarded facility under Policy MINERALS 12 of the NRWLP (above, para 29). Heads of terms have been agreed to secure the relocation of the plant to a site in the south-east corner of Thorp Arch Estate.
38. The highways statement of common ground (CD G11) covers the following:
- The five junctions to be considered in connection with the proposal (shown on the plan at Appendix 1).
 - Trip rates and generated traffic. The agreed number of residential trips would be 510 in the morning peak (0730-0830) and 426 in the afternoon peak (1630-1730). Traffic arising from the local centre would be ancillary.
 - The future assessment year is 2026, and traffic growth factors of 22.2% and 23.4% apply to the morning and afternoon peak periods respectively.
 - All of the five junctions operate satisfactorily in the existing situation in the peak periods. In 2026 without development traffic, the High Street/ Bridge Road junction in Boston Spa (junction 5) would operate with minimal queues and delay in the morning peak, but in the afternoon peak Bridge Road would be close to capacity.
 - An agreed transport mitigation package, to be secured by the planning agreement.

- Distances to existing and proposed local facilities from the centre of the built development.
 - A travel plan (Appendix 12).
39. The statement of common ground concerning a five years housing land supply (CD G10) covers the following:
- The Core Strategy sets the base requirement for housing in the District. The figures in Policy SP6 (which are not maxima) are up-to-date and should be used for the calculation of the five years supply for the purpose of the appeal. The five years period is 1 April 2017 to 31 March 2022, and the baseline requirement for this period is 23,500 dwellings.
 - The Core Strategy requirements for the first five years of the plan period have not been met: there was an undersupply of 4,476 dwellings from 2012-2017.
 - There has been persistent under delivery, and a 20% buffer should be applied in calculating the five years figure. This buffer should be applied to the base requirement and the shortfall, and the undersupply should all be addressed in the next five years period.
 - The calculation of the five years requirement is agreed (CD G10, paras 1.10-1.11), and gives a figure of 33,571 dwellings.
 - In three appeals in Leeds which were determined in 2016, the Secretary of State agreed with the Inspector's conclusion that the City Council had failed to demonstrate a robust five years supply. In two subsequent appeals, the City Council accepted that there was no five years supply, and it offered no evidence on this subject. At the current time the City Council is unable to demonstrate a five years supply of housing land.
40. The viability statement of common ground (CD G12) lists those inputs into the viability assessments which have been agreed between the Appellant and the City Council.

The Case for the Appellant

The material points are:

The Development Plan

The Core Strategy

41. The appeal proposal is in accordance with the Core Strategy and the Development Plan, both considered as a whole. It is accepted that there is conflict with Core Strategy SP1, since the site is outside the main urban area, and is not identified as a sustainable extension to a relevant settlement. But the fact that the proposal does not sit within the settlement hierarchy should be seen in light of the following considerations.
42. SP1 is a high level overarching policy for a very large area, and paragraph 4.2.3 further explains that the policy is intended to guide significant levels of housing growth. The spatial strategy underlying the policy was always reliant on site-specific allocations being brought forward rapidly within the plan period. The acknowledged conflict with SP1 does not, therefore, generate conflict with the

Development Plan as a whole. Paragraph 4.6.16 expressly supports the use of the site for housing (above, para 21). Although it is not a policy or an allocation, it is an example of a site which the City Council accepts should come forward despite conflict with the settlement hierarchy in SP1.

43. The proposal is also consistent with other parts of the spatial strategy, especially SP6 which emphasises a preference for previously developed land and minimising the impact on the Green Belt, and SP7 which seeks to locate 5,000 houses in the Outer North East HMCA. The City Council is seeking to place significant amounts of housing in the Green Belt, including in the Outer North East HMCA at Parlinton (above, paras 33 & 34). The proposal is also consistent with Policy H2 of the Core Strategy. Paragraphs 4.6.16 and 4.6.17 set in place a flexible spatial strategy in which the test is not mere spatial hierarchy but the delivery of numbers, subject to locational sustainability.
44. The Core Strategy expressly recognises the scale of the housing land supply challenge, through mechanisms that seek to promote flexibility, notably a windfall allocation of 8,000 units under SP6. The proposal is a windfall, and if it is granted planning permission it will contribute to the supply of 8,000 units.
45. SP1 is contained in a new Core Strategy, but it is also a policy for the supply of housing. It is concerned with the distribution and location of new housing, albeit it addresses other matters. Whilst, in *Suffolk Coastal* (ID-70), the Supreme Court held that paragraph 49 should be interpreted on the basis of a narrow approach, the judgement also made clear that decision-makers need to think carefully about the weight to give all policies which have an impact on the supply of housing in circumstances where there is no five years supply. If the decision-maker judges that a policy is having an impact on the supply of housing then the weight to be given to that policy may be reduced. SP1 is contributing to the Council's inability to deliver a five years housing land supply. The policy should attract little weight whether it is treated as a policy for the supply of housing or not, and in any event the appeal proposal is in conformity with the spatial strategy taken as a whole.
46. Policy H2 of the Core Strategy is a permissive policy which encourages and permits housing development on non-allocated previously developed land subject to only two criteria, whereas additional criteria apply to greenfield sites. The policy is supportive of sites which meet transport and social infrastructure criteria and accord with the accessibility criteria.
47. Policy H5 targets 35% affordable housing in this zone 1 area. This policy expressly admits the need to consider financial viability. A proposal is in conformity with the policy if the level of affordable housing is reduced to a level which the viability evidence justifies.

The UDPR

48. All the policies of the UDPR, including its housing policies, are out-of-date. It does not address the present development needs of Leeds.

The NRWLP

49. The proposal is in full accordance with this part of the Development Plan. Policy LAND1 supports the principle of development on previously developed land.

Thorp Arch NP

50. Aspiration A5 concerning the retention/allocation of Thorp Arch Estate for mixed use employment does not qualify as development plan policy. The design features sought at (a)-(d) of Policy H1 are detailed questions of layout and design, which will be considered at the reserved matters stage. For present purposes, the proposal is in accordance with (a) and (b) by providing internal green spaces and recreational facilities. There is ample space on site for off-road parking (d) to be met.
51. There is no policy conflict with the Neighbourhood Plan. This is not a plan that would be covered by the Written Ministerial Statement on Neighbourhood Planning (12 December 2016), as it does not allocate sites for housing. In the event of planning permission being granted, the Parish Council will benefit from 25% of the CIL receipts. This would be a substantial sum of money available to the community to invest in infrastructure.

Boston Spa NP

52. The plan refers to highway improvement works and parking. The Appellant does not consider improvement works are necessary. But if they are judged to be so, they will only serve to improve the arrangements on Bridge Road and over Thorp Arch Bridge. The Plan shows strong support for the bus service, and the provision of traffic signals would assist the ability of buses to turn the corner at the junction of High Street/ Bridge Road. In addition, the Plan includes support for resident permit parking.

Walton NP

53. This Plan is only at the Regulation 14 stage, having undergone pre-submission consultation and publicity from August 2017 to September in 2017. Objections have been made, but had not been considered at the time of the inquiry. In any event only a small area of the appeal site falls within the Plan area (above, para 35), and the Plan is silent on the appeal proposal.

Development on brownfield land

54. National planning policy has long expressed a preference for development on brownfield land, as a planning benefit in its own right through remediation and re-use, and to avoid the development of greenfield sites. This is expressed in paragraphs 17(8) & 111 of the NPPF. This policy preference has been reinforced by the consultation on Proposed Changes to NPPF (CD B8), paragraph 21 of which expresses an ambition for 90% of brownfield land suitable for housing to have planning permission by 2020. The Housing White Paper of February 2017 stated that *the presumption should be that brownfield land is suitable for housing unless there are clear and specific reasons to the contrary* (CD B6, para 1.25), and the Town and Country Planning (Brownfield Land Register) Regulations 2017, the Core Strategy and the NRWLP also encourage the use of previously developed land for development.
55. The appeal site is mostly previously developed land, and a large part of it is considered to be derelict, and has been so since the late 1950s. There are benefits from bringing it back into positive use for the community. There is no other realistic proposal for that part of the site, absent the employment

designation (for which the site is not available), or the aspiration for waste related development (for which the site is again not available).

56. Other parties suggest that the Group 1 area is not previously developed land. However that area has not blended into the landscape, and there is clear evidence of large scale built development. Trees and shrubs have grown up in this area, but it is not part of the wider landscape. The surrounding area is largely an employment estate, a retail park and Westminster yard, and is not a green landscape into which it could have blended.

Highway safety and movement

57. The TA (August 2016) and all subsequent reports have assessed the impact of the development over a ten year horizon. No alternative time period has been suggested.

Existing flows and growth

58. Data in the TA identifies existing flows at the principal junctions in the vicinity of the appeal site during the AM and PM peaks²⁶. This is based on detailed survey information about existing turning movements, including the Bridge Road/ High Street junction, and the Walton Road/ Privas Way roundabout in Wetherby (junction 4). The TA identified that all existing junctions were operating satisfactorily in both the AM and PM peaks, with all ratio to flow (RFC) values well below the recommended 0.85 level²⁷. The TA's existing flow analysis was validated by the reverse flow from Thorp Arch Estate and the British Library through the Automatic Number Plate Recognition Survey (ANPR) carried out in June 2017 (in respect of route choice of existing journeys between Street 5 and main cordon points)²⁸. To assess the flows at the 10-year point, a growth factor was applied and committed development taken into account.

Journey to work distribution

59. The split of traffic generated by the development between the three categories identified in the National Travel Survey was identified as 70% work-related, 15% education-related, and 15% for other purposes. A sensitivity test, treating all generated traffic as journeys to work, confirmed that the results in the TA are robust²⁹.
60. Only those journeys to work with a destination via the A1(M) south would realistically have a choice between the northern route (direct to Wetherby) and the southern route (over Thorp Arch Bridge and through Boston Spa). Journey time surveys indicate that the northern route is quicker in time taken, even if it is longer in distance. It has been tested using journey time surveys, and further tests using the journey planner tool in Google Maps indicate time advantages of 2-4 minutes in respect of journey times to the A1(M) via Wetherby, compared to

²⁶ TA Appendix F.

²⁷ TA, para 5.19.

²⁸ Document A2, Appendix 5.

²⁹ The results of the sensitivity test are set out in Technical Note 3.

the Boston Spa route³⁰. The ANPR survey supports those timings, suggesting that only 20% of A1(M) traffic would use the route through Boston Spa³¹.

61. The City Council has relied on the distribution from the cul-de-sac surveys conducted on three occasions³². It is considered that there are flaws in this approach, including: the cul-de-sacs are about 350m closer to Thorp Arch Bridge than the site entrance, the surveys did not record the route taken but simply recorded left and right turns, there was inconsistent evidence on the route which was used more regularly, the July 2017 survey was not conducted in a neutral month, and the surveys involved small samples with totals of 74 and 63 movements in the morning and afternoon in January 2013 and 45 and 61 movements in July 2017.
62. Journey to work data was used in respect of Middle Layer Super Output Area (MSOA) Leeds 002, which includes the appeal site, Thorp Arch, Walton and the eastern edge of Wetherby where there is a large residential area adjacent to a large industrial area, a similar situation to that which would exist at Thorp Arch Estate with the appeal development built out. The City Council has proposed the use of MSOA Leeds 005. However this area contains Boston Spa, Clifford and Braham, none of which have large employment areas. MSOA 005 has more commuting out of the area³³: the proportion of people who live and work within Leeds 005 is only 11.9%, whereas the figure for people who live and work in Leeds 002 is 42.9%.

Education distribution

63. Trips to the primary school are expected to be largely on foot and would be within the site. Nevertheless, it was agreed with the City Council to split journey to work - education figures at 70%-30%, with education journeys based on gravity models for the off-site local schools. The City Council has placed too many trips within the peak hour, and there is no need to assign primary school trips to Boston Spa, as Lady Elizabeth Hastings School in Thorp Arch is the nearest existing primary school. There would be trips to Wetherby Secondary School and Boston Spa Secondary School in the peak hour. However, only trips to Boston Spa would involve crossing Thorp Arch Bridge. Moreover, a school bus would to be provided to this school at a cost of £400,000, which is designed to reduce car trips.

The Bridge Road/ High Street junction

64. Having assessed the base data, applied growth factors, and taken account of committed growth, an increase of one additional vehicle every 30 seconds has been identified. At Bridge Road/ High Street, the AM peak RFC would be below 0.85 in all scenarios, and during the PM peak the maximum RFC is 0.996, but for only 15 minutes during the modelled hour³⁴. This is compared to the without development scenario where the maximum RFC during the PM peak is 0.929 for the same 15 minute period, resulting in an increase in delay of only 24 seconds.

³⁰ Tables 3.2 & 3.3 in Document A1 give the results of the Appellant's journey time surveys. The results of the Google maps assessment are in tables 6.1 & 6.2.

³¹ Document A2, Appendix 5.

³² Document L1, para 4.3.4, and ID-20.

³³ Document L2, Appendix 14.

³⁴ Document A1, table 7.6.

There is no need to mitigate these levels of traffic, because the changes in delay and queuing would be marginal and short lived, and clear within the peak period.

65. The City Council and TAG argue that the traffic impact will be severe because there are parked cars and other entrances on Bridge Road. Many of the homes have off-street parking. It is believed that only 8 dwellings do not. The City Council has no proposals to do anything about the on-street parking. Householder parking permits are in use elsewhere in Boston Spa³⁵, and they could be introduced here. The queue grows and contracts. It extends further if there are more parked cars. There are already double yellow lines at the top and bottom of the road to ensure that queues can be accommodated. When there are fewer parked cars, the queue is stored in between them. If the queue extends across Thorp Arch Bridge, people are courteous about the use of the bridge, as evident in the TAG DVD (ID-14).
66. TAG's VISSIM model made assumptions about the parked cars and predicted gridlock in the existing situation, a situation that does not arise in reality. However, the model could not be validated³⁶ and resulted in many of the runs failing. It cannot be relied upon to give a meaningful analysis.

The Privas Way roundabout

67. TAG criticised the modelling of this junction on the basis of a traffic count which recorded queuing at Walton Road (East) of between 10 and 52 vehicles³⁷. However the survey was undertaken on a date when a diversion was in place in respect of the closure of Wetherby Bridge. That gave rise to large and unusual flows on Walton Road (West) from the town centre and from Privas Way (North), the two junctions to the right of the Walton Road (East) arm³⁸. That created a huge queue in the traffic, which bore no relation to the TA work which was conducted in a neutral month, and in normal conditions with no bridge closure.

Mitigation measures

68. Traffic signals are not needed at the Bridge Road/ High Street junction, but the Appellant is willing to provide the funding for them if this is considered necessary by the Inspector and the Secretary of State. Linked signals at the bridge and the junction would have benefits in terms of controlling traffic at both locations, particularly along Bridge Road. However there would be certain dis-benefits, slowing down traffic on High Street and causing the loss of some parking spaces. The network would operate satisfactorily in all scenarios, resulting in manageable queuing along Bridge Road, and accommodating the Shire Court access.

Safety audits

69. The overall level of injury accidents gives no cause for road safety concern. Stage 1 Road Safety Audits were carried out for the potential highway works, and there would be further assessment at the Stage 2 detailed design stage. Problems identified by the City Council at the bus gate, High Street/ Bridge Road/ Thorp Arch Bridge, and the Street 5/ Wighill Lane junction could be addressed

³⁵ Letter from Councillor Gaussen, 1D-19.

³⁶ Document T3, para 7.18.

³⁷ Document T3, table 7.13.

³⁸ ID-26.

respectively by detailed design proposals, signalisation/road markings and cutting back of the hedge.

TAG's position on highway matters

70. TAG makes reference to the RFC value of 0.996 and compares this to an acceptable RFC of 0.85. The primary purpose of the RFC ratio is the determination of the size of new major/minor junctions and roundabouts to achieve an economically justifiable design. Whilst an RFC of about 85% will result in a design that avoids queuing in 5 out of 6 cases, the Design Manual for Roads and Bridges accepts that this figure may need to be higher on occasions. Indeed, a junction is considered to be at capacity when demand equals supply i.e. an RFC of 1. The Bridge Road/High Street junction is an existing junction where a higher RFC would be expected, due to the constraints of the built environment in the centre of the village. When deciding the impact of the development at the junction consideration should be given to the additional impact resulting from the development. In this case the future RFC at the junction without the development rises to 0.929. Once the development traffic is added, this rises to 0.996. This is only a marginal increase in RFC and lasts for only a 15 minute period in the PM peak.
71. PICADY is the accepted modelling software for major/minor junctions. The model used in this analysis involved the DIRECT input method, which takes the flows at the junction in 15 minute intervals and takes account of the actual peak arrival times as opposed to an assumed pattern based on the whole modelled peak period. TAG's assertion that there is insufficient evidence to show delays associated with the development is not accepted. It was claimed that the failure of the VISSIM model proves that the network cannot cope with the existing levels of traffic travelling along Bridge Road. That is not the case: Bridge Road does not consistently experience gridlock. The VISSIM model failed to run and does not replicate the existing situation on Bridge Road.
72. Installation of traffic signals would not require the removal of parking on Bridge Road, although some relocation of parking may help to improve the situation further. In regard to the Shire Court access, the Safety Auditor's recommendation was that the secondary signal head should be positioned so that those exiting Shire Court could see the signal. The stop line, in conjunction with *Keep Clear* markings, can be located so that Shire Court does not provide an uncontrolled exit into the junction.
73. Reference was made to conflict between parked cars and queueing traffic on High Street. Whilst it is true that westbound traffic queueing at the junction would be opposite the existing parking bays on the northern side of High Street, the carriageway in this location is some 8.5m wide which is sufficient for vehicles to pass any cars that may be parked here. Therefore, there is no conflict that would cause vehicles to block back through the junction.
74. Insofar as the Privas Way/ Walton Road junction is concerned, TAG argued that the exercise carried out by Mr Ellis was to validate the model only and that, as a consequence, the quantum of traffic through the junction is not relevant. However the significant change in the balance of flows due to the diversion means that the junction would have operated quite differently than it does under normal circumstances. So, whilst the model is validated for the flows used in the TA, it does not follow that this is the case for the flows put forward by TAG.

Conclusions on highway safety and traffic movement

75. Such residual cumulative impacts as will arise from the proposal will not be severe. Residents of the development would have a clear choice of route and they would quickly adjust movements to avoid Thorp Arch Bridge and the Bridge Road/ High Street junction at peak hours. Safety has been carefully assessed by the Appellant, and all safety risks have an available solution, which would be secured at the detailed design stage.

Accessibility

76. The appeal proposal is for a new community, introducing retail, education, medical and open space proposals on-site, but also adjacent to a major employment site. Bus services to Leeds, Wetherby and Harrogate are already good for a rural location, with a combined 15 minutes frequency. A major contribution would be made towards the bus services which would benefit from 2,000 potential new residential customers. The services would pass through the employment site which would enhance it as an option for most of the 4,000 employees. Although the bus route would not pass by the end of two small cul-de-sacs and the prison, this change would not outweigh the benefits to nearly 6,000 customers who would be served by the new route. There would also be significant support for a bus for secondary school trips.

77. The site lies on a Sustrans route. With continuous footways to Boston Spa, there is a clear opportunity to walk to its shops, facilities and services. This is also a route which can be easily cycled. There are 4,000 existing jobs adjacent to the site, which is a major positive factor, and the MSOA data shows the area attracts a significant number of people who work locally.

78. When the position is examined in the round, the site comfortably meets the accessibility standards in Appendix 3 of the Core Strategy. Although the UDP Inspector concluded that the site was unsustainable, he was looking at different evidence, under different national policy, and without the level of detail which is before the Secretary of State in this case.

Ground contamination

79. National policy envisages that the remediation of contaminated land is a planning benefit (NPPF, paras 109 & 120-122), and recognises that such remediation work will be undertaken by specialists and supervised by local planning authorities. Remediation is also supported by UDPR Policy G5 and Policy LAND 1 of the NRWLP. Both the Appellant's contamination consultant and the City Council's Contaminated Land Team have considerable expertise in ground contamination, whereas a significant part of TAG's evidence was based on perception of risk and assumptions about best practice.

80. The Appellant's contamination witness identified the following areas within the appeal site³⁹:

- (i) Northern area (including the main area of local wildlife sites). The majority of this area was not developed as part of the ROF. An infilled borrow pit is located in the eastern part of this area.

³⁹ These areas are shown on Drawing POE/01A in ID-38.

- (ii) Central area (also known as Westminster Yard, and including ROF Groups 10E & 11). This is an open storage area. The burning ground of Group 11A was located here when the ROF was operational.
 - (iii) Southern area (Group 1). Mercury fulminate and lead azide were used here in the manufacture of fuses and detonators. Stockpiles of demolition materials, some of which contain asbestos, are also present in this area.
 - (iv) Eastern area (Group 9). Group 9 comprised magazines surrounded by earth blast mounds (traverses) which were used for storage of munitions during the ROF use. This area is now the retail park.
 - (v) Western area (rail sidings and landfill). This area incorporates land previously occupied by railway sidings at the time of the operation of the ROF. The railway had been dismantled by 1960. Historical landfill is present in the south of this area, which was registered for use from 1976 to 1982 for inert and commercial waste.
81. The Group 1 area was intrusively investigated as described in the Casella Stanger Report of 2001 (CD P2). In 2016, a Phase 1 Geo-environmental Desk Study⁴⁰, incorporating a preliminary risk assessment and an outline remediation strategy, and a ground investigation methodology were prepared. Further work was undertaken in 2017, including a peer review and provision of specialist advice with respect to munitions remediation by BAE (ID-44); intrusive site investigation works across Westminster Yard, in the traverses around the retail park buildings, and at the historical landfill in the south west corner of the site; and geophysical investigation works in the ecologically sensitive areas in the north of the site. As a result of this work there is greater certainty about the remediation costs.

Matters raised in TAG's ES Addendum consultation response

82. Fly tipped materials will be dealt with as part of the remediation works on Group 1. Such material is generally demolition rubble: it may contain fragments of asbestos material which can be handpicked, with the remaining material being re-used on site. The entire Group 1 area will be remediated.
83. The acoustic bunds would contain confidence scrape material: they can be dealt with as part of a materials management plan and would not be classified as landfills. The material contained within them would not be significantly contaminated.
84. TAG has challenged the explosive ordnance clearance (EOC) technique, on the basis that it is not able to identify small items. In the country park area, unless items are very near the surface there is a very low risk of them ever being exposed and/ or causing a risk. Thus, even if detonator-sized items can only be detected down to 150mm that should be sufficient to appropriately mitigate the risk.
85. TAG's views on decontamination costs are premised on costs relating to off-site disposal of hazardous material. However, asbestos fibres, heavy metals and explosive residues are often buried to mitigate the risk to future residents. If they are at high concentrations (for which an off-site disposal allowance has been

⁴⁰ CD A9, Appendix 13.

- made) they can often be treated to ensure that they pose no risk to groundwater. The cut and fill balance can be achieved for the material which can safely remain on site. The cost plan⁴¹ currently assumes a conservative approach, in that all of the material for off-site disposal would be classed as hazardous waste.
86. The proposed investigation comprising trial pits and boreholes combined with a full geophysical survey is suitable to identify any areas of unrecorded activity and to mitigate the risk from them. This approach is supported by BAE. Furthermore, the historic aerial photos (1946 and 1967) do not indicate any areas of disturbance in the proposed country park, other than the borrow pit to the north of the retail park and the burning grounds.
87. Although the July 2017 Ground Investigation Factual Report refers to a general suite of potential contaminants⁴², full summary tables would be provided in the full interpretative report to be produced following the next phase of site investigation. The proposed approach for dealing with asbestos⁴³ is compliant with current best practice. Groundwater has yet to be tested for contaminants. However, as contamination such as metals and munitions waste is predominantly near the surface and relatively immobile, the risk to groundwater in the principal aquifer is considered to be low. Boreholes would be installed into the groundwater and sampled during future investigation works to confirm this situation.
88. There is no indication to suggest that the borrow pit is the location of buried asbestos, and it is not within the phase 1 housing area but the proposed country park. This area would be further investigated during the next phase of site investigation as explained in Mrs Gill's response to TAG's Examination of the ES Addendum (ID-105, section 2.4.2). Acoustic bunding is proposed to mitigate noise from industrial premises to the south of the appeal site⁴⁴.
89. During the July 2017 Site Investigation, trial pits TP20 and TP21 were excavated close to the roofing building. In TP20, none of the contaminants exceeded concentrations suitable for use in residential gardens and in TP21 there was an exceedance of arsenic and a slight exceedance of beryllium, both of which were below the concentrations suitable for a public open space. In the next phase of site investigation, this location would be further investigated. If any contamination is identified, the location would be treated as a hotspot. If the Appellant becomes aware of any tank or similar structure, either during site investigation or during remediation, it will be investigated and dealt with in accordance with best practice. There is no evidence of tunnels containing abandoned vehicles. In the unlikely event that such tunnels do exist, then it is extremely likely that they would be identified during further site investigation works.
90. Buffer zones would be achieved by overlap in each phase. Phases 1 and 2 would overlap into phase 3 by 50m in order to allow a remediated 50m buffer to be present between phases 1 and 2 and phase 3 during the remediation of phase 3. This would be explained in the detailed remediation strategy.

⁴¹ Document A15, Appendix J-G.

⁴² Document A6, Appendix F, section 6.4.

⁴³ Document A7, paras 4.2.6-4.2.10.

⁴⁴ ES Addendum Report, paras 2.3.5, 3.3.3 & 3.3.4, in ID-92.

91. The appeal proposal is considered to be compliant with the applicable Development Plan policies, UDPR Policy G5 and NRWLP Policy LAND 1, and with paragraphs 109 & 120-122 of the NPPF.

Financial viability and the impact on affordable housing

Overview

92. The proposal provides for 15% affordable housing, which is 131 units which would not come forward otherwise in this location, notwithstanding that the Appellant's viability evidence demonstrates that only 3% should be provided. This obligation is set out in the planning agreement (ID-142) and is fixed for the duration of the development. As is common with all large house developments of this scale there is a review mechanism. But the review mechanism would only permit an upward adjustment to the level of affordable housing.
93. Most of the inputs to the viability appraisals are agreed between the Appellant and the City Council. The key matters in dispute are: the competitive return to the landowner, the need to recognise the role of a master developer, existing/current use value, and lead-in times and sales rates.

Competitive return to the landowner

94. There is no prescribed method of establishing a competitive return for the landowner. For the Appellant, Mr Jones has relied on the District Valuation Service (DVS) method of benchmark land value assessment as set out in broad terms in its letter of 1 March 2016 concerning a case in Selby (ID-120). He has adopted a value of £150,000 per acre which is less than the £176,000 per acre that the DVS adopted in that case. Adopting £150,000 per acre for the land gives rise to a land value in this case of £10m. That is for a site which will deliver close to 900 dwellings. The City Council's evidence is that the landowner in this case should receive only £5m, which is below the existing use value (EUV) proposed by the Appellant. That approach offers no competitive return to the landowner. PPG recognises the need for a competitive return which would provide an incentive to the landowner: the incentive must therefore be a premium amount which exceeds the current use value (CUV)/ EUV or an alternative use value.

Role of a master developer

95. This is a site which involves significant remediation costs and the need for significant infrastructure. This type of scenario would not be expected to be undertaken by even large house builders. There must be an incentive for the party which carries out those works.

Current/ existing use value

96. For the Appellant, Mr Thompson identified a current use value of £6.7million, comprising retail park - £5m, Westminster Yard - £1.5m, and amenity land - £0.2m⁴⁵. Most of the difference with the City Council is attributable to its lower valuation of the retail park. Whilst accepting that the retail park is compromised by the age, layout and appearance of the units, the infrastructure serving the

⁴⁵ Document A15, Appendix J-M, as amended by the revised value for amenity land given on page 6 of Document A9.

park is still adequate, and it is located in an area of affluence. Moreover the CUV should reflect the potential to stabilise the occupancy and income if redevelopment were not to happen. In the alternative, the buildings could be used for secure storage or light industrial purposes, as is the case with similar buildings elsewhere on the Estate, where there is evidence of demand at rental values similar to Mr Thompson's opinion of the retail value of the units. In terms of the amenity land, the CUV should reflect the value that it adds to the overall landholding, not its value in isolation.

Lead-in times and sales rates

97. The difference with the City Council is generated by the timing of receipts and costs and consequent impact on finance costs. Mr Jones's appraisal incurs more cost earlier and receipt of revenue later⁴⁶. For example, the City Council's 26.08% appraisal cashflow has the first house sale receipts coming into the appraisal in month 22 (April 2019)⁴⁷, which is two months earlier than the first land sale occurs in the Appellant's appraisal⁴⁸ and 12 months earlier than the expected first house sale⁴⁹. The City Council's phase 1 infrastructure costs commence in month 13 (July 2018) and continue through to month 47 (May 2021)⁵⁰ whereas the Appellant's viability witness has assumed that the phase 1 infrastructure works are undertaken from month 12 to month 24⁵¹. In consequence, the City Council's 26.08% appraisal has a finance cost of £2,545,901⁵², compared with £8,960,563 allowed for within the Appellant's 15% appraisal (ID-119).

Summary of the Appellant's evidence on viability

98. A policy compliant approach to affordable housing produces a negative land value of £9.6 million, contrary to the NPPF. Taking EUV as a competitive return is the wrong approach, as there would be no incentive for the landowner to deliver development if there were no return above this level. Utilising the previously adopted DVS benchmark land value shows that the scheme would be viable with 3% affordable housing. The Appellant has undertaken a sensitivity analysis with a 5% uplift in land values, which indicates that 15% affordable housing would be within an acceptable margin. The assertion that there could be more affordable housing if the Appellant were not to bring in a master developer is rejected; either way the Appellant would be entitled to be compensated for whatever work it carried out.

The provision of affordable housing above the level supported by the viability appraisal

99. It would only take a modest uplift in sales values (5%) for the Appellant to be able to deliver 15% affordable housing on this scheme. Given the timescale of this proposal and the general trend for a continual rise in house prices then that is a distinct possibility. It is a risk, but one that the Appellant is willing to take.

⁴⁶ The timing adopted by Mr Jones is based on the Gant chart at Document A15, Appendix J-A, together with the timing detailed on page 10 of Appendix J-G.

⁴⁷ ID-103, cash flow, page A3.

⁴⁸ Document A15, Appendix M, master appraisal, page A4.

⁴⁹ Document A15, Appendix M, Phases 1A & 1B cash flow, page A3.

⁵⁰ ID-103, cash flow, pages D2 & D5.

⁵¹ Document A15, Appendix M, master appraisal, page A4.

⁵² ID-103, summary.

Moreover, the Appellant is willing to accept a lower land value in this case. That is a commercial decision for Rockspring. It is entitled to receive a lower land value than its evidence supports.

The need for affordable housing

100. The level of affordable housing proposed is 131 units. This accords with Core Strategy Policy H5, which seeks 35% affordable housing in zone one subject to viability. In Leeds there is an acute and escalating requirement for more affordable housing. The Appellant's review of the SHMA 2011 data suggested an annual need for 1,274 additional affordable homes. Analysis of the Council data suggested a supply rate of only some 391 affordable homes per year for the next five years. Collectively, that suggests a shortfall of 4,417 affordable homes over five years. The affordable housing represents a significant material benefit in favour of the appeal proposal.

Housing land supply

101. The City Council accepts that it does not have a five years supply of housing land. An updated five years housing land supply document (in ID-96) refers to a 4.38 years supply. The Appellant had assessed the supply as being sufficient for 2.97 years: this position was revised to 2.74 years to align with the Council's most up-to-date position on known sites (ID-69).
102. Leeds has a large housing requirement: Policy SP6 of the Core Strategy seeks 74,000 dwellings gross/ 70,000 net. The annualised five year requirement has just increased to 4,700 dwellings per year. That figure requires marked increases to take account of the shortfall of 4,476 dwellings (2012-2017) and the 20% buffer attributable to persistent under-supply over 8 of the last 10 years. Beyond the City-wide requirement, the Outer North East HMCA has its own requirement of 5,000 units over the plan period, with a target guide of 313 dwellings per year (Policy SP7). Only 379 have been delivered in the four years to 2015/16⁵³.
103. The Appellant has undertaken a robust and detailed assessment of land supply⁵⁴, whereas the City Council's is considered to rely on optimistic delivery, often based on what a site promoter or developer says. For example, 344 units should be deleted from the Dandarra site (SHLAA ref 407) on the basis that the scheme is still not out of the ground and that the four blocks would be built sequentially. Permission has expired at Granary Wharf (ref 205), which has been in SHLAAs since 2009 and the 244 units should be discounted. At Globe Road (ref 433) the 609 units are disputed since the previous developer has not pursued a scheme and there are viability concerns. It is noted that the December 2016 appeal decisions recorded a serious shortfall of supply in Leeds, approximating to 3 years (CD J2-4), and the Council accepted 2.9 years supply in November 2016 in the Kirklees Knowl statement of common ground (ID-59A).
104. For the City Council, Mr Brook sought to argue a recent improvement, citing the draft 2017 SHLAA. The figure put forward of 29,393 dwellings includes windfall and empty homes, both sources with no known location. Furthermore, 9,895 dwellings have no planning permission and 2,557 dwellings have an

⁵³ Document A10, table 2.1 & paragraph 2.16.

⁵⁴ The Appellant's review of housing sites is at Document A11, Appendix 2.

expired permission. There is a continuing, unrealistic reliance on delivery from the city centre, where Inspectors have observed viability issues and a lack of capacity in the market. Evidence from the Deloitte Crane Survey⁵⁵ and BNP Paribas [ID-59D] indicate no market improvement. With respect to allocations in the SAP, even if it were to be adopted in 2018, many of the sites would not come forward in terms of delivery for many years.

Prematurity

105. The SAP is not advanced. It has taken steps backwards and even before that it was subject to very extensive objection. The scale of this proposal is small in terms of the job that the Core Strategy seeks to do in respect of the housing requirement in Leeds. In terms of the supply, the proposal will deliver on average 150 houses a year against an annual requirement of 4,750 dwellings per year. It would be a tiny proportion of the housing required.
106. The City Council has sought to alter the content of the SAP, including reducing the housing allocation at Parlington, following the designation of the entire site as a Grade 2 registered park and garden. This is a Green Belt location and the allocation is subject to multiple objections. Many of the housing sites needed for the Core Strategy figures to be realised have been pushed further back in time. They are only identified as broad locations and remain in the Green Belt. Given the extent of the delay in allocations and timescale involved, the case for prematurity has diminished. Granting permission for the appeal site will not undermine the SAP spatial strategy, since development of the site has already been considered at the Core Strategy stage.

Other matters raised by TAG

Ecology

107. The majority of LWSs and SEGIs would be retained and would form part of the proposed country park with its associated ecological management plan, secured by the planning agreement. A small area of LWS in Group 1 would, in any event, be lost as a result of employment development in accordance with the UDPR allocation. There is also a narrow sliver where the local centre and access road is proposed. It was suggested that the whole of the site would be subject to a confidence scrape, but that is not required.
108. Whilst claims of harm from intense recreational use are noted, the focus of the country park is not for use as a public park and is to be managed to enhance biodiversity, secured via the planning agreement. Public access would be carefully managed and pathways clearly defined. The positive impact of management is agreed with the City Council and Yorkshire Wildlife Trust to be of benefit to biodiversity interests.

Retail policy

109. This is a new settlement proposal. The retail development is only on the scale of a local centre. It is appropriate to have such retail facilities in a new settlement, and it is not accepted that there should be a sequential assessment.

⁵⁵ Document A11, appendix 4.

The proposal is below the threshold in the Core Strategy for an impact assessment.

Overall planning balance

110. The Development Plan policies relevant to the application are out-of-date, for two reasons: there is no five years housing land supply, and there is no adopted allocations DPD. On the standard statutory test, the proposal has sufficient material considerations to outweigh the Development Plan, especially if the policies of the Plan are judged out-of-date. With the tilted balance applied, the case in favour of this proposal is stronger.
111. There is no harm from the development, save for a small degree of transport-related harm. The benefits of this proposal are overwhelming. On an unweighted planning balance, they substantially outweigh the harm. That is the Appellant's case even before one turns to the issue of five years housing land supply and the consequences in terms of NPPF paragraphs 49 and 14.
112. The appeal proposal is in conflict with SP1 of the Core Strategy, but is in accordance with SP6. There is a flexibility embedded within the spatial policies, since paragraph 4.6.16 refers to the consideration of opportunities for housing development outside the settlement hierarchy and gives Thorp Arch as the only example. As previously developed land, it has the potential to be made sustainable, and as part of that process of making it more sustainable, it should be noted that the appeal proposal is consistent with many Core Strategy policies. It is in accordance with the Development Plan as a whole.

Social, economic and environmental impacts

113. A proposal seeking to meet a significant housing shortage in Leeds would constitute a significant benefit, and about 160 dwellings would be added to the five years housing land supply⁵⁶. The delivery of 15% of the dwellings on site as affordable would be similarly a significant material benefit. The proposal would bring direct construction-related employment, leading to an impact in the supply chain. One of the benefits of creating new housing is to grow the labour force, with the opportunity for many workers choosing to relocate to work closer to where they would be able to live. The local centre would create 120 permanent full-time equivalent (FTE) jobs. There would be an increase in household spending, and a boost to the City Council's income through council tax revenue. Once fully operational, the local centre would increase the size of the local economy by £2.3 million per annum⁵⁷. All these benefits carry significant weight.
114. Remediation of the site would be a benefit, and the re-use of previously developed land is consistent with the NPPF. A package of measures would address highways and accessibility concerns, and large areas of undeveloped land would form a country park. The adverse impacts are very limited, whilst the benefits are considered to be overwhelming.

⁵⁶ Document A18, para 7.39.

⁵⁷ Document A18, paras 7.59-7.68.

The Case for the Local Planning Authority

The material points are:

The statutory test and the Development Plan

115. Where the proposal departs so fundamentally from the Development Plan, then it must be refused since there are no other material considerations indicating otherwise. This takes appropriate account of the presumption arising under paragraph 14 of the NPPF, as but one material consideration, which does not displace the statutory priority to be afforded to the many Development Plan policy conflicts in this appeal. The proposal invites approval outside of the plan-led system, whilst that system already is tasked with answering the issue whether the site should be released for housing on such a substantial scale. The City Council's inability to demonstrate a five year supply of housing land does not justify approval.
116. Further to the established UDPR employment allocations contained within the appeal site, and the clear Neighbourhood Plan emphasis which firmly steers away from residential development of the site, the forum of the SAP examination will soon provide for a comprehensive review of assessed potential housing sites, intended to improve upon the housing land supply and be included within the SAP's phase 1. In the light of a very advanced SAP, the development is premature in PPG terms. The effects of the proposed development would undermine the plan-led process by predetermining decisions concerning the location, scale and phasing of new development.
117. The key Core Strategy policies engaged by the reasons for refusal are up-to-date. Nor are they or the saved UDPR policies rendered out-of-date by the passing of the UDPR plan period and the absence of an adopted allocations document. Most recent Secretary of State decisions (e.g. *Collingham*, CD J3) demonstrate that the Core Strategy is up-to-date, notwithstanding the lack of a five years housing land supply.
118. The employment allocations are provided for under saved UDPR policy, the function of which was endorsed by the UDPR Inspector, consistent with his confirmation that development for 1,500 dwellings on the site would be unsustainable. The Inspector's concerns were clear in terms of the site's distance from the MUA, poor public transport services, the poor existing road network, the limited facilities of Thorp Arch and Walton, and the unattractiveness of walking and cycling to and from Thorp Arch and Walton as alternative transport modes to the car. He also rejected the argument of self-containment in respect of the site. The UDPR Inspector's report and findings on sustainability credentials remain relevant. It is an important material consideration. There has been no sustainability-related change since that decision.
119. There is no inconsistency between UDPR and Core Strategy policies and the NPPF. SP1 makes clear that the distribution and scale of housing must be based on the settlement hierarchy. The hierarchy is clearly set out, with the MUA and major settlements the focus. The appeal site fails to meet any of the priorities for development in SP1(ii). SP1 is clear that any proposed development must have regard to the priorities for urban regeneration, the balance of greenfield/brownfield land, and specific regard to the settlement's size, function and sustainability. The proposal is at odds with the securing of these priorities. It is

- not intended that the site should be allocated in the future, under any phase of the SAP. The Government's recent consultation proposes a significant reduction in Leeds's housing requirement. Albeit a consultation document that is open to change, it presents an up-to-date direction of policy travel, and it is a significant material consideration. The City Council's consideration of the consultation coincides with its revised approach to identifying broad locations for growth in the SAP. This, in turn, would further serve the Council's concern to see that any release of Green Belt land for housing is proportionate and appropriate.
120. Policy H2 makes clear that new housing on non-allocated land is acceptable in principle only where the number of dwellings does not exceed the capacity of transport infrastructure, and that for developments of the scale of that proposed, the location must accord with the Core Strategy accessibility standards. As the proposal fails against these accessibility and other criteria, discussion over whether the Group 1 component of the proposal amounts to greenfield or brownfield is academic. Moreover the proposal cannot be considered as windfall having regard to the definition in the NPPF.
121. Insofar as accessibility is concerned, the UDPR Inspector's appraisal remains relevant, there are specific highway objections, the distances from Boston Spa and Wetherby are considerable, the development would not be particularly attractive for cycle use, there would be a significant risk for pedestrian and vehicle conflict, and public transport is poor.
122. Paragraph 4.6.16 of the Core Strategy is not policy but supporting text. Albeit Thorp Arch Estate is given as an example of potential, at that time the thinking of the Council was unsupportive of the proposal. The paragraph also reflects a mere potential for a site outside of the hierarchy to be considered where delivery would satisfy overall Core Strategy principles. Ultimately either the hierarchy or the specific sites allocation process will identify sites according to sustainability principles.
123. The Core Strategy is clear in allowing for the assessed housing need to be met sustainably over the plan period. There is within Leeds a particular focus on regeneration that directs development to brownfield sites within the major settlements. The distribution strategy and targets throughout the Core Strategy reflect the particular accessibility and sustainability components appropriate for Leeds. The Core Strategy promotes development in accordance with the settlement hierarchy, reflecting previously developed land and greenfield locations and the ability of sites to respect and enhance local character and the identity of places. Development of the appeal site for the scale of housing proposed would be contrary to SP1 and the spatial strategy as a whole.
124. The phasing of housing allocations follows on from this approach. Policy H1 is concerned with the identification of housing proposals under the SAP. This is to be done consistently with the spatial policies. The distribution set out in Policy SP7 gives broad indications based on housing need, the strategy and on land availability. Within the Outer North East HMCA the supply to be allocated must be done by applying Policies H1, SP1, SP6, and SP7. This means applying the spatial strategy with its MUA and major settlement focus, as well as its priorities for previously developed land and regeneration.
125. When the impact of placing such a substantial scale of development in this location is assessed in the context of the sustainable development objectives of

the Leeds district it is shown to be unacceptable. The proposal cannot be considered to amount to sustainable development within the meaning of the NPPF, as embodied through the Core Strategy.

Neighbourhood Plans

126. Policy CNE4 *Enhancing Biodiversity* of the Thorp Arch NP is consistent with the refusal of this proposal, as are Policy H1 *Residential Development*, Policy H2 *Housing Type and Mix*, and Project P6 *Improve Screening of TATE Entrance Road and the British Library*. Conflict arises with Aspiration A5 *Thorp Arch Estate, Mixed Use Employment* against which it is explained that the local community has concerns about residential development, given that the local highway network is rural in nature, and access to Boston Spa is restricted by the single track road over Thorp Arch Bridge.
127. Of lesser significance, but nonetheless in conformity with the application of the Thorp Arch NP is the Boston Spa NP, and its aim to promote development reflective of the village setting, with commensurate levels of traffic.

The SAP

128. The proposal is premature in light of the SAP, which is very advanced and has been submitted for examination. The assessment that underlies the identified sites and proposed allocations and broad locations has already been undertaken, save for what is likely to be limited further technical work. Further public consultation on what amounts to a limited re-categorisation of areas as broad locations for growth does not undermine the SAP's very advanced stage, consistent with PPG advice on prematurity.
129. The SAP has followed the proper iterative process by which sites should be allocated, identified, or encompassed within broad locations for development. The site is not allocated, and this is consistent with it not being sustainable for housing. The allocation of sites is a multi-faceted process where many issues interrelate, including the means of delivery of the spatial strategy and infrastructure requirements: the significance of the inter-relationship of these factors is central to the prematurity case.
130. The proposal would bring forward, on the wrong site, about 25% of the proposed housing within the Outer North East HMCA, contrary to how distribution is intended to perform against the Core Strategy. It would also have consequences of disturbing other employment areas in addition to frustrating the delivery of the existing employment allocations within the site. The existing employment use functions sustainably, and would interrelate well with the UDPR employment allocations when they come forward.
131. The merits of the proposed development at Parlington are not for this appeal, and in any event the full information is not available. The number of objections submitted against Parlington is not of any real consequence, since it is their qualitative significance which is material.

Interrelationship with the NPPF

132. The Core Strategy is up-to-date. The Secretary of State found this to be the case in the *Collingham* appeal⁵⁸ and related appeals. The fact that the UDPR had a plan period to 31 March 2016 does not render its policies, and the saved employment allocations, out-of-date. The allocations are saved and have full force. The allocated employment use within the site demonstrates a current purpose. Simply because the employment allocations have not been built out is not a reliable indicator that there is no reasonable prospect of these sites coming forward. The Appellant's challenge to this is prefaced upon viability, on which no positive evidence is provided. Viability was considered appropriately under the UDPR. It has been assessed since, and there is nothing to undermine this.
133. None of the policies referred to in the putative reasons for refusal amount to relevant policies for the supply of housing (following the judgement in *Suffolk Coastal*, ID-70). Consequently, none of these policies can be treated as out-of-date by operation of paragraph 49 of the NPPF, nor do they provide a gateway into paragraph 14 and the question of whether the tilted balance weighs in favour of the appeal.

Highways

Trip assignment

134. It is standard practice to rely on local turning count information to assign traffic onto the local highway network, in order to ensure that new development reflects the existing choices made by local people. If local trip rates and local peak hours of traffic movement are to be relied upon, then the assignment onto the local highway network that goes with those trip rates and destinations should be used.
135. School trips which occur on the network before 0830 hours are to schools which are further afield. The transport assessment applies 60% of all education trips before 0830 to the closest primary school in Thorp Arch⁵⁹. Furthermore, not one of these trips is then applied to any further destination on the network, which would be expected to be the case if parents were travelling early to make use of the Before School Club facilities at Lady Elizabeth Hastings Primary School, on the way to work. This methodology is consequently deficient of a significant number of trips from the network which would directly impact on Thorp Arch Bridge and the Bridge Road/ High Street junction in Boston Spa.
136. The turning counts undertaken at the Woodland Drive and Walton Chase junctions are reasonably consistent in relation to turning proportions. The percentage of traffic egressing towards Boston Spa in the morning peak hour varies between 39% and 47% (average 42%), whereas the Appellant's original assignment had 24% of traffic crossing Thorp Arch Bridge in the morning peak. In the afternoon peak hour the percentage of traffic returning from Boston Spa varies between 34% and 59%. Consequently the transport assessment underestimates the impact on the bridge and High Street/ Bridge Road junction.

⁵⁸ Appeal decision ref APP/N4720/W/14/3001559 – Leeds Road, Collingham (CD J3).

⁵⁹ CD A9, Appendix 6.1, table 7.8.

137. The Appellant's ANPR survey provided partial information on routing, showing the level of traffic which entered or exited Street 5 and passed screen lines on Wetherby Road and on High Street, Boston Spa to the west of the Bridge Road junction. Of the total traffic arriving at Street 5 in the morning peak hour, 51% did not pass either of the two screen lines. The Council's assignment allocated 47% of residential departures (equating to commercial arrivals) to Wetherby Road (compared with 42% for the Appellant) and did not underestimate the use of this route. There is no data within the ANPR survey on traffic levels at Thorp Arch Bridge. Moreover the ANPR survey only recorded vehicles entering and exiting from Thorp Arch Estate in the peak hours so it does not cover local residential traffic. The low percentage of commercial traffic using the route via Boston Spa is likely to be due to restrictions or inconvenience. However car traffic does make use of the bridge during peak hours.
138. The traffic levels contained in the City Council's evidence are a reasonable assessment of traffic on the local highway network, which demonstrate the peak hour traffic levels using Thorp Arch Bridge and the Bridge Road/ High Street junction. It is important to assess this sensitive and substandard part of the highway network correctly as it is prone to blockage due to the single track bridge and parking on Bridge Road.

Mitigation

139. The Appellant has referred to a scheme in Boston Spa in the form of traffic signals and related measures, but this would exacerbate the Council's concerns about congestion, with the linked operation of the signals leading to unnecessary delay to pedestrians and motorists and problems of blocking due to uncontrolled movements within the signals and interaction with parked vehicles. Keeping Shire Court unsignalised would be unsatisfactory as the stop line needs to be set back to accommodate turning manoeuvres at the junction, and relying on secondary signals for the main road would be unsafe.
140. Although the unilateral undertaking provides for a sum of £300,000, this fund would not be adequate to mitigate the severe harm caused by the additional traffic and conflicts on the network. Insofar as the traffic signals are concerned, the final prediction table of the Transyt model indicates degrees of saturation above an acceptable level of 90%. The model assumes unrestricted two-way flow on all approaches, whereas the parking on Bridge Road would inhibit this flow, and give rise to a severe impact on capacity. The mean max queue (MMQ) figures from the final prediction table indicate queues of about 132m on High St (east) and of about 82m on Bridge Road. The queues would impact severely on High St (east), with the carriageway width reduced due to parked vehicles on High St. The impact of the queue on Bridge Road would be affected by limited parking restrictions of only 28.8m, preventing the remaining 53m of queue being formed in the correct position on the carriageway.
141. The traffic signals at Bridge Road/ High Street and Thorp Arch Bridge would run on vehicle and pedestrian demands, and therefore the cycle times are expected to change. This would affect the coordination shown in the Appellant's flow diagram, and the result would be opposing traffic on Bridge Road affecting the two way flow. Plan SK005/P2⁶⁰ has not been subject to safety audit. The

⁶⁰ ID-74, Appendix D.

addition of *Keep Clear* markings on High Street would move the stop line forward and affect the swept path of left turning vehicles. The proposed secondary signal for Shire Court would be in advance of the stop line. All three approaches would be signalled separately and no give way markings are shown at Shire Court. The presence of the bus stop on Bridge Road would also adversely affect the co-ordination of traffic signals, and the queue of about 56m on High Street (west) would affect the exit from the adjacent public car park. In addition, queuing at Bridge Foot South would leave inadequate room for additional vehicles without being adversely affected by parking.

142. There is concern about visibility in relation to the proposed pedestrian crossing on Wighill Lane. Ongoing growth of a hedge along Wighill Lane presents a hazard, but the Appellant cannot cut back or remove the hedge as it is not within the highway or its control. Pedestrian visibility and forward visibility for motorists would be unsatisfactory.

Accessibility

143. SP6 of the Core Strategy makes clear that whether locations are sustainable for housing development should be assessed by reference to the accessibility standards. These are minimum standards to be applied based upon the relevant accessibility characteristics of the district. The appeal proposal fails to meet all the standards. It is not appropriate to point to the Parlington proposal as part of some comparative exercise which is unsuited for this appeal, and without evidence on the merits of that site. The proposed bus service diversion illustrates the deficiencies against the standards: the existing 30 minutes bus service 70/71 through the site would not meet the 15 minutes frequency requirement and would remove the service from within a reasonable walking distance of 400m from approximately 146 dwellings on Woodland Drive, Walton Chase and Rudgate Park, and from Wealstun Prison. Existing residents of the housing on this stretch of Walton Road would on average have to walk over 600m to the nearest bus stop⁶¹. The development would be a freestanding estate with limited facilities on site. It is acknowledged that the primary school at Thorp Arch would be within the specified 20 minutes walk of the site, but the main local services in Boston Spa are beyond a reasonable walking distance and cycling would not provide meaningful mitigation. Consequently future residents would rely heavily on the car, and the site is not the right location for homes.

Housing land supply

The requirement

144. The annual requirement derives from SP6. A 20% buffer has been applied to the housing requirement to account for under delivery since the start of the Plan period. The total five-years requirement for the period 1 April 2017 to 31 March 2022 stands at 33,571 dwellings, a requirement of 6,714 dwellings per year (above, para 39).
145. The Council has reflected upon the conclusions in the December 2016 appeal decisions (which concluded upon an evidence base of 1 April 2016). It has modified its approach to the housing land supply calculation, and has

⁶¹ Document L1, para 5.9.66.

substantially boosted its planned supply of land for new homes. There is a clear distinction between the Council's housing land supply position in the December 2016 appeals and the evidence on housing land supply in the present appeal.

146. Housing regeneration and growth is a key priority for Leeds. The housing requirement in the Core Strategy is ambitious. But it, and the related CIL Charging Schedule, were adopted following examination in which the deliverability and effectiveness of the strategy was robustly tested, including consideration of viability evidence. The strategy has begun to deliver and there is considerable activity in the Inner Area and City Centre. Recent figures show that completions and planning permissions are increasing, with 6,792 dwellings being permitted in 2016/17⁶².
147. The Council has been working with the Homes and Communities Agency and DCLG (now MHCLG) to unlock growth in the City Centre housing market. Leeds has a good track record of working with partners to stimulate and support the housing market through schemes such as the brownfield land programme delivery, private sector housing investment, and the housing growth programme. The following factors contribute to an improved picture for housing delivery: sites being identified in the emerging SAP, planning permissions granted in the last few years, pre-application activity in 2016 and 2017, adoption of the Aire Valley Area Action Plan, Leeds Living Deal, the Leeds South Bank regeneration opportunity, emergence of the private rented sector delivery model on the ground, the brownfield land register and permission in principle.
148. The Council has finalised the 2017 update to the SHLAA (ID-96), and as part of a positive approach contacted agents, landowners and promoters to comment upon the availability and achievability of sites. The Home Builders Federation was also asked for comments. The 2017 SHLAA is thorough and robust. Footnote 11 of the NPPF explains that the Council's supply should be assessed for a realistic prospect of housing delivery. However it is considered that the Appellant has advanced a case which has been pessimistic, adopted a standard of deliverability that exceeds that supported by national policy, and has not appreciated the assembly of housing strategies now being given effect. In any event, the Council's judgment should be preferred, given its responsibility to prepare the SHLAA and source its housing land supply.
149. The Council's assessment of sites as deliverable is explained in the evidence of Mr Brook (Documents L8 & L9) and through the 2017 SHLAA itself (in ID-96). An assessment has been undertaken for each site, meeting each of the footnote 11 tests. Whilst the Appellant may suggest that certain volume housebuilders have varying views on the achievability of sites and their rate of delivery, this suggestion does not undermine the realism of the Council's assessment.
150. With regard to sites in alternative use, the Council has taken an informed approach and considered delivery likely to be achieved within the five years period. It has contacted landowners to confirm availability and determine details of any existing tenancy agreements in order to assess deliverability upon the landowner obtaining vacant possession of the site, together with lead-in times for planning applications, commencement on sites and the delivery of completions. The five years supply does not include sites in alternative use with no planning

⁶² Planning permissions for the period 2012/13-216/17 are recorded in the table on page 5 of Document L8.

permission as they are not assessed as available now for the purposes of footnote 11.

151. Sites without planning permission have been assessed against the footnote 11 tests⁶³. In the main these are brownfield sites in the MUA where the Council's strategy promotes their delivery. Many are sites identified for development and discussed with landowners through the SHLAA or SAP processes. There are many examples of sites within the city centre where positive pre-application activity has recently taken place. Quarry Hill (site ref 200_411) was sold by the Council to a developer, and there has been recent pre-application activity for reserved matters proposals involving about 500 dwellings. This is a deliverable site. Globe Road (ref 433) and Black Bull Street (ref 2009) are both part of the programme of sites in Leeds Living. Black Bull Street is part of the wider South Bank regeneration programme supported by an emerging masterplan. There is active developer interest in bringing the site forward for development in the short term with recent pre-application activity. Inclusion of 744 units at the Dandarra site (ref 407) is based on the developer's construction programme. Planning permission is expected to be granted for Granary Wharf (ref 205) following the execution of a planning agreement, and 244 units should be included for this site. There is planning permission for 96 dwellings at The Gateway (ref 419), a site which is part of the Leeds Living Deal. These are just some examples which demonstrate a probability of deliverability.

Delivery rates and lead-in times

152. The Council agrees lead-in times and build out rates through the SHLAA Partnership where it is possible for sites to obtain planning permission and see the start of completions in 25 to 28 months. On that basis, sites without planning permission where the Council has contacted willing landowners to confirm pre-application activity, contribute to the short term supply in years 3, 4 & 5 in accordance with footnote 11 of the NPPF. The Council is also involved in on-going dialogue with developers to keep construction programmes up-to-date for sites with permission.

Market and viability issues

153. The Appellant suggests there is a capability concern in relation to the specialist development sector. However if sites are assessed as deliverable, then there should be clear evidence that individual sites would not be developed. The evidence for the Appellant's assertion is a letter from BNP Paribas who outline their broad understanding of the market based on a few selected sites. The Council has rightly focussed on an assessment of deliverability, rather than a forecast of delivery. There is an expansive body of additional developers active in the market, and the market should be assumed to respond to the opportunities. No site is excluded on account of an objective viability appraisal. The focus of footnote 11 is on whether sites that are suitable for development are realistically achievable. The measures put in place by the Council are highly relevant in promoting the delivery of Inner Area, City Centre and regeneration sites. Their catalytic effect in an improved market endorses the Council's position. Specifically in relation to the City Centre, there is the question of whether reliance can be placed on the private rented sector to deliver housing.

⁶³ The Council's comments on the disputed sites are in ID-31.

Institutional investors are bringing forward opportunities in Leeds which can accommodate a significant level of housing growth. Dandarra is a key scheme for this model of delivery with a number of sites in the City Centre set to follow. The Dandarra site has planning permission and is under construction with the expectation of first occupancy in 2018.

Final positions

154. There is a minimum policy compliant deliverable supply of 29,383 units, comprising 26,608 units from SHLAA sites, an annual windfall contribution of 500 dwellings, and the return of empty properties (less demolitions). This supply would be sufficient for 4.38 years (ID-88). It is understood that the difference between the Council and the Appellant's position is 10,991 units and 1.64 years of supply. Insofar as sites without planning permission, and which are not due to be granted permission in principle, are concerned, the realistic prospect of their delivery within five years is subject only to a suitable scheme brought forward by planning application. None of the sites included within the supply have legal or ownership constraints which would militate against a realistic prospect of delivery. Whilst a five years supply cannot be demonstrated, the extent of the shortfall is modest. Approval of the appeal proposal would not of itself change the position with regard to the five years supply, since it would only contribute 160 dwellings. The Council anticipates that it will soon be able to demonstrate a five years housing land supply within the context of the strengthening market, ongoing housing growth initiatives, and no later than the adoption of the SAP.

Affordable housing

155. The level of affordable housing to be provided is not in accordance with Policy H5 of the Core Strategy. This bears on the unsustainable nature of the development in both social and economic terms. Less than 35% provision would give rise to conflict with Policy H5, taking account of the Council's position that this would exceed a viable level of provision, since viability is just one criterion relevant to policy compliance. The substantial shortfall in affordable housing provision would be unacceptable, having regard not only to what is viable, but firstly to what is policy compliant. The significance of what would amount to a lost opportunity to maximise affordable housing provision is the greater in the light of the affordable housing backlog. The mechanism under the planning agreement which provides for uplifting affordable housing provision is no surety of an increase in affordable housing, since this is tied exclusively to viability.

Viability

156. The proposal would support 26.08% affordable housing provision, that is 228 dwellings. The principal points of disagreement with the Appellant concern: benchmark land value, whether the approach to assessing viability should take account of an enabling developer or a single developer, and finance.

157. In terms of the site value, Mr Maguire's assessment for the City Council is equivalent to £74,813 per acre, lower than Mr Jones's assessment of £150,000 per acre for the Appellant. Mr Maguire's approach to the benchmark land value reflects site complexities (including ground assessment, site clearance and primary infrastructure). Given that the Appellant has submitted a retrospective planning application for tipping waste, it is reasonable for Mr Maguire to have adopted an approach reflecting some concern as to the manner in which the work

would be carried out, and whether the materials are contaminated based on previous use of Thorp Arch Estate as an ordnance factory. That approach reflects also the combined facts of an outstanding planning consent for storing topsoil which is already in place, the apparent omission of seeking consents from the Environment Agency, and the absence of an up-to-date intrusive ground investigation across the entire site which is likely to influence a prospective purchaser's bid for the site based on its current use value. The current use value of the site is calculated as £5,008,000⁶⁴.

158. Royal Institute of Chartered Surveyors (RICS) guidance makes no reference to the approach where a lead developer undertakes remediation and servicing works before selling the serviced plots to house builders. Mr Maguire has carefully considered the size of the scheme and the extent of abnormal costs, and reflects the Appellant's own acknowledgment that it may be developed by a single developer. The RICS guidance does not recommend a two-tier approach once additional information on costings comes to light. It makes no reference to adopting two levels of site value in order to determine viability. The approach adopted by the Appellant has a significant impact on viability due to the additional cost associated with financing with a higher land value. The Appellant's master appraisal dated 15 November 2017 (ID-119) gives a site value of £5,743,338 (£85,798 per acre), which is adopted as the site value for the stage of the development when the site is remediated and serviced in preparation for onward sale as plots to housebuilders. However the site value contained within the plot appraisals is £818,105 per acre. In consequence the Appellant's appraisal includes finance costs of £8,960,563, whereas the Council's finance costs are £2,545,901.

Planning balance

159. There are many conflicts with the Development Plan, arising in respect of highways matters, accessibility and affordable housing provision. Together and severally, these conflicts echo the unsustainability of the proposal. It is therefore not a case in which individual sustainability dimensions, drawn together under the planning balance, may offset against another so as to enable an overall finding of sustainability. The few material considerations that weigh in favour of permission (e.g. the provision of a low level of housing during the five years housing land supply period, and some economic benefits) do not have the significance of indicating otherwise. The presumption under the Development Plan therefore remains undisturbed and permission should be refused, applying the statutory test. In addition multiple aspiration and project conflicts arise under the Thorp Arch Neighbourhood Plan.

160. Emerging policy under the SAP attracts very significant weight. A finding of prematurity would be conclusive in light of the SAP. Significant weight attaches separately when applying paragraph 216 of the NPPF.

161. If relevant policies for the supply of housing are found to be out-of-date, the decision-maker should go on to see whether the tilted balance applies or whether the rebuttable presumption in favour of sustainable development is in effect rebutted. The outcome of applying this presumption does not challenge or overcome that under the Development Plan. Moreover it is not correct to

⁶⁴ Document L5, para 24.16

suggest that in any given circumstance in which a local planning authority is unable to demonstrate a five years housing land supply, one proceeds to consider whether the tilted balance applies. This reads too much into paragraph 59 of the *Suffolk Coastal* judgement, and in a way that is out of context with that part of the judgement dealing with the interaction of paragraphs 49 and 14 of the NPPF and which overlooks the purposeful wording of paragraphs 49 and 14, where the trigger is in fact reserved to circumstances in which relevant policies for the supply of housing (para 49) and relevant policies (para 14) are made out and are found to be out-of-date.

162. In any event, even if paragraph 14 is arrived upon, this is not a case in which the proposal is in accordance with the Development Plan, and, noting that the Secretary of State has recently found the Core Strategy not to be out-of-date, and there being no finding of the UDPR allocations being out-of-date, this is a case in which the adverse impacts significantly and demonstrably outweigh the benefits.
163. In the balance, the Council has given careful consideration to the argued benefits in this appeal, but the benefits case is barely positive. The provision of housing will always be a positive, but the proposal would only deliver 160 units, and the low level of affordable housing should attract only modest weight. It is suggested that the proposal would result in a mixed use development, but the site is unsustainable for housing. Land remediation is a positive aspect, but at present, save for persons who may trespass onto the site, there is no claim to suggest that any hazard would be caused to any person by the contamination present. There is, therefore, no imperative for land remediation. Although there is a claim to a benefit from the use of brownfield land, the site also includes greenfield land. Other benefits claimed, such as retail provision and greenspace, are at most of modest significance.
164. There do not exist in this case the material considerations capable of indicating otherwise. Further, within any application of paragraph 14 of the NPPF, it is considered that only one view of sustainable development may be reached: that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The proposals do not amount to sustainable development. Rather, this is a case where the section 38(6) balance provides the clear decision-making framework. The proposal is 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. The question of whether the proposals amount to sustainable development must be answered through the application of that plan.

The case for TAG

The material points are:

The Development Plan

165. The presumption in favour of sustainable development in paragraph 14 of the NPPF operates within the presumption in favour of the Development Plan under s38(6) and does not take precedence over it (see *Barwood Strategic Land II LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893 (para 14)). Similarly, in *Suffolk Coastal* the Supreme Court emphasised that the NPPF cannot displace the primacy accorded to the Development Plan.

166. The proposal does not comply with the overall strategic policy under SP1 of the Core Strategy, which seeks to direct development according to a settlement hierarchy. It does not sit within any of the settlements identified and it is not a sustainable extension to any such settlement. It is therefore contrary to the overarching spatial strategy of the Development Plan.
167. The site is identified as a potential location for new development outside the settlement hierarchy in the explanatory text to SP6. However, this does not mean that this site is either allocated, or that it is in accordance with the Development Plan. Firstly, this paragraph is explanatory text and does not have the status of policy. Secondly, SP6 states that the allocation of housing sites will be dictated by the settlement hierarchy, with development locations within that hierarchy being identified according to the principles set out there, including the sustainability of the proposed location. Thirdly, the explanatory text does no more than to identify Thorp Arch as a potential location outside the settlement hierarchy, depending on whether it meets the definition of previously developed land and can be made sustainable. However the site is in an unsustainable location and the appeal scheme lacks the scale required to make it sustainable or self-sufficient. Fourthly, the aspirations of the City Council at that time are clear from the SAP consultation document of June 2013, which comments in relation to Thorp Arch Estate that *Any development of this scale would be required to invest significantly in public transport measures and a new relief road*. This current proposal does not equate to that vision of a large scale development with a package of transport measures, and it does not tackle the concerns on sustainability.
168. The intention was that this site, alongside others, should be considered in due course as part of the SAP process, when a proper assessment could be made of the scheme alongside other potential allocations. Bringing forward this application in advance of the SAP would prevent that comparative exercise from taking place.
169. Policy H2 states that new housing development will be acceptable in principle on non-allocated land provided it meets certain criteria. However, this is subject to the requirements that the number of dwellings does not exceed the capacity of transport infrastructure and that the location accords with the Council's accessibility standards. The proposal does not accord with these standards, and it does not fit within the existing local highways and transport infrastructure. Harm to a local wildlife site by developing Group 1, and to greenfield land of nature conservation value from the decontamination process would also be contrary to Policy H2. The proposed development is clearly contrary to the policies of the statutory development plan, read as a whole.
170. The Thorp Arch NP supports the retention of the Estate for commercial/ industrial activities rather than residential development. The redevelopment of part of the Estate for housing would conflict with this aspiration. The Boston Spa NP referendum took place in October 2017 with 89% of votes supporting the plan. It aspires to create a people-friendly village centre, with minimal road markings or signage. The proposed development would severely impact on this vision, with increased levels of traffic, and the impact that this would have on parking facilities, pedestrian movement and the ambience of the village centre. The proposal would be in conflict with Community Action PFVC1 of the NP.

Sustainability

Location and accessibility

171. The UDPR Inspector concluded that this location had not been shown to be capable of being made sufficiently sustainable to warrant residential development of the scale proposed. These problems have not been resolved by the current scheme. Boston Spa and Wetherby are significantly farther from the site than the recommended walkable neighbourhood distance of up to about 800m as set out in Manual for Streets (para 4.4.1). They are also farther than the preferred maximum walking distance of 2km for commuting and schools and 1.2km for other purposes, as contained in the Institute of Highways and Transportation Guidelines for Providing for Journeys on Foot⁶⁵.
172. The footways between the site and Boston Spa are unlit and the width of the footway is substandard. On Bridge Road vehicles regularly mount the footway to avoid conflicts between traffic moving in opposite directions. There are no cycle facilities along this route, which is rural in nature and subject to the national speed limit in places. This does not make it conducive to cycle use. The footways between the site and Wetherby are even less suitable. There is a National Cycle Route (NCR 665 – the Sustrans route) between Walton Road and Wetherby but this travels through woodland and farmland and has no lighting or surveillance. It is unsuitable for ordinary commuting needs, including school trips, and is intended as a recreational route.
173. The public transport available in Thorp Arch is poor. The nearest practical railway station to get to Leeds is at Garforth, about 23km away. The station is not well served by public transport from Thorp Arch, with the bus journey taking over 90 minutes and needing a change. Local train services are not a realistic or practical option. Although the Appellant has offered to divert the existing 70/71 bus service via the site, there is no proposal to increase the 30 minutes frequency of the service. Moreover the diversion would omit stops on the Walton to Thorp Arch Road which serve housing at Woodlands/ Walton Chase and Rudgate and Wealstun Prison. The proposal to re-route the bus service conflicts with the travel plan associated with the 2009 planning permission for the conversion of the prison to category C (ID-101). This advises that bus services are currently located immediately outside the prison on both sides.
174. The problems with lack of accessibility and poor public transport services remain equally valid today as in 2005, and the solutions to these problems are now virtually non-existent, due to the smaller scale of the proposal. It also remains true that, by virtue of its location, the site is well placed to attract the car driver/ commuter, with its convenient access to the motorway network at the A1(M).
175. There is no realistic prospect of a development of 874 units becoming self-sustaining or being able to support the range of services required for any basic degree of self-containment, and a local centre amounting to just 1,570m², will not be sufficient to achieve this aim. Mr Vandy's evidence demonstrates that a catchment population in the region of 2,000-5,000 would be required to sustain a corner shop. Policy P7 of the Core Strategy provides that any new local centre

⁶⁵ Document T6, Appendix 6.

required as a consequence of significant housing growth should have a mix in type and scale of facilities, services and shops, to reflect a range of uses: the proposed local centre would not provide the range of facilities required to ensure sustainable provision for this development. The sequential assessment for town centre uses required by Policy P8 of the Core Strategy has not been undertaken.

176. It is expected that residents of the development would choose to travel by car to Boston Spa or Wetherby, given the services which they have to offer. The Appellant has suggested that residents would be able to work at Thorp Arch Estate, but there is no specific evidence to substantiate this. Rather, as Mr Parker (for the Appellant) explains, a significant number of people in the HMCA, including those employed in retail and manual occupations at Thorp Arch Estate, would be unable to afford market housing in the area⁶⁶. Given the small number of affordable dwellings which would be provided, occupation of the dwellings by persons employed on the Estate would make little contribution towards the site's sustainability for residential development. If permission were granted for this development it would become a dormitory location for workers commuting elsewhere, rather than a self-sustaining settlement.

Highways

The bridge complex

177. Relying upon the PICADY modelling of this junction, without factoring in any of the complexities associated with this part of the highway network, this junction will operate over capacity with an RFC of 0.996 (compared to an acceptable level of 0.85) in the with development scenario. Similarly, taking the distribution methodology in the TA at face value, the development would result in 124 additional vehicle movements across the bridge during the AM peak period and 120 during the PM peak period. This equates to a 30-40% increase in vehicle movements.
178. The Appellant's modelling evidence underestimates the queues at the junction. It follows that the predicted average delay would be significantly higher than the 1 minute 34 seconds (or 25 seconds additional delay) currently predicted in 2026. As well as the prospect of lengthy queues, there are safety concerns about blockages on this route, resulting in dangerous highways manoeuvres, and risks to drivers and pedestrians alike. The video/ stills footage shown to the inquiry illustrates the problems experienced on Bridge Road, and was taken on twelve separate occasions between 2016 and 2017 (with a separate instance shown in 2014).
179. The PICADY model relied upon by the Appellant fails to reflect the highways environment in this location, and consequently to predict the traffic impact. It only recreates the junction at High Street/ Bridge Road. By contrast, the potential traffic lights scheme would operate as a single system encompassing the bridge, Bridge Road and the junction itself, recognising the need to consider the traffic impact of the bridge. The operation of this junction is significantly affected by the fact that the route to/ away from it is via a single track bridge, and a road with parking along one side. This inhibits the free flow of vehicles in this location,

⁶⁶ Document A12, para 6.3.46.

causing delays and unsafe manoeuvres. The PICADY model cannot accurately replicate the parked cars in this location nor the bridge complex as a whole.

180. To address the shortcomings, TAG's highway witness sought to use a VISSIM model. Although he was unable to make the VISSIM model work, the model reached gridlock due to the passing places on Bridge Road reaching capacity and because it could not predict driver behaviour. This demonstrates that the operation of this complex depends entirely upon driver forethought and knowledge. Blockages inevitably occur, particularly where drivers are unfamiliar with the complexities of this junction and this causes unsafe vehicle movements, which cannot be inputs to the VISSIM model. The safety risks associated with overloading this complex are evident. In the absence of adequate modelling evidence from the Appellant, there cannot be any confidence that the impact would not be severe.

Walton Road roundabout

181. In undertaking an exercise to validate the model used at this junction, TAG's highway witness noted that the throughput of traffic was similar to the TA with development scenario, but the queues observed of 10-52 vehicles were inconsistent with the predicted length of 2.3 vehicles. It is considered that the model has not been properly validated, and that the Appellant's evidence cannot be relied upon in assessing the highway impact on the key route between the site and Wetherby.

Mitigation scheme

182. There are three fundamental concerns with the proposed traffic signals scheme: the uncontrolled exit from Shire Court, the interaction of queuing and parked cars on Bridge Road, and the interaction with parked cars on High Street. A revised proposal includes new pedestrian crossings, a revised parking scheme, stop lines and signal heads being moved, and changes to the public car park access off Bridge Road and High Street, but they have not been the subject of any consultation with local residents. The revised scheme has also not been assessed in the ES, or been subject to any safety audit.

183. These changes do not address the problems identified by TAG's highway witness. The revised scheme now includes a pedestrian crossing directly adjacent to the Shire Court exit, which creates a serious potential conflict between vehicles exiting this junction and pedestrians using the crossing. The revised scheme still does not address the conflict between parked cars and moving traffic on the High Street, opposite Shire Court, or on Bridge Road. The solution to the problem of queuing vehicles on Bridge Road appears to be to remove yet more car parking. The scheme proposes that the entrance and exit to the car park on Bridge Road would be altered, with all traffic exiting onto High Street. The impact of this has not been assessed, either in terms of road safety or in terms of how the car park and exit onto High Street would operate.

184. There is no workable traffic signal scheme, to enable an assessment of whether the impact on the bridge complex can be mitigated. Given that the Appellant's modelling is considered to seriously underestimate the highways impact of the development at this location and, therefore, the risk of conflict, it is submitted that the impact on this highly sensitive complex would be severe.

Contamination

Nature of the contamination

185. The nature of the contamination comes from a number of sources: unexploded ordnance, contaminants in the ground, and asbestos. Asbestos is extensive across the site. Of the 91 samples of made ground tested for asbestos, 56% tested positive for its presence. Contaminants in the ground are set out in Mrs Gill's evidence for the Appellant⁶⁷.

Relevance of contamination

186. The proposed end use has very sensitive receptors, and the precautionary approach should be adopted. It is considered likely that a number of deaths may be attributable to asbestos on the site. The health risk is from the asbestos fibres. At Thorp Arch Estate the fibres from the lagging, likely to be buried on site, are unconfined, and not held in place by the cement bonding in sheet material. The quantity of lagging asbestos is calculated by TAG at over 50 tonnes, based on a 10km length of steam pipework, which does not include lagging within buildings. The contamination issue also has consequences with respect to timescale for delivery, and the viability of delivery, especially as the Appellant is making a case for a reduced level of affordable housing.

Proofing building

187. A building to the north east of Westminster Yard is believed to be the proofing building where production samples were sent to be tested. Given the enormous quantities of munitions produced in the ROF, estimated at over 100 million items, the quantities of material tested would have been very large. It is thought likely that there are large levels of contamination both inside this building and in the surroundings. However it lies within the Northern Area, which is scheduled for minimum remediation.

The extent of the burning ground

188. The material typical of burning grounds extended further north, south and slightly east than had been expected by the Appellant⁶⁸. Since much contaminated material, and offsite disposal are associated with the burning grounds, not having a known area prevents certainty about the costings for remediation, which are considered likely to increase once the actual boundaries are known.

Underground tanks

189. A concern expressed by the Environment Agency in their consultation response is the presence of underground tanks (CD D3). The whereabouts of such tanks has not been provided, and the ES makes no mention of how the presence or absence of such tanks would be determined. There is also anecdotal evidence of tunnels under the site: if such tunnels are present, they also need to be found.

⁶⁷ Document A6, Appendix F, table 6.5.

⁶⁸ Document A5, para 9.5.3.

Fly-tipping and asbestos

190. Fly-tipping occurred on the site, and the Stanger report⁶⁹ commented that this material was some of the most contaminated they found in Group 1. Pieces of asbestos sheet have been visible in many places, including the large mound to the east of Group 1. Sorting overburden and fly-tipped material would be difficult because of the range of intermingled contaminants which would be encountered - possible explosive devices, explosive residues, heavy metals, poly-aromatic hydrocarbons (PAHs), and asbestos sheets and fibres.

Remediation

191. The Appellant indicated that it would undertake the necessary works of remediation, but there is no binding commitment as to who should undertake the remediation works, and in what timescale. The Appellant does not have a track record of undertaking work in connection with waste removal, and it is considered that it would be safer if another party undertook this work.

192. The treatment of the material from the confidence scrape has been revised. Instead of sorting and reworking, it is now to be buried and capped. The revised plans include bunds along the north-east and south-east sides of the housing development. These would be very visually intrusive, and change the character and aspect of the site. Although the ES Addendum refers to acoustic bunds, the original ES noise analysis showed no need for such bunds. Although the noise section of the original ES proposes some enhancements of the boundary between Group 1 and Avenue D to mitigate some noise from the industrial area, no continuous new acoustic bunds were indicated. Moreover the original version of the landscape masterplan did not indicate an acoustic mound along Street 5.

193. Given that bunds were not shown to be needed for noise abatement reasons, they appear to be just repositories for the potentially contaminated confidence scrape material. The ground underneath them is the source of the borrow material, required to replace the material either confidence scraped, or to be disposed of off-site. This requirement for borrow material is a significant change from the original ES. The bunds are more likely to be disturbed than a mound in the country park. This proposed treatment of the scraped material is not considered to be appropriate, safe or necessary.

194. It is intended that EOC techniques be used in the area of the proposed country park. However the report indicates that some explosive devices could be smaller than would be expected to be identified by EOC. There needs to be further discussion of whether this level of detection is adequate, and how it can be performed in the densely vegetated areas without destroying the ecology.

195. The apparently unused parts of an ROF site may actually contain important contamination, but identifying those areas within the undeveloped parts of the site, which may be contaminated, would be difficult. However the only source of evidence from the period of ROF use seems to be the aerial photograph dated 1946, over 10 years before the site ceased to be operational. This level of knowledge is considered to be inadequate.

⁶⁹ Report – Assessment of Ground and Groundwater Conditions – Proposed Housing Area IN8, Thorp Arch Estate, Wetherby; Stanger Science and Environment; 2001 (CD P2).

196. Unlike the sites that BAE have remediated, this site has been in independent ownership since the late 1950s. There is no desk-top information provided on what contamination has resulted from the industrial use, except that Stanger found some of the highest levels of contamination in the fly-tipped material and asbestos in mounds. There is also anecdotal evidence of waste from industrial activities being buried on the site.
197. The July 2017 survey results indicate the very high presence of asbestos, in 56% of the made ground samples. This is in material that the Appellant suggests would be sorted and reused on site. It is TAG's view that sorting material to remove rubble, asbestos sheet, loose asbestos fibres and heavy metals contamination is not a practical proposition. No method statement is provided. If the 50 tonnes of loose, very friable, asbestos fibre is buried on site, then its location needs to be identified and suitable safe practice decontamination conducted. An aerial photograph from 1967 seemed to show that a depression had been filled in. As the period since a previous photograph showing the depression covers the likely dates of the steam line removal, this makes it a candidate for containing some or all of asbestos lagging. It should be fully investigated.
198. It has been claimed that the remediation costs would be £11.65 million, plus or minus about 10%. The upper limit is not accepted. The extent of the main burning ground has still not been defined, and there may be others. How much of the material will need to be removed to a licensed hazardous waste site is not known. Such disposal is expensive compared to on-site use or disposal. Cost estimates for this made by the Appellant's consultants range from £220 per m³ to £282 per m³. But different waste sites accept different materials. Until it is known which site would accept any particular type of material and the distances involved, the costs are unclear. Evidence needs to be provided that such disposals can be made, and how expensive they will be.
199. In the absence of any method statement for the sorting of overburden and made ground, then it should be discounted as a possible approach. The effects on costs for removal off site, if sorting cannot be achieved, should be presented. There would also be the question of where replacement material is sourced and further borrow pits excavated, to compensate for the removal of additional material from site.
200. There is concern that the interface between overburden and the original ROF factory may not be readily identified, and that in consequence the depth of the confidence scrape would need to be increased. The inclusion of more material in the confidence scrape would affect the balance between borrow and fill, and require another revision to the plans for handling the scrape.
201. A comparison between the cost estimates of remediation of the appeal site and of the ROF site at Chorley is inappropriate. At Chorley, a complete desk study meant that the remediation requirements were well understood, and so a logical and efficient remediation plan could be executed. Removal of confidence scrape material to a mound at Chorley meant one lot of handling only, whereas the formation of bunds would involve multiple handling of materials. BAE avoided the extremely expensive costs of off-site landfill at Chorley, by creating their own licensed hazardous waste site on the site, or nearby in other parts of the site. All contaminated material was retained on site, and replacement fill was all sourced

on site. The costs at Thorp Arch would be much greater than those BAE incurred. This problem in estimating costs occurs when insufficient information is available on the physical condition of the site.

202. BAE advises that phasing is possible, but suggest leaving 50m wide buffer zones. These do not appear to be built into the remediation strategy. Phasing would probably require multiple mobilisations and demobilisations of equipment and people. Each phase would require its own phased physical site surveys with resultant delays, redesigns, and extra decontamination. Meanwhile the proposals to protect the ecology, in themselves requiring seasonal or staggered operations, have to be fitted in.

Costings

203. The cost data being used by the Appellant is considered to be out-of-date and to be based on remediation costs estimates which are underestimated. Standard rates for construction used by housebuilders do not provide for abnormal costs. The Stanger report (para 9.4.1) notes that the cost of foundations in areas of desiccated clay strata could be significantly greater than normal. These extra costs could be well over £3,000 per house, and if all the houses were affected, that could be up to an additional £7 million above those used in the viability calculations.

Conclusions on contamination

204. The appeal scheme has been amended with the addition of bunds which would appear unsightly. The eventual use has sensitive receptors, and the site has the potential to have a serious effect, either through ordnance or general contamination. The task of remediation is huge, and undoubtedly expensive. It is argued that the evidence does not indicate that the figures put forward by the Appellant are robust. If more expensive, the works of remediation would adversely affect the viability of the scheme. In addition, such substantial works are likely to take much longer than the nine months which have been allowed in the Gantt chart⁷⁰.

Ecology

205. Part of the site is identified as local wildlife sites (LWSs) for its rare grassland and species-rich grassland habitats, and falls within the terms of Policy G8 of the Core Strategy. According to the Leeds Biodiversity Action Plan there are no more than a few hundred hectares of Magnesian Limestone Grassland nationally. It is a Biodiversity Action Plan priority habitat. The site also forms part of the Leeds Habitat network and is an integral part of a regionally important wildlife corridor, which links with the River Wharfe and the Thorp Arch disused railway. The Leeds Habitat Network aims to protect the complex network of areas in Leeds with nature conservation value.
206. The required scrape of the development site, and possibly scraping part or all of the northern area, would mean the loss of the existing vegetation in those areas. It is likely that reuse of the soil would not be possible because of contamination. The need to undertake a scrape would also result in the loss of trees in the development area. There are likely to be at least some areas of the

⁷⁰ Document A15, Appendix J-A.

LWS outside the development boundary which would require decontamination. Although little testing has been done in these areas there is contamination in some of the test pits on the boundaries of the LWS. It is likely that this extends into the LWS itself. The proposal would lead to the loss of smaller areas of remaining calcareous grassland, which, although not qualifying independently for LWS designation, form part of an important mosaic and are important in the maintenance of the ecological integrity of the site. TAG's view is that the loss of LWSs is unlikely to be compensated by any of the measures suggested in the ES aimed at creating calcareous grasslands. TAG has previously commissioned advice from the technical director of ecology for AMEC. He advised that although calcareous grassland meadows can be recreated, they will take many decades to develop the full suite of species that unimproved grasslands in the same area support⁷¹.

207. The proposed development is contrary to Policies G8 and G9 of the Core Strategy and paragraphs 109 and 118 of the NPPF. The proposal would result in a net loss of biodiversity, a reduction in the current extent of magnesian limestone grassland and significant harm to the integrity and connectivity of the Leeds Habitats Network. It would cause serious harm to a valued ecological resource.

Affordable housing

208. That only 15% of the dwellings would be affordable impacts on the sustainability of the scheme. However if the Appellant's case that only 3% can be viably provided were correct, then providing any more than 3% would be in conflict with Regulation 122(2)(a) to (c) of the Community Infrastructure Levy (CIL Regulations), and the planning obligation could not be given weight insofar as more than 3% is offered.

209. It appears that the Appellant has significantly underestimated the cost of the necessary remediation. In any event the Appellant's viability assessment is considered to be flawed. This assumes that the Appellant would dispose of the site to a master developer, who would then prepare the site for development and sell on to a housebuilder. This is in contrast to the evidence of the Appellant's contamination consultant, and the letter from the Appellant which indicates that they have the financial wherewithal and capability to undertake the work. The suggestion that introducing another party into the disposal process makes no difference to viability is counter-intuitive. The master developer would require a profit, just as any landowner. In considering the appropriateness of the affordable housing offer in any planning obligation, it is important to note that this is in an agreement with named parties, and there is evidence that this landowner would be undertaking the work. This should be taken into account in the determination of the correct affordable housing percentage.

The planning balance

210. The contribution which this site would make to the five years housing land supply is questionable, given the complexities associated with decontamination, and the weight to be given to the housing benefits of the scheme decreases as the delay in delivering housing on this site increases, particularly given that the

⁷¹ In CD D17.

SAP is well-progressed and this will identify sites to meet the housing requirement. The scheme would fail to provide housing to meet the needs of present and future generations since the level of affordable housing proposed is below the 35% policy requirement. Moreover an increase in the cost of dealing with contamination would impact upon the viability of providing any affordable housing. The economic benefits of the scheme, in terms of construction-related employment and a growing labour force, would apply equally to any development of this size. Only about 30% of the site is previously developed land: the rest is either outside the curtilage of built development or where the remains of structures have blended into the landscape through the process of time. In any event, the requirement to decontaminate the site would have serious environmental consequences irrespective of whether the land concerned is brownfield or greenfield. The benefits normally associated with redeveloping brownfield land do not accrue in the case of the appeal site. The environment is already special, as reflected in the LWS status. The majority of the site is not readily visible from the roads or the Sustrans route, so there is little or no visual blight. Even if the site were fully developed, there is no indication that the increased housing numbers would improve sustainability.

211. The harm associated with this development is substantial. The scheme is in an unsustainable location. It is not capable of becoming self-sustaining because it lacks the necessary scale. The financial constraints on redeveloping this contaminated site mean that the development cannot fund any meaningful public transport improvements. Granting permission for development in this location would be contrary to national and local policies, which seek to locate development in sustainable locations. The proposal would also have a severe impact on the local highways network. The decontamination requirements would have a severe effect on the ecology of the site: it is considered that the Appellant has failed to demonstrate a proper understanding of the nature of the contamination, the strategy for its removal, the viability of undertaking such remediation and the timescale involved. The grant of permission would also prejudice decisions about the location and scale of development, which should properly be left to the local plan process.

212. The scheme is contrary to the Development Plan. It therefore fails to comply with the section 38(6) presumption, and there are no material considerations sufficient to justify departure from this presumption.

The Cases for Interested Parties

The material points are:

i) Thorp Arch Parish Council (ID-5, Document G3, CD D9)

213. The Parish Council supports the position of TAG in this appeal. Specifically, an objection is made for the following reasons. It is considered that the proposal fails to provide sufficient information concerning the nature and extent of contamination, and of the likely degree of remediation required. Remediation is likely to result in the destruction of surface vegetation on the development footprint and the loss of ecological value. If cost assumptions on remediation alter, this could affect the feasibility of delivering other mitigation measures.

214. There is concern about the robustness of the TA. It is not accepted that the Walton Road/ Wetherby Road junction would not be adversely affected, and

congestion, safety and amenity effects on other junctions would be more significant than predicted. Signalisation would cause delays and queuing in Boston Spa. Traffic would increase through Thorp Arch and on the local rural roads, detracting from their amenity. The proposal lacks a rationale for locating this amount of housing in a location poorly served by public transport, with limited facilities and poor connectivity by walking or cycling to community infrastructure. Proposals to address possible impacts on public transport services are inadequate.

215. The site contains areas of ecological value: some of this land would be lost, and it is considered that there has been an inadequate assessment of the likely effects of the proposal on ecological interests. The proposal would involve the cost of dealing with abnormal site conditions, and aspects of mitigation may not be achieved. There would be a loss of employment allocations and land in employment use at Westminster Yard.

ii) Boston Spa Parish Council (Document G3)

216. Thorp Arch Bridge and the A659 (High Street) carry a high volume of traffic. The single-track bridge causes unpredictable congestion at peak periods, with 10-15 vehicles backing up. The crossing works due to the co-operation between motorists. Peak flows are generally tidal, but the development would substantially increase the counter-tidal flow, leading to more blockages. The local network is also vulnerable to disruption from events elsewhere, such as accidents on the A1(M). Houses on the east side of Bridge Road have no off-street parking, and the Parish Council would resist any proposal to prevent parking on Bridge Road. The scheme for traffic signals at Thorp Arch Bridge/ Bridge Road/ High Street would itself cause problems of disruption and queuing, and it would detract from the amenity, shopping and café area of Boston Spa. Public transport serving Thorp Arch Estate is limited and facilities are not close to the site.

iii) Local residents (ID-56 & 62)

217. Two local residents spoke against the proposal at the inquiry, and raised the following matters. The development would not be sustainable. There would be far fewer facilities than are available at Boston Spa. It would not be convenient to travel to supermarkets in Wetherby by bus, and the development would be dependent on car travel. The level of site investigation should be most thorough. If site investigations are not thorough, there are risks of delays, costs escalating, health and safety problems, and adverse effects on viability.

iv) Written Representations

The material points are:

218. Four written representations were submitted during the course of the inquiry. The Governor of Wealstun prison objects to the re-routing of bus services 70 & 71, on the ground that this would reduce ease of access to transport for staff, offenders released on licence, and visitors (ID-126). Bus services are referred to in the travel plan which supported the proposal for conversion of the prison to category C (ID-101). Two local residents raised concerns about safety on Thorp Arch Bridge: one reported an accident involving her daughter when riding a bike (ID-71), and the other had been hit by a van when cycling across the bridge (ID-

128). The other representation, from residents of Bridge Road, expressed concern at suggestions to restrict parking there, arguing that there was insufficient space at present for residents. (ID-127).

219. Walton Parish Council responded to the planning application explaining that, whilst it did not object to development in the area, it was concerned about the impact of this scheme on the locality, referring specifically to the effect on traffic movement, pressure on limited local services, and the risk of disturbing contaminants. In addition 109 letters of objection were submitted⁷². The main reasons given for objection were: the inability of the local highway network to cope with the increased traffic, poor public transport, the distance to facilities and services, and the extent of remediation required and its effect on nature conservation interests.

Conditions

220. The Appellant and the Council submitted agreed lists of suggested conditions (ID-107 & 130). These cover the following matters: submission of a masterplan, retention and protection of trees, a statement of construction practice, landscape management, the bus gate and route into the site, highway works, drainage, parking, details concerning the retail units, charging facilities for battery powered vehicles, a limit on A3 and A5 floorspace, biodiversity enhancement and management, protected species, the eradication of Himalayan Balsam and Japanese Knotweed, contamination, specification of the approved plan, and a limit on the number of dwellings pending occupation of the convenience store.

⁷² The representations made in response to the planning application are reported in CD F4.

Conclusions

References are made, where appropriate, to sources of material in earlier parts of the report by indicating the relevant paragraph number thus [8].

Main considerations

221. Having regard to the representations and statements of common ground, I have identified the following main considerations in this case:
- (i) Whether the site is in a sustainable location for the proposed development.
 - (ii) The extent of the supply of housing land in Leeds.
 - (iii) The effect of the proposed development on traffic movement and highway safety.
 - (iv) The implications of contamination for deliverability of the proposed scheme.
 - (v) Whether adequate provision would be made for affordable housing.
 - (vi) Whether the proposal would be premature, having regard to the preparation of the SAP.
 - (vii) Whether the proposal would be consistent with policies in the Development Plan.

Sustainability of the site's location

222. Thorp Arch Estate contains a range of industrial, commercial and retail uses outside the main urban area and existing settlements [11]. Together with some adjoining development, the Estate lies within an area of countryside in the Outer North-East HMCA [12]. Wetherby, identified as a major settlement in the Core Strategy, is about 3.2km away and Boston Spa, a smaller settlement but with a good range of facilities and services, is about 2.2km from the Estate.
223. SP1 of the Core Strategy seeks to guide the location of development in accordance with the settlement hierarchy, whereby most development should be located in the main urban area and major settlements [20]. Here there are town and local centres and a greater range of services than elsewhere. The NPPF makes it clear that growth is also appropriate in rural areas, and this is reflected in the Core Strategy, which provides for limited development opportunities in the countryside (paragraph 4.1.15). The appeal proposal for a large scale residential scheme outside the locations identified for the focus of new development in the settlement hierarchy would conflict with SP1, and this is acknowledged by the Appellant [41].
224. Whilst SP7, which is concerned with the distribution of housing land, reflects the approach of SP1, paragraph 4.6.16 refers to opportunities outside the settlement hierarchy and makes specific mention of land at Thorp Arch. However that reference does not represent a commitment to residential development at Thorp Arch Estate. In the first place, paragraph 4.6.16 forms part of the supporting text to SP7, and it is not part of the policy itself. Secondly, any such opportunities must be consistent with the overall principles of the Core Strategy, with particular mention made of the regeneration of previously developed land,

and be in locations which are, or can be made, sustainable. The latter consideration requires an assessment of the accessibility of the proposed development by alternative modes of transport to the car.

Previously developed land

225. Although the Appellant and the City Council agree that the whole of Thorp Arch Estate may be regarded as previously developed land, they also state that parts are more appropriately described as greenfield [37]. Whilst the whole of the appeal site was formerly within the curtilage of the ROF [12], it has since been sub-divided and the extent of current uses is equally a relevant consideration. There is built development at Westminster Yard and the retail park. On the other hand, much of the northern part of the site is grassland or covered by dense vegetation [14]. On the western side of the site, where there were railway sidings at the time of the ROF, is vegetation and other cover alongside the Sustrans route. TAG considers that this area is not previously developed land, and, having regard to the definition in the NPPF, I agree that it has blended into the landscape in the process of time. TAG makes the same argument in respect of the Group 1 area. Whilst there is dense vegetation across much of this site, earthworks and the remains of former structures are evident, and I take the view that it remains previously developed land. It follows that I consider that the site contains a greater proportion of previously developed land than the 30% calculated by TAG [210]. A significant proportion of the site, principally to the north of Westminster Yard and the retail park, and also along the western boundary, is not previously developed land. However much of this land would be outside that part of the site intended for built development [17]⁷³, which would largely involve the regeneration of previously developed land.

Accessibility

226. The Core Strategy includes accessibility standards against which proposals for new residential development should be assessed [22]. The proposal includes a local centre, which it is envisaged would include a convenience store, other shops, and provision for a medical practice. Existing local services are principally to be found in Boston Spa [11], over 2km away and beyond a 15 minutes walk⁷⁴ for residents of the proposed housing. Accordingly provision of local services on the site is important. A condition is suggested preventing occupation of more than 500 dwellings until the convenience store has been occupied [220]. A planning obligation would encourage provision of an operational local centre and healthcare facility, but there is no certainty that these would be achieved. Moreover the extent of facilities in the local centre would be limited in comparison to those available at Boston Spa or Wetherby.

227. Insofar as employment is concerned, the standards specify a five minutes walk to a bus stop offering a fifteen minutes frequency to a major public transport interchange. It is common ground between the Appellant and the City Council that, with the diversion of the 70/71 bus service into the site, the proposed housing would be within a five minutes walking distance of a bus stop. The 70/71 service operates between Leeds and Harrogate: the city centre of Leeds is

⁷³ Plan POE/02 in ID-38 shows the current site layout superimposed on the illustrative masterplan.

⁷⁴ The City Council explained that a five minutes walk covers about 400m (Document L1, para 5.9.18), and this was not disputed at the inquiry.

defined as a major public transport interchange. Given the location of the site, which is closer to the large town of Harrogate than to Leeds city centre, I consider that it is appropriate to include Harrogate as a major public transport interchange in this case. I note that the City Council indicated that this approach may be reasonable in its report on the planning application in July 2017⁷⁵. The bus service has a 30 minutes frequency, and the development would not meet the standards. Moreover the accessibility indicators refer to a maximum journey time to employment opportunities of 40 minutes from locations beyond the main urban area. The timetabled journeys to Harrogate are 39-51 minutes, excluding walking and waiting time, and the journey times to the city centre are longer⁷⁶. Although existing sources of employment on Thorp Arch Estate, where there are about 4,000 jobs [77], should also be taken into account, evidence from the Appellant refers to jobs in retail and manual occupations [176]. I would expect a greater variety of employment opportunities to be accessed via a major public transport interchange, and the proximity to the businesses at Thorp Arch Estate does not fully compensate for the length of the journey times to Leeds and Harrogate.

228. The development would be within the specified 20 minutes walk of the nearest existing primary school at Thorp Arch, and the proposal includes provision of a school on the site itself. The scheme also includes a health facility within the local centre, although the Appellant acknowledges that provision of this intended service would be dependent upon the actions of other parties. Primary health care facilities are available within both Boston Spa and Wetherby, which are in opposite directions on the route of the 70/71 bus service. A fifteen minutes bus frequency is also sought in respect of secondary education and town/ city centres. There are secondary schools in Boston Spa and Wetherby, and the 70/71 would also provide direct access to Wetherby town centre and Leeds city centre. A planning obligation would provide £400,000 towards the cost of a bus service between the development and Boston Spa School [8].
229. Because of the position of Thorp Arch Estate on the 70/71 route, buses run in one direction to Leeds and Boston Spa and in the other to Wetherby and Harrogate. It follows that there would be four buses per hour to locations with a major public transport interchange, primary healthcare facilities, secondary schools, and town/ city centres. However that is not equivalent to a 15 minutes frequency [76], as I would expect future residents to generally make trips for work, secondary education and primary healthcare to a single destination, rather than having to exercise choice.
230. Diversion of the 70/71 bus service, for which a planning obligation would provide funding of £1,500,000 is necessary to ensure that residents of the proposed housing would live within a five minutes walk of a bus stop. The service would no longer run along Walton Road between the Sustrans route and the junction with Wetherby Road⁷⁷. In consequence about 146 dwellings and Wealstun Prison would be farther from the route of this service [143]. The City Council has calculated that the residents of housing along this stretch of Walton Road would on average have to walk over 600m to the nearest bus stop, whereas at present they are within the 400m distance which is consistent with the

⁷⁵ CD F5, para 6.9.

⁷⁶ Document L1, paras 5.9.32 & 33.

⁷⁷ The existing and proposed routes of the 70/71 service are shown on the plan at ID-104.

accessibility standards. The bus service would also be less convenient for visitors, offenders on licence and employees at the prison [218]. The travel plan accompanying the proposal for conversion of the prison to category C seeks to reduce single occupancy car use (ID-101), and the measures put forward include encouraging the use of bus travel. I am concerned that diversion of the bus service would materially worsen accessibility by this mode of transport for a significant number of local residents and for people travelling to and from the prison.

231. Whilst the primary school at Thorp Arch is within a 20 minutes walk distance from the site [143], the nearest location for many other existing facilities and services is at Boston Spa [11, 143]. Although there is a footway along the roads, at over 2km away Boston Spa is beyond a convenient walking distance, and the lack of surveillance and lighting on sections of the route would not encourage this mode of travel. Cycling does offer a means of reaching both Boston Spa and Wetherby, with the Sustrans route providing an alternative to the roads to Wetherby [13].
232. The appeal proposal for a large scale residential development outside the main urban area and identified settlements would not be consistent with the settlement hierarchy and the approach to focusing development in SP1 of the Core Strategy. A substantial part of the area intended for built development is previously developed land, a factor which provides support for the proposal. However, notwithstanding the intended provision of a local centre within the site and the proximity of existing employment uses on Thorp Arch Estate, the proposal would not fully meet the accessibility standards set out in the Core Strategy. Furthermore, as a consequence of bringing future residents within acceptable walking distance of a bus service, accessibility by public transport would be diminished for some existing residents and people making journeys to and from Wealstun Prison. This is not a location which is, or would be as a result of the proposal, adequately served by public transport, and it would conflict with Policy T2 of the Core Strategy. Opportunities for pedestrian access are also limited. Although paragraph 4.6.16 of the Core Strategy refers to the prospect of residential development taking place outside the settlement hierarchy, this is subject, amongst other requirements, to proposals being in locations which are, or can be made, sustainable. For the reasons given above, I do not consider that the appeal proposal passes this test. I conclude that the site is not a sustainable location for the proposed development, and this is a matter to which I give substantial weight.

Housing land supply

233. It is common ground between the Appellant and the City Council that the five years housing land requirement amounts to 33,571 dwellings for the period from April 2017, and that at the date of the inquiry a supply sufficient to meet this need could not be demonstrated [39]. The City Council considers that the supply would accommodate a net increase of 29,383 dwellings, sufficient for 4.38 years [154], whereas the Appellant's position is that land is available for 18,392 dwellings, sufficient for 2.74 years [101].
234. A principal factor underlying the dispute about supply is the past record on delivery in Leeds. For the Council's level of supply to be achieved would require over 5,800 dwellings being brought forward each year. This figure is markedly

higher than recent completions which averaged 2,942 dwellings over the three years from 2014/15-2016/17. The Appellant also pointed out that the Council had anticipated total completions of 13,993 dwellings for this period, an average of 4,664 per year. I heard that the Council had responded to criticism in previous appeal decisions and had modified its approach to housing land assessments [150]. Of particular significance is the Council's participation in a number of programmes aimed at bringing forward sites for residential development: these include the brownfield land programme, Leeds Living Deal, and the South Bank regeneration opportunity. I anticipate that such measures would have the potential to bring about a step change in delivery, and I also note an upward trend in planning permissions with 6,792 dwellings being permitted in 2016/17 [146]. The key consequence of past failure to deliver the required number of dwellings is the application of a 20% buffer in determining the current five years requirement, which the Council accepted is appropriate [39]. Whilst I understand the Appellant's reservations about the ability to achieve a much higher level of completions, the Council's thorough consideration of individual sites and its proactive participation in schemes to bring forward residential development, indicate that undue reliance should not be placed on past performance.

235. The Appellant is critical of the extent of housing supply within the city centre and inner area, which it suggests is reliant on a surge of activity in these parts of Leeds [104]. Although the Leeds Crane Survey of 2017 refers to Leeds underperforming in terms of the city centre residential market and remaining behind other cities [104], it also predicts that Leeds is likely to witness more new build schemes going forward. The survey suggests that a more innovative approach is needed to meet housing requirements in the city centre, and the Council's participation in various programmes to bring forward sites for development is evidence of such an approach, albeit that Government financial contributions may not have yet been finalised. The letter from BNP Paribas casts doubt on the extent of housing delivery within the city centre and the inner area [104], citing a limited number of developers involved in this part of the market, reliance on multi-storey apartment schemes in the city centre, and upfront costs on brownfield land. There is, however, little detailed information to support the views expressed.

236. The Council's supply includes a large number of sites without planning permission. Of those sites which have permission, the rate of delivery on several is disputed by the Appellant. The Council has contacted agents, landowners and promoters to seek comments upon the availability and achievability of each site in the 2017 Strategic Housing Land Availability Assessment (SHLAA), from which the five years supply is derived. Details of construction programmes for individual sites have been provided by developers, and this site-specific information is to be preferred to a more high level assessment of the prospects for development, including the application of more indicative build rates. In this regard I note that paragraph 3-020 of PPG explains that a site is considered available for development when, on the best information available, there are no legal or ownership problems. This paragraph also makes clear that consideration should be given to the delivery record of developers or landowners putting forward sites, and to whether the planning background shows a history of unimplemented permissions. This is a matter which has been taken into account in individual site assessments.

237. I turn now to consider certain of the disputed sites referred to by the Appellant and the City Council. The Dandarra site (SHLAA ref 407) in the city centre has planning permission for 744 units, all of which are included in the Council's supply, whereas the Appellant deletes 344 on the basis that the scheme is still not out of the ground and that the four blocks would be built sequentially [103]. The Council's assessment is based on the developer's construction programme, in which delivery of the blocks is staggered over three years [151]. Although the Appellant is doubtful that this can be achieved, there is no site-specific information to disprove the construction programme, and the Appellant's housing land witness agreed in cross-examination that significant weight should be given to information provided by the developer.
238. Another city centre site in dispute is Granary Wharf (ref 205), where all of the 244 units have been discounted by the Appellant. This is a site with an expired permission which has been in SHLAAs since 2009 [103]. Although the 2008 permission has not been implemented, a further application is expected to be approved following the execution of a planning agreement [151]. This scheme has reached an advanced stage, and is appropriately included as part of the five years supply.
239. The site at The Gateway (ref 419) has planning permission for 96 dwellings. It had not come forward earlier as expected, but is now part of the Leeds Living Deal, in which the Council is promoting development in conjunction with the Homes & Communities Agency and MHCLG [151]. Quarry Hill (ref 200_411) has been the subject of pre-application activity concerning about 500 dwellings [151]. As the stated capacity of this site is 600 dwellings, it may be over-optimistic to expect all of these to be delivered within five years on the basis of the information available.
240. Globe Road (ref 433) is an inner area site which the Council expects will provide 609 dwellings. I heard that the previous developer had not pursued a scheme, and the Appellant referred to viability concerns [103]. However there has been subsequent pre-application activity, the landowner has confirmed availability in response to consultation on the SAP, and the site has been included in the Leeds Living Deal programme [151].
241. Neither the Appellant nor the Council has produced full details concerning all of the disputed sites, which together account for almost 11,000 dwellings [154]. Having regard to the judgement in *St Modwen Developments Ltd* (CD L5), the consideration of housing land supply should not be expected to provide certainty that sites will be brought forward, but it should give a realistic assessment of deliverability. Whilst there are some sites such as Quarry Hill where the expected delivery may be on the high side, I am satisfied that the Council has adopted a thorough and proactive approach to land availability, and, taken overall, I consider that the supply of housing land is closer to the figure of 4.38 years than the lower level suggested by the Appellant.
242. I have also considered the position in the Outer North East HMCA where the appeal site lies. In accordance with SP7 of the Core Strategy about 313 dwellings should be provided annually. The Council did not dispute the Appellant's calculation that there was a shortfall of 1,054 dwellings in the period

up to 2017⁷⁸. For the five years supply period there is not a significant difference between the Appellant and the Council in terms of supply. The main disagreement concerns land east of Wetherby (ref 1233_2158_3125) which has come forward through the SAP process and where there is an application pending on part of the site: the Council considers that 300 units could be delivered here, 110 more than the Appellant. However the information before me indicates that, even accepting the Council's supply figures, the shortfall is likely to increase to over 1300 dwellings in the five years supply period from 2017⁷⁹.

243. There is not a five years supply of housing in Leeds, and there is also a shortfall in the Outer North East HMCA. About 160 dwellings are expected to be provided on the appeal site within the period up to 2022 [113]. This would represent a useful contribution towards boosting supply, particularly in the context of higher supply figures close to those put forward by the Council. I conclude that the contribution of the appeal site towards the provision of the supply of housing land carries significant weight in support of the proposal.

Traffic movement and highway safety

Traffic distribution and assignment

244. There is agreement between the Appellant and the City Council about the level of traffic which would be generated by the proposed development [38]. Whilst, in his proof of evidence (Document T3), TAG's highways witness raised some queries about trip generation, in response to cross-examination he made it clear that he had no adverse comments on the level of existing flows and traffic growth. There is, however, disagreement between the Appellant and the other two main parties about the assignment of development traffic, focussing on the level of traffic expected to cross the single track Thorp Arch Bridge.
245. The City Council's position is that during the morning peak the proposed development would generate an additional 229 trips across Thorp Arch Bridge and in the afternoon peak the figure would be 183⁸⁰. These figures are markedly higher than those of 124 and 120 additional trips put forward by the Appellant⁸¹. In accordance with good practice, the Council has drawn on the results of local traffic surveys for journeys made to and from two cul-de-sacs off Walton Road. Averages have been taken of the survey data which indicate that 55% of journeys involved travelling to the north and 45% to the south which is towards Thorp Arch Bridge. However the surveys are not consistent, with one showing markedly more movement to and from the direction of Boston Spa in contrast to the other two exercises. In considering the distribution of traffic, the Council used data from census super output area 005 which lies to the south of Thorp Arch, but was considered to provide a better comparison in terms of its location of its housing. For most destinations on the wider network, the choice of route is straightforward. Traffic heading south on the A1(M), though, can travel via Boston Spa or Wetherby. The consequence of the Council's assignment is that about 80% of this traffic is predicted to travel via Boston Spa and Thorp Arch Bridge.

⁷⁸ Document A11, Appendix 3.

⁷⁹ Document A11, Appendix 3: Appellant's lower supply figure for Outer North East HMCA less disputed sites.

⁸⁰ Document L2, Appendix 15.

⁸¹ Document A1, para 6.15.

246. The Council's travel surveys were relatively small in size, and I am concerned about their inconsistency, which is masked by the averaging of the results. I also have reservations about the use of super output area 005. On the information before me, I consider that super output area 002, which includes Thorp Arch Estate, and on which the Appellant relies in conjunction with the National Travel Survey, more closely resembles the appeal site, in that it includes a large employment area near to housing on the east side of Wetherby [62]. The Appellant's assignment of journeys to work is based on the shortest route to cordon points, with a 60%/40% split applied to route choice of Wetherby or Boston Spa between the site and the A1(M) southbound. On the basis of the ANPR survey, the Appellant concludes that the route split for this destination should be 75%/25% [58]. This survey was criticised for the number of screen lines, and in particular the lack of information on traffic levels on Thorp Arch Bridge [137]. In response to cross-examination, the Council's highways witness acknowledged that, in addition to vehicles passing the screen line to the west of the High Street/Bridge Road junction, the only other traffic crossing the bridge would be that using High Street to the east of the junction which she had assessed as amounting to only 4% of generated trips in both peak periods. Although it cannot be assumed that the reverse flows of traffic travelling to and from the Estate measured by the survey would be an exact proxy for journey to work movements from the proposed housing, it is likely that drivers faced with the same alternatives would make similar choices of route. The weight restriction on the bridge would affect existing commercial traffic, and the higher proportion of A1(M) south traffic assigned to this route in the TA reflects a difference in journeys to and from the appeal site. Overall I am satisfied that the APNR survey supports the assignment used by the Appellant.
247. The Council pointed out that the journey between the appeal site and junction 45 on the A1(M) is shorter via Boston Spa than travelling by Wetherby. That is so, but the only specific evidence on timings before me indicates that in the morning peak the journey via Wetherby can be up to two minutes quicker and in the afternoon peak 2-4 minutes are saved by using that route [60]. The Wetherby route is not only slightly quicker, it also offers a more direct route to the main road network and avoids the single track bridge between Thorp Arch and Boston Spa. These considerations reinforce my view that the Appellant's journey to work assignment is robust, and also that more trips are likely to be made to local facilities in Wetherby than in Boston Spa.
248. In the TA trips for primary education have been distributed to the school in Thorp Arch which would not entail crossing the bridge. Whilst the Council argues that trips made before 0830 hours would be likely to have schools further afield as their destination [135], this ignores early trips being made to Lady Elizabeth Hastings School in Thorp Arch to enable children to attend the Before School Club there. These trips are not shown as continuing to another destination, but I heard that where trips close to the end of the peak time are concerned, onward journeys could occur outside that period. In any event, the distribution and assignment exercise in the TA does not take account of the inclusion of a primary school as part of the proposal, which would enable trips to this destination to take place within the site. Accordingly I do not consider that the Appellant has under-estimated travel across the bridge due to education reasons.
249. For the above reasons, I prefer the distribution and assignment of development traffic put forward in the TA to that put forward by the City Council.

Bridge Road and Thorp Arch Bridge

250. Concern has been expressed by the City Council, Thorp Arch and Boston Spa Parish Councils, TAG and local residents about the effect of development traffic on Thorp Arch Bridge and Bridge Road [139, 177, 178, 216]. The bridge carries a single track carriageway. Bridge Road is a relatively short stretch of highway between the bridge and High Street (the A659). Parking takes place on the east side of the road, and there are several accesses on this length of highway.
251. In the design year of 2026, the additional traffic predicted on this stretch of highway in the TA is 124 vehicles in the morning peak and 120 vehicles in the afternoon peak (above, para 245). These figures represent increases of about 29% and 26.7% respectively above the base flow for 2026 with committed development, and would result in overall two way traffic levels of about 520 and 540 vehicles in the peak periods⁸². The Appellant points out that the increase equates to about one additional vehicle every 30 seconds [64].
252. The TA gives certain comparative figures for the performance of the Bridge Road/ High Street junction in 2026. On the Bridge Road arm, the reference flow capacity ratio (RFC) would increase from 0.929 to 1.001 in the afternoon peak. A primary purpose of the RFC ratio is in determining an economically justifiable design for new priority junctions [70]. The City Council and TAG refer to a threshold of 0.85, and I note that the Design Manual for Roads and Bridges accepts that the RFC may need to be higher on occasions. The Appellant acknowledges that an RFC of 0.85 should avoid queuing in most cases [70], and its highway witness did not dispute that above this point, the prospect of queuing and delay increases. Moreover, the TA referred to the RFC exceeding 0.85 in explaining the possible signalisation of the junction⁸³. I agree with the City Council that to ensure satisfactory performance, arms on a priority junction should not operate above an RFC of 0.85. The Bridge Road arm would exceed this threshold in any event, and the addition of the development traffic would worsen the situation. In the same peak period, queue length is predicted to increase by over three passenger car units (PCUs) on this arm, with an average increase in delay of about 26 seconds.
253. The Appellant draws attention to two appeal decisions by the Secretary of State in which he endorsed a finding that an increase in delay of one minute on top of existing delays of six minutes was not considered to give rise to a severe impact, having regard to paragraph 32 of the NPPF⁸⁴. That does not mean that a finding of severity is dependent upon a similar effect on junction performance in this case, since consideration must be given to the full circumstances of this part of the highway network.
254. Moreover, at the inquiry, the Appellant's highways witness acknowledged that the PICADY models used to assess the Bridge Road/High Street junction do not fully reflect the situation on Bridge Road. TAG's highway witness sought to employ a VISSIM model but the majority of model runs failed to complete. Given

⁸² Figures for the 2026 base with and without development trips are given in Appendices U & V of the TA (CD A9, Appendix 6).

⁸³ Paragraphs 9.6 & 9.7 of the TA (CD A9, Appendix 6).

⁸⁴ Appendix 6, Document A2.

that there is no modelling exercise which fully reflects the situation on Bridge Road, the descriptive and photographic evidence becomes more important in providing an understanding of the operation of this part of the highway network.

255. A terrace of eight houses on Bridge Road has no off-street parking provision. Parking occurs on the east side of the road, outside these houses, and further down towards the bridge. There are occasions when few cars are present, as illustrated by the Appellant's photograph (ID-17), but there is also evidence from TAG of more extensive parking along Bridge Road [178], a situation which I observed at different times of the day. I heard that vehicles often cross the bridge from the north in groups, and then work their way up Bridge Road, waiting in gaps to pass parked cars. This can lead to conflict and obstruction: photographs submitted by TAG show instances of vehicles on the footway and the queue at the junction with High Street spreading across the centre of the carriageway due to the presence of parked vehicles. The movement of vehicles into and out of side roads and accesses, and buses waiting at the stop, make traffic movement more difficult. The blockages and obstructions which occur impede the free movement of traffic on this route into the centre of Boston Spa, and the actions of drivers mounting the footway and queuing in the path of oncoming traffic have the potential to adversely affect highway safety.
256. The Appellant referred to events and incidents in the area on three of the ten dates when videos and photographs show queuing on Bridge Road. There are, however, no timing or other details to relate these occurrences to the traffic situation on Bridge Road and Thorp Arch Bridge. The Appellant submitted a sequence of images from a 2012 video survey covering both peak periods, and which show no abnormal traffic conditions⁸⁵. I acknowledge that queuing and obstructions do not occur on Bridge Road and Thorp Arch Bridge throughout the day, and I have observed traffic moving freely here. The totality of the evidence, however, indicates that this stretch of highway is susceptible to localised disruption. The evidence of disruption relates to present levels of traffic flows, whereas the appeal proposal would result in peak increases of about 29% and 26.7% above the higher 2026 base flows, and I am concerned that without effective mitigation there would be a severe adverse effect on traffic movement.
257. The TA suggested that a traffic signal scheme covering the Bridge Road/ High Street junction and Thorp Arch Bridge would be appropriate. Notwithstanding the references in the TA, the Appellant's position at the inquiry was that signalisation was not necessary, but that funding for a scheme including such works is provided in the unilateral undertaking [68].
258. The potential scheme put forward by the Appellant would involve the installation of co-ordinated signals at the Bridge Road/ High Street junction and at Thorp Arch Bridge. Results from the Appellant's modelling exercise⁸⁶ indicate that all approaches would operate within capacity in both the morning and afternoon peak periods, although with a degree of saturation of 97% on High Street (east) in the afternoon peak. Mean maximum queues of between 17 and 25 pcus are predicted on the High Street approaches and of 14 pcus on Bridge Road in the afternoon peak. There would be storage space of about 17m between the stop line and the limit of the parking restrictions on the east side of

⁸⁵ Document A3, section 11.

⁸⁶ The City Council also modelled the signal scheme, with results indicating a somewhat worse performance.

Bridge Road, sufficient for only 3 pcus. With parking taking place, queues of over three vehicles would spread into the centre of the road, causing an obstruction to oncoming traffic. On High Street (east), parking also occurs close to the junction. Here it would be on the opposite side of the road from queuing vehicles, and the combined effect would be to restrict the width of the carriageway available for traffic leaving the junction on this arm. In both cases, the Appellant suggests that the extent of on-street parking be reduced, and that on Bridge Road parking could be restricted to residents only. Community action CPA1 of the Boston Spa NP supports the introduction of residents-only parking on designated streets [32], and the City Council has the ability to pursue the necessary measures. However objections may be raised and there is no certainty that the parking restrictions suggested would be introduced. Moreover the co-ordinated performance of signals at each end of Bridge Road could be adversely affected by interruptions caused by vehicles entering and leaving the link between the signals and buses waiting at the stop. A further suggestion from the Appellant is to reverse the flow in the adjacent car park so that vehicles exit onto High Street rather than Bridge Road. It was acknowledged that no risk assessment for this work had been undertaken, and there is no certainty that the car park would be altered as suggested.

259. Concerns were raised by the City Council and TAG about the implications of signalisation for the junction of Shires Court with High Street [141, 182]. Shire Court is a minor road adjacent to the intended position of signals facing traffic approaching along High Street from the east⁸⁷. Shire Court itself would not be signalised. It is proposed that the stop line for High Street would be pulled forward, with the carriageway at the junction mouth marked *Keep Clear*: and the stage 1 road safety audit recommended that give way markings be placed at the junction and that the secondary signal facing on High Street be positioned so as to be visible to drivers emerging from Shire Court. This minor road provides access to about 18 dwellings and a number of commercial premises. I consider that the measures identified would enable the low level of vehicles which uses this junction to do so safely if traffic signals were installed at Bridge Road/ High Street.
260. The Appellant has made reference to a shared surface scheme, at Bridge Road/ High Street (ID-8). It was contended that such a scheme would reduce traffic flows in the centre of Boston Spa, but it has not been assessed or modelled. There is nothing before me, therefore, to indicate whether or not such a proposal would provide acceptable mitigation for the effect of development traffic. Furthermore, the works envisaged do not come within the terms of the Boston Spa scheme, the definition of which in the unilateral undertaking refers to traffic lights, parking restrictions, the stopping up of the exit from the car park onto Bridge Road, and consequential works and traffic regulation orders.
261. I consider that traffic generated by the proposed development would be likely to seriously worsen existing problems of traffic movement on Thorp Arch Bridge and Bridge Road. The successful implementation of a traffic signals scheme would be dependent on the introduction of parking restrictions and avoiding interruption to traffic flow on the Bridge Road link. As there is no certainty that

⁸⁷ Shire Court is identified on the plan at Appendix 15 of Document T4 and the suggested position of traffic signals on the plan at Appendix D of ID-74.

these circumstances could be achieved, the traffic signal scheme put forward does not offer the prospect of effectively mitigating the impact of the development in this location.

Walton Road/A168 junction

262. The Walton Road/ A168 roundabout junction is at the western end of the route from the appeal site to Wetherby. The TA records that this junction would continue to operate within its capacity with the addition of development traffic, and that there would be no significant queuing⁸⁸. TAG raised a concern about the reliability of the modelling exercise for this junction. During its survey in July 2017, queues of between 10 and 52 vehicles were observed on the Walton Road (east) arm of the roundabout [67, 181], in contrast to the figure of 2.4 in the TA. These greater queue lengths and higher levels of traffic flow through the junction occurred at a time when a main route through Wetherby was affected by a closure and a diversion was in place, and I am satisfied that this circumstance is a principal reason for the higher traffic levels. However when TAG ran the model with the observed flows, the results indicated a maximum queue length of 1pcu, which is inconsistent with those seen. The Appellant's highway witness pointed out that in such a situation intercept correction factors should be applied to a roundabout model to achieve correlation, and I note that the City Council has raised no issue with the reliability of the modelling of the Walton Road/A168 junction. On the information before me, I do not consider that the results of the TA are unreliable in respect of this junction.

Wighill Lane pedestrian crossing

263. A signalised pedestrian crossing is proposed on Wighill Lane, a short distance to the west of the junction with Smiddy Hill. Concern has been expressed by the City Council about the visibility which can be achieved here [142]. I agree with the Appellant and the Council that Local Transport Note 2/95 (LTN 2/95) *The Design of Pedestrian Crossings* is the relevant design guidance for this part of the proposal. It is common ground between the Appellant and the Council that, in accordance with table 1 of LTN 2/95, forward visibility of 65m should be available for drivers approaching the crossing. The plan of the works on Wighill Lane shows that this can be achieved⁸⁹, and it is not a matter raised in the stage 1 road safety audit⁹⁰.

264. The audit raises a concern about intervisibility between pedestrians and eastbound drivers due to the presence of a hedge on the west side of the intended position of the crossing. Whilst LTN 2/95 refers to the importance of pedestrians being able to see and be seen by approaching traffic it does not specify a distance for this purpose. The Appellant suggests that guidance for an intervisibility zone extending 2.5m back from the stop lines is provided in the Design Manual for Roads and Bridges by TD 50/04. That document sets out requirements for signal-controlled junctions and signalised roundabouts on trunk roads. The specific sections on which the Appellant relies concern junction intervisibility zones and they are not intended to provide guidance at free-standing pedestrian crossings.

⁸⁸ Table 7.13 & para 7.49 of the TA (CD A9, Appendix 6).

⁸⁹ Drawing ref SK 014 P2, Appendix A in ID-133.

⁹⁰ The road safety audit is in Appendix 8 of Document A2.

265. Bearing in mind the importance of allowing sufficient distance for reaction time and bringing a vehicle to a stop, I consider that an intervisibility distance of 65m put forward by the Council is more appropriate, and that this should be taken to the back of the footway. About 15m of hedge would need to be removed to ensure that this level of visibility could be achieved: plans submitted by the Appellant indicate that the hedge is within the highway and, notwithstanding the Council's contention that this is not the case [142], no contrary details have been provided. Accordingly the Highway Authority would have the ability to remove a section of hedgerow to achieve the extent of intervisibility sought, and I find that the proposed pedestrian crossing would not present a risk to highway safety.

Conclusions on traffic movement and highway safety

266. The traffic generated by the appeal proposal would be accommodated on most parts of the highway network without causing an adverse effect. However there would be a significant increase in movement through Boston Spa, where Thorp Arch Bridge and Bridge Road comprise a constrained section of highway which is already susceptible to localised disruption. Signalisation would not provide effective mitigation, and I conclude that the residual cumulative impact of the proposed development would be severe, contrary to paragraph 32 of the NPPF. This is a matter to which I attach considerable weight. As the proposal would not be adequately served by the highway network, and congestion problems have not been resolved, it would be contrary to Policy T2 of the Core Strategy and to Policy GP5 of the UDPR.

Contamination

Nature of contamination

267. During the Second World War and into the early 1950s the appeal site was part of an ROF used in the production of munitions [12]. Given the nature of this activity, the Appellant acknowledges the potential presence of contaminants within the site [80, 82, 85, 87, 89]. The main areas of potential contamination identified by the Appellant are the former burning ground and Group 1. The burning ground was used for the disposal of explosives, explosive contaminated materials, general factory waste, hydrocarbons and solvents [80]. TAG has queried the extent of the burning grounds, and the munitions waste and metal fragments characteristic of the debris from the former use extended further than had been predicted. Drawing on an historical aerial photograph and site investigations, the Appellant considers that the extent of the burning ground has been relatively well defined, and there is no substantive evidence to the contrary. It includes much of Westminster Yard and extends into part of the adjacent northern area⁹¹. Metals are present here, but the main contaminant is considered to be asbestos associated demolition waste from the former buildings [80].

268. TAG has drawn attention to the area of the former railway sidings. Here there are relatively high levels of PAHs associated with ash and railway waste in the form of metal components. There is also an area of landfill in this part of the site: although the content is not known, hand pits indicate that the cover is not contaminated. In the area occupied by the retail park there is an elevated

⁹¹ See Drawing ref POE/12 in Document A6.

concentration of lead and evidence of asbestos. Although most of the northern area was not developed as part of the ROF, elevated levels of lead and mercury have been found in the wooded area, and there is also evidence of demolition rubble in a borrow pit to the north of the retail park.

Remediation

269. A main element in the proposed remediation strategy is a confidence scrape [37]. This would involve removal of material to at least 300mm below the ROF ground level across that part of the site intended for built development, together with some adjacent land between Westminster Yard and the retail park. There is disagreement between TAG and the Appellant as to the ease of identifying the original ground level. I note that BAE, which is referred to by TAG as an expert in the field, explains that the depth from the original surface is important and does not indicate in the peer review that there would be undue difficulty in ascertaining this position when undertaking the confidence scrape. Contamination hotspots below the level of the confidence scrape would also be removed.
270. TAG is concerned that contamination may extend into those areas of the site which appear to be undeveloped [195]. Undertaking a confidence scrape across the whole of the appeal site would result in the loss of the areas of nature conservation value beyond the proposed built development. Some instances of contamination have been found in these parts of the site, but the evidence before me does not indicate that this land was an active part of the ROF activity. I consider that the proposal to undertake further site investigation and localised hotspot removal would be a proportionate response in this area.
271. The material resulting from the confidence scrape would be placed in bunds around the southern part of the site. This approach reflects advice in the peer review from BAE. Although the bunds would be close to housing, once formed, with gaps left for access, and the scraped material contained beneath clean cover there is no reason why they would be likely to be disturbed. Not all materials would be retained on site in this way. Asbestos-containing materials, and other contaminants which fail the remediation criteria, would be removed from the site.
272. Given the former use of the site and incidents of fly-tipping which have occurred more recently, I appreciate the concerns of TAG and local residents about redevelopment activity which would inevitably involve disturbance of existing ground conditions. The Appellant prepared an outline remediation strategy, which has been further developed in the light of the peer review. I am satisfied that, in accordance with paragraph 33-008 of PPG, sufficient and proportionate information is provided for this outline proposal. Implementation of the necessary remediation measures could be secured by the imposition of conditions. Although TAG expresses many reservations about the extent of contamination and the remediation measures put forward, there is no detailed evidence to indicate that the proposal would be likely to give rise to an unacceptable risk, contrary to paragraph 33-009 of PPG.

Financial implications

273. It is common ground between the City Council and the Appellant that the cost of remediation would be likely to be significant [37]. As part of the Appellant's review of this part of the proposal, the costs have been increased from about

£9.5 million to almost £12 million. TAG disputes figures put forward by the Appellant, and suggests that if ground conditions led to abnormal costs for each house, an additional £7 million could be required to develop the site [203]. There is, however, no detailed evidence before me to substantiate these reservations.

Conclusions on contamination

274. The Appellant has submitted detailed information on the nature and extent of contamination on the appeal site and on the remediation measures proposed as part of the redevelopment. On the information before me, I conclude that the appeal proposal would be capable of addressing the contamination on the site. In doing so, the proposal would be consistent with Policy GP5 of the UDPR and Policy LAND 1 of the NRWLP.

Affordable housing

Development plan policy

275. Policy H5 of the Core Strategy seeks the provision of affordable housing as part of new residential development [22]. The policy sets out targets for the level of on-site provision in each of four zones, and that target is normally expected to be achieved. That language indicates that there may be circumstances where the provision of affordable housing below the target level is acceptable. Specific reference is made in the policy to viability as one such circumstance. In cases where appraisals verify that the affordable housing target cannot be met, the level of provision may be reduced. Such schemes, supported by a viability assessment, would be consistent with the policy approach to affordable housing in the Core Strategy.

Viability

276. Both the Appellant and the City Council have submitted viability appraisals in connection with the appeal proposal. There is much common ground on the inputs into those appraisals [40]. Certain matters though are disputed, as a result of which the parties differ in the level of affordable housing which would be supported by a viable scheme. The Appellant takes the view that viability evidence supports a level of 3% affordable housing (26 dwellings) [92], whereas the Council's position is that 26.08% affordable housing (228 dwellings) could be supported [156]. TAG has not submitted an appraisal, but maintains that the cost of remediation has been significantly underestimated. This is not a view which I share (above, para 273).

277. The viability witnesses of the City Council and the Appellant differ in their approach to assessing EUV⁹²: the Council's witness has considered the EUV of component parts of the site, whilst the Appellant's witness on EUV emphasised the importance of considering the site as a whole. Nevertheless he provided EUV figures for the same components of the site. There is agreement on the value of Westminster Yard and that Group 1 has a nil value.

⁹² The witnesses for both the City Council and the Appellant refer to existing and current use values. The Council did not disagree with the view of Mr Thompson for the Appellant that in this case the appropriate term to use is existing use value.

278. The EUV of the retail park is calculated for the Council as £3,380,000, whereas the Appellant puts forward a higher figure of £5,000,000. The retail park makes use of former munitions magazines, which the Council considers are not suitable for most modern retail warehouse operations. It is also argued that whilst difficulties in attracting tenants have in part been due to the asset management strategy of the owner, there are superior retail parks in the surrounding area. For its part the Appellant contends that, disregarding uncertainty created by the redevelopment proposals, a strategy of positive asset management could be implemented, achieving an uplift in rents, with potential for storage and light industrial use if retail interest falls away. I note, however, that the design & access statement comments that the retail park has been overtaken by larger and more attractive alternatives in the region, that its commercial viability has declined quite significantly in recent years, and that there has been no interest from potential new occupiers⁹³. I acknowledge that the redevelopment intentions will have contributed to this situation, but given the nature of the retail park I consider that the figure put forward by the Council is more realistic.

279. The other area of disagreement concerns the grass and scrubland. On the basis of transactions in amenity and woodland in Yorkshire, the Council considers the EUV for this part of the site is £128,000. A higher figure of £200,000 is suggested by the Appellant, on the basis that the grassland could be used for pasture, commanding a higher value, and that control of this land gives a benefit to uses on the rest of the site. I consider that the examples of transactions referred to by the Council more closely reflect the circumstances of the land in the northern part of the site. Moreover the figure of £3,200 per acre derived from this exercise, including a 50% increase, is close to the Appellant's figure of £3,500 for scrub/ amenity land. Overall, on the evidence before me, I prefer the Council's assessment of an EUV of £5,008,000 [157] for the appeal site to the Appellant's alternative of £6,700,000 [96].

280. The Council's witness has employed the EUV as the benchmark land value in this case. Paragraph 10-024 of PPG explains that the competitive return for the landowner should provide an incentive to sell in comparison with the other options available, which may include the current (or existing) use value of the land. I acknowledge that the history of the site may affect its attractiveness to the market [157], but that whilst this will have a bearing on the level of the EUV, it does not lessen the rationale for an incentive to sell for the development proposed instead. Drawing on figures agreed by the DVS elsewhere in Yorkshire, the Appellant suggests a benchmark land value of about £10 million [94]. Whilst I agree with the Appellant that the benchmark land value should include a premium, I have reservations about the extent of the difference above the EUVs of about £5 million and £6 million advanced in this case.

281. I heard contrasting views as to whether the appeal proposal would be likely to be brought forward by a single developer, or, alternatively by a lead developer undertaking remediation and providing infrastructure before selling parcels on to house builders [95, 158]. Because of the nature and extent of contamination present at Thorp Arch Estate, the initial stages of redevelopment, involving remediation works, are likely to be complex and require specialist expertise. In this situation there would be a distinct advantage in a lead developer bringing the

⁹³ CD A6, para 1.4.8.

- site forward, and it is reasonable for viability to be assessed on this basis. A consequence of this two-tier approach, adopted by the Appellant, is that the sales of parcels of the overall site indicate higher land values for the second stage of redevelopment and consequential higher finance costs [158].
282. Due also to the nature of the site and the need for remediation in addition to other works of site preparation, I prefer the Appellant's assessment of cash flow, which is based on the intended phasing programme. The length of the lead-in times to the first sale of serviced parcels, expected in mid-2019, with the first house sale about 18 months later [97], would, in consequence, result in higher finance costs.
283. Insofar as the appraisals themselves are concerned, I consider that those prepared on behalf of the Appellant are to be preferred, given my findings on the approach to redevelopment and finance costs. However I have reached the view that the benchmark land value should not be as high as the figure of £10 million advocated by the Appellant. I agree with the main parties that the appeal proposal would not support 35% affordable housing, but with a lower benchmark land value it is likely that the scheme would be viable with a somewhat higher level of affordable housing than 3%. The Appellant has, in any event, committed to the provision of 15% affordable housing in the first instance, which would be achieved by an uplift in sales values or acceptance of a lower land value [99]. This position is supported by adjustment to the appraisal exercise, but one which would not fail to provide a return to the landowner.
284. Policy H5 of the Core Strategy accepts affordable housing below the target level where this is supported by a viability assessment. I conclude that, at a level of 15%, the proposal would make adequate provision for affordable housing, and that it would be consistent with Policy H5. The provision of 131 affordable dwellings would make an important contribution to the need for such accommodation in Leeds [100]. Provision of the affordable dwellings would be secured by an obligation in the planning agreement [8]: the obligation also includes a review mechanism which would provide for an increased level of affordable housing to be provided in phases 2 and 3, if supported by a viability appraisal.

Prematurity

285. Paragraph 21b-014 of PPG advises that the refusal of planning permission on the ground of prematurity is unlikely to be justified except where the development is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development which are central to an emerging local plan or neighbourhood planning, and the emerging plan is at an advanced stage. The SAP was submitted for examination in May last year, and stage 1 of the hearings has taken place [33]. A significant number of objections have been made to its housing proposals, but nonetheless the SAP has reached an advanced stage in the plan-making process.
286. The housing requirement of the Core Strategy is to be met in part by the development of small and unidentified sites. SP6 refers to 500 dwellings per year, and 8,000 over the plan period, coming forward in this way. Whilst the appeal site is not identified in the current version of the SAP, it is in my

experience considerably larger than such windfall sites, and would represent over 10% of the total number of dwellings expected from windfall provision.

287. The Core Strategy not only specifies the overall housing requirement for Leeds, but also its distribution by HMCAs. Of the 5,000 dwellings required in Outer North East HMCA [21], sites with planning permission and existing UDPR allocations account for almost 1,500⁹⁴. The 874 dwellings of the appeal proposal would account for about a quarter of the outstanding provision. The Appellant has expressed reservations about the extent of delivery which could be expected from the proposed new settlement at Parlington, but the full details concerning that proposal are not before me, and in any event it is for the SAP examination to consider the merits of that scheme. Given the size of the proposed development, I am concerned that the granting of planning permission would seriously impair the role of the SAP in determining the future location of housing in the Outer North East HMCA. Accordingly, I conclude that the appeal proposal would be premature in respect of the emerging SAP.

The Development Plan

The Core Strategy

288. SP1 sets out the strategy for the location of development within Leeds. New development should be focused on the MUA and settlements in accordance with the settlement hierarchy. Thorp Arch Estate lies within the countryside, beyond any settlements, and the proposal for a major residential development in this location would conflict with SP1 (above, para 223). The housing requirement is specified in SP6: the location of sites is to be guided by the settlement hierarchy, and other considerations include sustainable locations and a preference for brownfield and regeneration sites. Whilst the appeal proposal would involve the redevelopment of brownfield land (above, para 225), it would not be in accordance with the settlement hierarchy, and I have found that the site would not be a sustainable location for the redevelopment scheme (above, para 232). There would also be conflict with SP7 which sets out a distribution of housing land reflecting the settlement hierarchy. As the site is not in a sustainable location, the proposal is not supported by supporting paragraph 4.6.16, notwithstanding the reference to land at Thorp Arch (above, para 232). Policy H2 supports the development of non-allocated sites for housing, provided, amongst other considerations, that the capacity of transport infrastructure would not be exceeded, and that there is compliance with the accessibility standards (for proposals of 5 or more dwellings). However the proposal would have an adverse effect on the highway network in Boston Spa (above, para 266) and it would not fully meet the accessibility standards set out in the Core Strategy (above, para 232). Due to shortcomings in accessibility there would also be conflict with Policy T2.

289. Although the proposal would not include 35% affordable housing, which is the target for zone 1, the reduced amount of 15% is supported by viability assessments, and the proposal would be consistent with Policy H5. Policy H8 encourages provision for the elderly, and the proposal includes a care home. Such accommodation should be provided in locations where there would be good

⁹⁴ Document L13: para 4.6 gives the remaining requirement as 3,518 dwellings.

access to a range of local community facilities. In view of my findings on accessibility, I do not consider that this would be the case.

290. Part of the site is allocated as employment land in the UDPR, and these allocations are safeguarded under Policy EC3 of the Core Strategy [28, 23]. The site is in an area which has a shortfall of employment land: here part B of the policy explains that other uses should only be permitted where the loss of the site can be offset by the availability of employment land and premises in the surrounding area. The Council has identified 9.09ha of available land which it calculates would provide a supply for at least 20 years⁹⁵. On this basis it concludes that the loss of employment land on the appeal site could be sufficiently offset within the surrounding area and that there would be no conflict with Policy EC3. I have no reason to take a different view.
291. Sequential and impact assessments for main town centre uses should be undertaken in the circumstances specified in Policy P8. The retail components of the scheme (the convenience store and parade of shops) are main town centre uses as defined in the NPPF. No impact assessment is required for these elements given their size. Nor do I share the view of TAG that a sequential assessment is required [175]. The policy requires sequential assessments for retail development in edge-of-centre and out-of-centre locations. In this case the convenience store and parade of shops are intended to form part of a local centre to serve the housing development. The intended health facility would be part of the new local centre, and would be in an accessible location for future residents, thereby complying with Policy P9.
292. The appeal site includes two SEGIs. These sites are now referred to as LWSs and a third LWS is within the appeal site. That LWS is part of Group 1 and would be lost to the new development. However the other SEGIs/LWSs are essentially in the areas where it is intended to form a country park and a linear park. With the safeguard of conditions concerning tree retention, biodiversity, and a ground remediation methodology, and the planning obligation which specifies where confidence scrape and other material from elsewhere on the site can be deposited in the country park, the City Council has no objection on nature conservation grounds. I agree that the suggested conditions and the planning obligation should not only adequately safeguard nature conservation interest on this part of Thorp Arch Estate, but also enhance biodiversity, and that the proposal would comply with Policies G8 and G9.
293. Thorp Arch Conservation Area comprises the settlement and the surrounding open landscape above the River Wharfe. It extends as far east as Church Causeway/ Walton Road, where a small part of the appeal site falls within the boundary [13]. The significance of the conservation area lies in evidence of the medieval layout, the unity given by the uniformity of materials, and the influence of estate housing designs on this estate village of Thorp Hall [36]. At Church Causeway/ Walton Road the access to the concrete batching plant would be replaced by the bus gate at the northern end of the linear park, and built development would be set back some distance from the road. Given this relationship, the appeal proposal would not detract from the significance or the setting of Thorp Arch Conservation Area. Nor would it detract from the

⁹⁵ Document L14, Appendix 2.

contribution which setting makes to the significance of the two grade II listed buildings on the west side of the road, Thorp Arch Station House and Engine Shed. Accordingly the proposal would not conflict with Policy P11, which seeks to conserve and enhance the historic environment.

294. The local centre would have a mix of uses and it would be accessible to the community it is intended to serve, thereby complying with Policy P9. Planning obligations are put forward in accordance with Policy ID2.
295. The appeal proposal would comply with several policies in the Core Strategy, but fundamentally it would conflict with SP1, SP6, SP7, H2 and T2, which are concerned with the approach to the location of development in Leeds. SP6, SP7 and Policy H2 are relevant policies for the supply of housing. There is not a five years housing supply in Leeds: consequently, in accordance with paragraph 49 of the NPPF, these policies are not up-to-date. Nevertheless, the proposal would conflict with the Core Strategy considered as a whole.

The UDPR

296. Policies GP5 and E3B are of most relevance to the appeal proposal [27, 28]. The considerations listed under Policy GP5 include highway congestion and contamination. I am satisfied that, with conditions to secure remediation, the proposal would be capable of dealing with the contamination present on the site (above, para 285). However, given my finding that there would be a severe impact on traffic movement in Boston Spa (above, para 272), the proposal would conflict with Policy GP5.
297. The site includes two allocations for employment land, and the proposed redevelopment on this part of the site would not be consistent with Policy E3B. The same allocations are covered under Policy EC3 of the Core Strategy, and this policy includes a test for the release of employment land for other purposes with which the appeal proposal complies (above, para 301). Accordingly the conflict with Policy E3B of the UDPR carries little weight.

The NRWLP

298. The remediation and redevelopment of the contaminated land on this part of Thorp Arch Estate would be consistent with Policy LAND 1 (above, para 274). Policy MINERALS 12 is also relevant. This policy safeguards minerals processing sites, including the concrete batching plant on the western part of the appeal site [29], unless they are no longer required. An obligation would require the Owner to use reasonable endeavours to enter into an agreement to relocate the batching plant, and I note that the operator of the plant has stated its willingness to relocate to a suggested site elsewhere on the Estate⁹⁶. As there is evidence that the existing site would no longer be required, no conflict arises with Policy MINERALS 12.

Thorp Arch NP

299. The proposal would preserve the conservation area and the setting of the two nearby listed buildings (above, para 293), it would provide connections to the Sustrans route and funding towards its extension to the Wharfe bridge through a

⁹⁶ Document A19, Appendix 15.

planning obligation, and a condition could secure measures to improve biodiversity. Consequently the proposal would be consistent with Policies BE1, CNE2 and CNE4 [30]. It is an aspiration of the NP to support the retention of Thorp Arch Estate for mixed use employment. Whilst the appeal proposal would not reflect that aspiration, it does not form part of the Development Plan.

Conclusions on the Development Plan

300. The appeal proposal would generally comply with relevant policies in the UDPR, the NRWLP, and the Thorp Arch Neighbourhood Plan. It would also comply with several policies in the Core Strategy, but conflict with SP1, SP6, SP7, H2 and T2. SP6, SP7 and Policy H2 are relevant policies for the supply of housing and are not up-to-date, but SP1 and Policy T2 are, and all are concerned with the approach to the location of development in Leeds. The redevelopment of part of Thorp Arch Estate for a major housing scheme would be at odds with this approach, and the proposal would conflict with the Development Plan considered as a whole.

Other considerations

301. The Appellant advances several economic considerations as benefits of the scheme [113]. It is calculated that the construction programme would support 102 full-time equivalent (FTE) jobs over nine years of which about 76 would be likely to be in the Leeds area⁹⁷. Additional jobs would be supported in the supply chain. In addition, 72 FTE permanent jobs are expected to be provided at the local centre. In the planning agreement, the Owner commits to using reasonable endeavours to securing the employment of local people in construction work and the commercial units. On the other hand, the proposal would displace the business on the retail park, affecting about 64 jobs. The Appellant suggests that the café could relocate to the local centre, safeguarding 12 jobs and that it would try to accommodate other businesses elsewhere on the Estate. There is, however, no equivalent commitment to that made in respect of the relocation of the batching plant, and it cannot be assumed that retail uses would be acceptable on employment land. I consider that there would be no more than a modest increase in permanent jobs as a result of the development.

302. The development would result in increased household expenditure in the local economy, and would provide income by way of council tax revenues and new homes bonus to the City Council. I am mindful that paragraph 21b-011 of PPG advises that it would not be appropriate to make a decision based on the potential for the development to make money for a local authority, and, whilst there would be several important economic benefits of the appeal proposal, I give limited weight to these latter consequences of the development.

303. The provision of the country park would incorporate measures to enhance biodiversity and would provide a local amenity which would be of benefit to existing local residents in addition to those living in the new housing. At present there is no formal arrangement for public access to the undeveloped part of the appeal site, and this would be secured by a planning obligation. The country park and the associated extension of the Sustrans route would be important benefits of the proposal.

⁹⁷ CD A3, Appendix 1

The planning obligations

304. I have already referred to obligations concerning affordable housing, the country park, community facilities, relocation of the concrete batching plant, local employment, bus route diversion, and a highway and traffic scheme in Boston Spa. The proposal includes several other obligations. Travel plans and the school bus contribution would assist in promoting the use of alternative means of transport to the private car, consistent with the objectives to encourage sustainable transport modes in paragraphs 17 and 29 of the NPPF, and traffic calming measures in Thorp Arch and Walton would be required to ensure safe and secure access in the vicinity of the site. Given the size of the development, a primary school is required, and measures to establish the local centre would be important to optimise sustainability in accordance with Policies P9 and H8 of the Core Strategy. In association with the bus diversion scheme, new infrastructure would maximise public transport accessibility in connection with the development.
305. On the information before me I do not consider that the potential measures suggested for a highway and traffic scheme in Boston Spa would mitigate the impact of traffic generated by the development, and I am concerned at the impact of the bus diversion on existing residents and persons travelling to and from Wealstun Prison. I do not consider that these obligations meet the test of necessity. Insofar as the other provisions of the planning obligations are concerned, the statutory tests in Regulation 122 of the CIL Regulations are met, and these provisions are material considerations in the appeal decision.

Conditions

306. I have considered the suggested conditions (ID-107, ID-130) in the light of the advice in PPG and the discussion on conditions at the inquiry. I have already referred to conditions concerning the retention of trees, biodiversity enhancement, contamination, and a limit on the number of dwellings pending occupation of the convenience store. If the appeal is allowed and planning permission granted, it would also be appropriate for conditions on the following matters to be imposed. For the avoidance of doubt and in the interests of proper planning, it is important that the development is carried out in accordance with the approved plan. Given the size of the development, a masterplan should be submitted with the first reserved matters application. To safeguard the amenity of the area, statements of construction practice should be submitted for each phase. The proposal does not include full details of signalisation of the Street 5/ Wighill Lane junction. These should be submitted for approval in the interests of highway safety and accessibility, and for the same reasons details for works to Avenue C should be submitted, and a footway should be provided from the first phase of dwellings to Church Causeway. For reason of highway safety, parking space should be made available prior to the occupation of any of the retail units.
307. Details of foul and surface water drainage should be submitted to ensure that the site is satisfactorily drained. It would be important for the local centre to cater for the needs of the community: accordingly details of unit size, use and opening hours should be submitted for approval, and no more than 300m² of floorspace in the retail parade should be occupied by Class A3 or A5 uses. To prevent pollution, in accordance with Policy EN1 of the Core Strategy and Policy GP5 of the UDPR, charging facilities for battery powered vehicles should be

provided. Updated badger and bat surveys and mitigation strategies would be important to ensure that measures are implemented to safeguard these protected species.

308. Given my concern about the diversion of the bus route, I do not consider that a scheme for this measure is necessary. A landscape management plan, the replacement of trees and shrubs, and details of the retail units are all matters which would be more appropriately addressed at reserved matters stage.

Overall conclusions

309. Notwithstanding compliance with several policies in the Core Strategy, the UDPR, the NRWLP and the Thorp Arch Neighbourhood Plan, I have found that the proposal would be contrary to the Development Plan considered as a whole. Development of this site at Thorp Arch Estate would not be consistent with the settlement hierarchy and the emphasis on guiding new development to sustainable locations in the Core Strategy. Consequently it would conflict with SP1, SP6, SP7, and Policies H2 and T2.

310. There is not a five years supply of housing in Leeds, and SP6, SP7 and Policy H2 are not up-to-date. Consequently, in accordance with paragraph 14 of the NPPF, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted. The latter circumstance does not apply in this case. The proposal would provide a number of important benefits: the contribution to housing land supply at a time when Leeds does not have a five years supply carries significant weight, and I also attach significant weight to the provision of much-needed affordable housing. These are important social benefits of the scheme.

311. The proposal would also provide economic and environmental benefits. Having regard to the closure of the retail park, there would only be a limited gain in permanent jobs, but there would be employment in construction work with consequential benefits in the supply chain. Additional household expenditure once dwellings are completed would provide a boost to the local economy. I attach moderate weight to these economic benefits.

312. The remediation of contaminated and previously developed land would be of benefit. However redevelopment for employment purposes, in line with the UDPR allocations, would also involve remediation and the re-use of previously developed land, there is no evidence of any risk associated with the use of the retail park, and the public has no right to access the undeveloped areas in the northern part of the site. I therefore attach moderate weight to the benefit of remediating contaminated brownfield land. Provision of the country park and the extension of the Sustrans route merit significant weight. Whilst the proposal would comply with a range of policies in the Development Plan, mere policy compliance does not represent further benefits to be weighed in the balance.

313. The appeal site would not be a sustainable location for major residential development, and it would be inconsistent with the approach to the location of development in the Core Strategy. SP1, which sets out the settlement hierarchy, applies to all development: it guides new development to certain locations in the MUA and settlements, and read as a whole it is not a restrictive policy. The harm

from establishing major residential development in this location is a matter to which I give substantial weight. The residual cumulative impact of additional traffic generated by the development on the constrained section of highway at Thorp Arch Bridge and Bridge Road would be severe, and I attach substantial weight to the harm of prematurity in respect of the emerging SAP. These adverse impacts would significantly and demonstrably outweigh the benefits of the proposal which I have identified. Accordingly the outcome of the tilted balance in paragraph 14 of the NPPF does not indicate that a decision should be taken other than in accordance with the Development Plan.

Recommendation

314. I recommend that the appeal be dismissed and planning permission refused. Should the Secretary of State reach a different conclusion on the merits of the appeal, I recommend that the conditions in the Annex to this report should be imposed on a grant of planning permission.

Richard Clegg

INSPECTOR

ANNEX - SCHEDULE OF SUGGESTED CONDITIONS

- 1) No development shall take place within any phase of the development until full details of the access to and within that phase, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out as approved.
- 2) Application for approval of the reserved matters within the first phase shall be made to the local planning authority not later than two years from the date of this permission. All subsequent reserved matters applications shall be submitted to the local planning authority not later than ten years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved for phase 1.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: location plan ref 1031-101A (Plan A).
- 5) Notwithstanding conditions Nos 1 & 2, the first reserved matters application for built development shall include a masterplan for the whole of the site, covering phasing, layout, open space, landscaping, density parameters and scale. The masterplan shall accord with the ES parameter plan, the principles of the design and access statement (August 2016), and the design code principles document (November 2016). All subsequent reserved matters applications shall be in accordance with the approved masterplan.
- 6) No more than 500 dwellings shall be occupied until the convenience store has been constructed and occupied.
- 7) No development shall take place on any phase of the development until details of all trees, hedgerows and bushes to be retained within that phase, together with a scheme for their protection during remediation and construction, have been submitted to and approved in writing by the local planning authority. The approved tree protection scheme shall remain in place for the duration of the remediation and construction works.
- 8) No development shall take place on any phase until a statement of construction practice for that phase has been submitted to, and approved in writing by, the local planning authority. The statement shall include full details of:
 - i) The methods to be employed to prevent mud, grit and dirt being carried onto the public highway.
 - ii) Measures to control emissions of dust and dirt during construction.
 - iii) The location of the site compound and plant/ equipment storage.
 - iv) Construction traffic accesses and routes.
 - v) Sustainable construction principles, including in the use of materials energy and water, and waste reduction and management.
 - vi) How the statement will be made publicly available.

- Development on each phase shall be carried out in accordance with the approved details.
- 9) No development shall take place until details of the signalisation of the junction of Wighill Lane and Street 5, together with a timetable for its implementation, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details and timetable.
 - 10) No development shall take place until a scheme for bringing Avenue C up to adoptable standard, together with a timetable for its implementation, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme and timetable.
 - 11) Prior to the first occupation of any dwelling, a footpath shall be provided from the first phase of dwellings to Church Causeway in accordance with a scheme which has been submitted to, and approved in writing by, the local planning authority.
 - 12) No development shall take place on any phase until a scheme of surface water works for that phase has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme before that phase of the development is brought into use, or as set out in the approved phasing details.
 - 13) No development shall take place on any phase until a scheme of foul water drainage for that phase, including arrangements for its future maintenance, has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme before that phase of the development is brought into use, or as set out in the approved phasing details.
 - 14) No retail unit shall be occupied until the associated parking space has been laid out, and that parking space shall be retained thereafter for the parking of vehicles.
 - 15) No development shall take place on any phase until a scheme for the provision of charging facilities for battery powered vehicles for that phase has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme before that phase of the development is brought into use.
 - 16) No more than 300m² of the floorspace in the retail parade hereby permitted shall be occupied by uses falling within Class A3 and/ or Class A5 of the Town & Country Planning (Use Classes) Order 1987 (as amended).
 - 17) No development shall take place on any phase until a construction environmental management plan (CEMP) for that phase has been submitted to, and approved in writing by, the local planning authority. The CEMP shall be prepared having regard to the approved remediation statement, and shall include:
 - i) A risk assessment of potentially damaging construction activities, and measures to avoid or reduce impact during construction.

- ii) Identification of biodiversity protection zones, to include the area of the country park and other areas with seed, substrate and soil sources to be protected for translocation.
- iii) The location and timings of sensitive works, to avoid harm to biodiversity features, including nesting birds.
- iv) The times during construction when specialist ecologists need to oversee works on site.
- v) The role of an ecological clerk of works, and lines of communication.
- vi) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to throughout the construction period.

- 18) No development shall take place on any phase until a vegetation survey and grassland mitigation method statement for that phase, including the measures in paragraphs 11.6.15 - 11.6.17 of the Environmental Statement, have been submitted to, and approved in writing by, the local planning authority. The method statement shall be prepared having regard to the approved remediation statement, and shall include:

- i) The purpose and conservation objectives for the works.
- ii) A review of the site's potential and constraints.
- iii) Detailed design and working methods to achieve the stated objectives, including seed harvesting, soil storing and the preparation of receptor areas.
- iv) Plans showing the extent and location of works, including donor and receptor areas.
- v) The type and source of materials to be used, including seed sources, substrate and soils.
- vi) A timetable for implementation aligned with the phasing of the development.
- vii) Details of persons responsible for implementing the works.
- viii) Details of initial aftercare and maintenance.
- ix) Details of monitoring and remedial measures.

The development shall be carried out in accordance with the approved method statement, and all features shall be retained thereafter.

- 19) No development shall take place on any phase until an ecological design statement for watercourse, swale and SUDS features for that phase has been submitted to, and approved in writing by, the local planning authority. The ecological design statement shall include:

- i) The purpose and conservation for the works.
- ii) A review of the site's potential and constraints.
- iii) Detailed design and working methods to achieve the stated objectives, including: SUDS features to be over-deepened to retain some water all year as wildlife ponds, water features to have meandering courses and shallow sloping banks for wetland plants, and any crossings to be open span bridges with adjacent vegetated banksides.
- iv) Plans showing the extent and location of works; cross-sections of the watercourse, swale and SUDS features; and an aquatic planting scheme.

- v) The type and source of materials to be used, including a natural stone bed to the watercourse.
- vi) A timetable for implementation aligned with the phasing of the development.
- vii) Details of persons responsible for implementing the works.
- viii) Details of initial aftercare and maintenance.
- ix) Details of monitoring and remedial measures.

The development shall be carried out in accordance with the approved ecological design statement, and all features shall be retained thereafter.

- 20) No development shall take place on any phase until a scheme of bat roosting and bird nesting opportunities within buildings on that phase has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the number, specification and location of bat roosting and bird nesting features, and a commitment to installation under the guidance of an appropriately qualified bat consultant. All features shall be installed prior to the first occupation of the building concerned, and they shall be retained thereafter.
- 21) No development shall take place on any phase that has the potential to adversely affect bats, their roosts, or potential roosts (as identified on figures 4, 5 & 11 of the Bat Survey Report & Impact Assessment Update (November 2016)), until an updated bat survey and mitigation strategy for that phase, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved mitigation strategy.
- 22) No development shall take place on any phase until an updated badger survey and mitigation strategy for that phase, including the measures in table 11.7 (chapter 11) of the Environmental Statement (August 2016) and in the Badger Report & Impact Assessment (August 2016), have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved mitigation strategy.
- 23) No development shall take place on any phase until a method statement for the control and eradication of Himalayan Balsam and Japanese Knotweed for that phase has been submitted to, and approved in writing by, the local planning authority. The method statement shall include arrangements for post-treatment monitoring to ensure that a continuous twelve months period occurs when neither Himalayan Balsam nor Japanese Knotweed is identified as growing within that phase. The development shall be carried out in accordance with the approved method statement.
- 24) No development shall take place until a final site-wide contamination investigation methodology report has been submitted to, and approved in writing by, the local planning authority. The site-wide investigation shall be carried out in accordance with the approved report. Should the investigation identify the need for further detailed investigations, these shall be carried out in accordance with details to be submitted to, and approved in writing by, the local planning authority.
- 25) No development shall take place on any phase until a remediation statement demonstrating how that phase of the site would be made

suitable for the intended after-use has been submitted to, and approved in writing by, the local planning authority. The remediation statement shall include a description of, and programme for, all works on that phase, a detailed verification plan, and arrangements for submission of verification reports for the approval of the local planning authority. The development shall be carried out in accordance with the approved remediation statement. The built development on that phase shall not commence until all verification reports have been approved in writing by the local planning authority.

- 26) If remediation is unable to proceed in any phase of the development in accordance with the approved remediation statement for that phase, or where unexpected contamination is found, the local planning authority shall be notified immediately and operations on the affected part of the site shall be halted. Additional measures for the remediation of contamination shall be submitted to, and approved in writing by, the local planning authority. The remediation of the site shall incorporate the approved additional measures.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Lopez of Counsel	Instructed by Mrs N Deol, Section Head- Property & Development, Legal Services, Leeds CC.
He called	
Mrs G MacLeod	Transport Development Services Manager, Leeds CC.
BEng(Hons) CEng MICE	CC.
Mr B P F Maguire	Principal Surveyor, District Valuer Services, Valuation Office Agency.
BSc(Hons) MRICS	Principal Planner, Policies & Plans Group, Leeds CC.
Mr M Brook BA(Hons)	CC.
MA MRTPI	Group Engineer, Urban Traffic Control Team, Leeds CC.
Mr R Tallant HND	
Mr A Crates BA(Hons)	Principal Planner, Planning Services, Leeds CC.
DipTP MRTPI	
Mrs K Holloway	Team Leader, Policies & Plans Group, Leeds CC.
BA(Hons) BPI(Hons)	

FOR THE APPELLANT:

Mr C Young, Mr J Corbet Burcher & Mr H Mohamed of Counsel	Instructed by Mr Lees.
They called	
Mr J Booth CEng MICE	Associate, WYG Environment Planning Transport Ltd.
MCIHT	Director, WYG Environment Planning Transport Ltd.
Mrs P Gill MSc DIC	Explosives & Munitions Remediation Manager, BAE Systems.
CGeol FGS	BNP Paribas Real Estate.
Mr I Swallow MRSC	
MIExpE	Managing Director, Johnson Mowat Planning Partnership LLP.
Mr M Thompson	Chairman, Pioneer Property Services Ltd.
BA(Hons) MRICS IRRV	
Mr M T Johnson MRICS	Director, Chesters Commercial Ltd.
MRTPI	
Mr D Parker MSc	Executive Director, Pegasus Planning Group.
BA(Hons) DMS FCIH	
Mr N L Jones BSc FRICS	
ACI Arb	
Mr G R Lees BA(Hons)	
BTP MRTPI	

FOR THORP ARCH TRADING ESTATE ACTION GROUP (TAG):

Mr P Village QC & Miss P Jackson of Counsel	Instructed by Cunnane Town Planning.
They called	
Mr P Locke BSc	Chairman, TAG.
Mr J Ellis BSc(Hons) MSc	TTHC Ltd.

MCIHT
Mr S Vandy BA(Hons) Regional Director, Cunnane Town Planning.
BP MRTPI

INTERESTED PERSONS:

Councillor J Richardson	Chairman, Thorp Arch Parish Council.
Councillor T Gaussen	Member, Boston Spa Parish Council.
Mr D Bentley BSc CEng MICE	Local resident.
Mr B Crooks	Local resident.

THE LPA'S DOCUMENTS

L1 Mrs MacLeod's proof of evidence.
L2 Appendices to Document L1.
L3 Mrs MacLeod's rebuttal proof of evidence.
L4 Appendices to Document L3.
L5 Mr Maguire's proof of evidence.
L6 Appendices to Document L5.
L7 Mr Maguire's supplementary statement.
L8 Mr Brook's proof of evidence.
L9 Appendices to Document L8.
L10 Mr Crates's proof of evidence.
L11 Appendices to Document L10.
L12 Mr Crates's rebuttal proof of evidence.
L13 Mrs Holloway's proof of evidence.
L14 Appendices to Document L13.
L15 Mrs Holloway's rebuttal proof of evidence.
L16 Appendix to Document L16.

THE APPELLANT'S DOCUMENTS

A1 Mr Booth's proof of evidence.
A2 Appendices to Document A1.
A3 Mr Booth's rebuttal proof of evidence.
A4 Appendices to Document A3.
A5 Mrs Gill's proof of evidence.
A6 Appendices to Document A5.
A7 Mrs Gill's rebuttal proof of evidence.
A8 Appendices to Document A7.
A9 Mr Thompson's proof of evidence.
A10 Mr Johnson's proof of evidence.
A11 Appendices to Document A10.
A12 Mr Parker's proof of evidence.
A13 Appendices to Document A12.
A14 Mr Jones's proof of evidence.
A15 Appendices to Document A14.
A16 Mr Jones's rebuttal proof of evidence.
A17 Appendices to Document A16.
A18 Mr Lees's proof of evidence.
A19 Appendices to Document A18.
A20 Mr Lees's rebuttal proof of evidence.

A21 Appendices to Document A20.

TAG'S DOCUMENTS

- T1 Mr Locke's proof of evidence.
- T2 Appendices to Document T2.
- T3 Mr Ellis's proof of evidence.
- T4 Appendices to Document T3.
- T5 Mr Vendy's proof of evidence.
- T6 Appendices to Document T5.

INQUIRY DOCUMENTS⁹⁸

- ID-2 Mr Young's & Mr Corbet Burcher's opening statement for the Appellant.
- ID-3 Mr Lopez's opening statement for the LPA.
- ID-4 Mr Village's & Miss Jackson's opening statement for TAG.
- ID-5 Councillor Richardson's statement for Thorp Arch PC.
- ID-6 Emails dated 8 September 2017 from the WYCA and from Mrs MacLeod concerning the use of bus stops on Walton Road. Submitted by the LPA.
- ID-7 Costings for indicative shared space scheme, Boston Spa. Submitted by the Appellant.
- ID-8 Plan of indicative shared space scheme, Boston Spa. Submitted by the Appellant.
- ID-9 Costings for traffic signals at High Street/ Bridge Road, Boston Spa. Submitted by the Appellant.
- ID-10 Extract from Ordnance Survey 1/25,000 map for the area around the appeal site. Submitted by the Appellant.
- ID-14 DVD of highway conditions on Thorp Arch Bridge and Bridge Road, schedule of contents and photographs from DVD. Submitted by TAG.
- ID-15 Email dated 14 September 2017 from WYG concerning child occupancy in traffic surveys. Submitted by The Appellant.
- ID-16 Email dated 14 September 2017 from Highways England to WYG concerning incidents on the highway network. Submitted by the Appellant.
- ID-17 Photograph of Bridge Road, Boston Spa. Submitted by the Appellant.
- ID-19 Letter dated 14 September 2017 from Cllr Gausson to the Inspector concerning parking permits in Boston Spa.
- ID-20 Walton Chase & Woodland Drive traffic survey January 2013 - enumeration sheets. Submitted by the LPA.
- ID-24 Note on transport assessment methodology. Submitted by the Appellant.
- ID-25 Note on education trips. Submitted by the Appellant.
- ID-26 Highway Note 2: Mr Ellis's assessment of Privas Way roundabout. Submitted by the Appellant.
- ID-27 Highway Note 3 Rev 1: Traffic growth. Submitted by the Appellant.

⁹⁸ Documents which were superseded or added to appendices are not listed separately.

- ID-28 Note on five years housing land supply. Submitted by the LPA.
- ID-29 Schedule A to Document ID-28: Leeds's five year supply sites, including disputed sites.
- ID-30 Schedule A to Document ID-28: Leeds's five year supply sites, including disputed sites – Consideration of Appellant's inclusions.
- ID-31 Schedule B to Document ID-28: Leeds's five year supply sites, including disputed sites with note on deliverability.
- ID-32 Schedule B to Document ID-28: Leeds's five year supply sites, including disputed sites with note on deliverability – Consideration of Appellant's inclusions.
- ID-33 Schedule C to Document ID-28: Total requirement and supply for the LPA and the Appellant.
- ID-34 Schedule D to Document ID-28: Leeds's five year supply sites due to be granted PIP.
- ID-35 Letter from Mr Brook concerning the SHLAA. Submitted by the LPA.
- ID-36 Email dated 14 September 2017 from the Council concerning permit parking. Submitted by the LPA.
- ID-37 Plan of super output area Leeds 005. Submitted by the LPA.
- ID-38 Bundle of plans from Documents A6 & A8.
- ID-40 Mr Maguire's note on viability of 14 September 2017 and accompanying appraisals.
- ID-41 Note concerning growth and education trips. Submitted by the LPA.
- ID-42 Extract from The Contaminated Land (England) Regulations 2000. Submitted by TAG.
- ID-43 Mr Swallow's proof of evidence and appendix.
- ID-44 Letter dated 6 July 2017 from BAE Systems to the Appellant containing a peer review of the work undertaken by WYG on contamination and general advice in respect of explosives and munitions assessment and remediation. Submitted by the Appellant.
- ID-45 Rudgate Village remediation costing report; WYG; June 2016. Submitted by the Appellant.
- ID-46 Mr Tallant's note on behalf of the LPA.
- ID-47 Transyt model output for High Street/ Bridge Road/ Bridge Foot. Submitted by the Appellant.
- ID-49 Mr Thompson's note on current use valuation reports.
- ID-50 Mr Ellis's note concerning Walton Road roundabout.
- ID-51 Appeal decision ref APP/N2345/A/13/2200445 concerning residential development on land south of Whittingham Road, Whittingham. Submitted by the Appellant.
- ID-52 Highway Note 4 – Automatic Number Plate Recognition Survey. Submitted by the Appellant.
- ID-53 Highway Note 6 – Response to ID-41. Submitted by the Appellant.
- ID-54 Highway Note 7 – Response to ID-50. Submitted by the Appellant.
- ID-55 Schedule showing the assignment of traffic from MSOA Leeds 005. Submitted by the LPA.

- ID-56 Mr Crooks's statement.
- ID-57 Mr Crates's note on Leeds Policies Map and ecological designations.
- ID-58 Mr Maguire's note on viability of 22 September 2017 and accompanying appraisals.
- ID-59A Planning statement of common ground for an appeal concerning residential development at Bagley Lane/ Calverley Lane, Farsley. Submitted by the Appellant.
- ID-59B Response of the Home Builders Federation to Matter 2 of the Inspectors' Matters and Issues; Leeds SAP Examination. Submitted by the Appellant.
- ID-59C Leeds CC – Historic completions forecasting chart by Johnson Mowat. Submitted by the Appellant.
- ID-59D Letter dated 15 August 2017 from BNP Paribas Real Estate to Mr Johnson concerning residential development in the City Centre and Inner Area HMCAs. Submitted by the Appellant.
- ID-59E Extract from PPG – Housing and economic land availability assessment. Submitted by the Appellant.
- ID-59F Housing Land Supply – Autumn Statement – Housing land supply at 30 September 2016; Leeds CC. Submitted by the Appellant.
- ID-60 Historic England report on the assessment of Parlington Estate for inclusion on the Register of Historic Parks and Gardens. Submitted by the Appellant.
- ID-61 Update to residential planning permissions in Leeds HMCAs. Submitted by the LPA.
- ID-62 Mr Bentley's statement.
- ID-63 Appeal decision ref APP/E2001/W/16/3165880 concerning residential development on land south of Back Lane, Holme-on-Spalding Moor. Submitted by the LPA.
- ID-64 Appeal decision ref APP/E2001/W/16/2200445 concerning residential development on land off Little Wold Lane, South Cave. Submitted by the LPA.
- ID-65 Boston Spa Neighbourhood Development Plan.
- ID-66 Boston Spa Neighbourhood Plan – Examiner's Report.
- ID-67 Boston Spa Neighbourhood Plan – Leeds CC Decision Statement.
- ID-68 Note by GVA in response to ID-49. Submitted by the LPA.
- ID-69 Mr Johnson's note – Revised Housing Land Supply Position 27 September 2017.
- ID-70 Judgement of the Supreme Court in *Suffolk Coastal DC v Hopkins Homes Ltd & Another, and Richborough Estates Partnership LLP & Another v Cheshire East BC*, [2017] UKSC 37. Submitted by the Appellant.
- ID-71 Statement of Mrs L Broadbent, local resident.
- ID-72 Report to Leeds CC Executive Board, 8 February 2017 – The Housing Growth and High Standards in all Sectors Breakthrough Project. Submitted by the LPA.
- ID-73 Report to Leeds CC Development Plan Panel, 5 September 2017 – Core Strategy Selective Review. Submitted by the LPA.
- ID-74 Highway Note 5 – Transyt Model High Street/ Bridge Road &

- Thorp Arch Bridge. Submitted by the Appellant.
- ID-75 Highway Note 9 – Example Traffic Signal Installations. Submitted by the Appellant.
- ID-76 Update Note on Transyt Models – Response to ID-74. Highway Note 5 – Transyt Model High Street/ Bridge Road & Thorp Arch Bridge. Submitted by the LPA.
- ID-77 Leeds CC Urban Traffic Control response to ID-75. Submitted by the LPA.
- ID-78 Extract from TRL Software website; Mean maximum queue part 1 – an explanation. Submitted by the LPA.
- ID-79 Extract from Transyt 15 User Guide. Submitted by the LPA.
- ID-80 Email dated 27 September 2017 from Mr Booth to members of the Appellant’s team concerning a conversation with Mr Tallant. Submitted by the Appellant.
- ID-81 Transyt 15 outputs for High Street/ Bridge Road/ Bridge Foot. Submitted by the LPA.
- ID-82 Survey of turning movements from and onto Bridge Road. Submitted by the Appellant.
- ID-83 Photographs of streets in Boston Spa with resident permit parking control. Submitted by the Appellant.
- ID-84 Traffic flow figures at the High Street/ Bridge Road junction. Submitted by the Appellant.
- ID-85 Mr Locke’s note on TAG’s confidence scrape evidence and on employment on Thorp Arch Estate.
- ID-86 Extract from PPG –. Submitted by the Appellant.
- ID-87 Thorp Arch Neighbourhood Plan – Examiner’s Report.
- ID-88 Revised table 2 of ID-33. Submitted by the LPA.
- ID-90 Mr Marsh’s revised note on ecology objections.
- ID-91 Exchange of correspondence dated October 2017 between Forsters LLP and Leeds CC concerning affordable housing.
- ID-92 Environmental statement addendum; Publicity and consultation measures; Responses to publicity and consultation on the ES Addendum. Submitted by the Appellant.
- ID-93 Mr Village’s & Miss Jackson’s submissions concerning ID-92.
- ID-94 Mr Maguire’s note on viability of 6 November 2017 and accompanying appraisals.
- ID-95 LPA Note on Affordable Housing Delivery. Submitted by the LPA.
- ID-96 LPA Note on 2017 SHLAA; SHLAA 2017 Update Main Report; Schedule of SHLAA Sites; Five Year Housing Land Supply Statement. Submitted by the LPA.
- ID-97 Walton Chase & Woodland Drive traffic surveys – turning counts and enumeration sheets. Submitted by the LPA.
- ID-98 Mr Maguire’s note on viability of 17 November 2017 and accompanying appraisals.
- ID-99 Plan of bus stops in relation to Wealstun Prison. Submitted by the Appellant.
- ID-100 Mrs Holloway’s note – LCC update on various Development Plan matters, and appendices.
- ID-101 HMP Wealstun Conversion to Category C – Travel Plan.
- ID-102 Extract from the Neighbourhood Planning Act 2017.

- Submitted by the LPA.
- ID-103 Mr Maguire's note on viability of 21 November 2017 and accompanying appraisals.
- ID-104 Plan of bus service diversion. Submitted by the Appellant.
- ID-105 Mrs Gill's note – Response to TAG's Examination of the Environmental Statement Addendum Report – Ground Contamination.
- ID-106 Summaries of draft planning agreement and unilateral undertaking. Submitted by the Appellant.
- ID-107 Schedule of draft conditions agreed by the Appellant and the LPA.
- ID-108 Housing chapter of the Autumn Budget 2017, HM Treasury. Submitted by the Appellant.
- ID-109 Thorp Arch Neighbourhood Development Plan 2017-2028.
- ID-110 Explanatory text for Thorp Arch local wildlife site designation. Submitted by the LPA.
- ID-111 Note on draft resolutions from the Development Plans Panel meeting on 21 November 2017. Submitted by the LPA.
- ID-112 Mrs Holloway's note – LCC update on Policies Map.
- ID-113 Mrs Holloway's note – Leeds Inclusive Growth Strategy Consultation Document.
- ID-114 Judgement of the High Court in *Kebbell Developments Ltd v Leeds CC and Collingham-with-Linton PC*, [2016] EWHC 2664 (Admin). Submitted by the Appellant.
- ID-115 Judgement of the Court of Appeal in *St Modwen Developments Ltd v the Secretary of State for Communities & Local Government, East Riding of Yorkshire Council and Save Our Ferriby Action Group* [2017] EWCA Civ 1643. Submitted by the Appellant.
- ID-116 Indicative traffic calming scheme for Thorp Arch. Submitted by the Appellant.
- ID-117 Indicative traffic calming scheme for Walton. Submitted by the Appellant.
- ID-118 Plan of proposed bus stop locations. Submitted by the Appellant.
- ID-119 Mr Jones's master viability appraisal with 15% affordable housing.
- ID-120 DVS report concerning land at Flaxley Road, Selby. Submitted by the Appellant.
- ID-121 CIL justification statement; Leeds CC CIL Charging Schedule. Submitted by the LPA.
- ID-122 Mr Maguire's note on viability of 26 November 2017; Mr Maguire's note on viability of 27 November 2017 and accompanying appraisals.
- ID-123 Mr Jones's note on viability of 27 November 2017.
- ID-124 DVD of highway conditions on Thorp Arch Bridge and Bridge Road with temporary traffic signals in place. Submitted by TAG.
- ID-125 TAG response to the ES Addendum.
- ID-126 Letter dated 6 November 2017 from the Governor of HMP Wealstun to The Planning Inspectorate concerning diversion of the bus service.

- ID-127 Letter dated 16 November 2017 from Miss A Weston & Mr S Linnen to the Inspector concerning parking on Bridge Road.
- ID-128 Letter dated 17 November 2017 from Mr R Contreras to the Inspector concerning an accident on Thorp Arch Bridge.
- ID-129 Mr Locke's closing submissions on behalf of TAG.
- ID-130 Additional draft conditions agreed by the Appellant and the LPA.
- ID-131 Mr Lopez's closing submissions on behalf of the LPA.
- ID-132 Judgement of the High Court in Hallam Land Management Ltd v the Secretary of State for Communities & Local Government and Eastleigh BC, [2017] EWHC 2865 (Admin). Submitted by the Appellant.
- ID-133 Mr Young's, Mr Corbet Burcher's & Mr Mohamed's closing submissions on behalf of the Appellant.
- ID-134 Highway Note 11- Wighill Lane Pedestrian Crossing. Submitted by the Appellant.
- ID-135 Note on the planning obligations agreed by the Appellant and the LPA.
- ID-136 Inset policies maps, Natural Resources & Waste Local Plan.
- ID-137 Plan of Thorp Arch strategic housing site, Leeds UDP Review – First Deposit.
- ID-138 Site notes on SEGIs within the appeal site.
- ID-139 Response to ID-134. Submitted by the LPA.
- ID-140 Email dated 8 December 2017 with attachments from Mr Crates concerning the referendum on the Thorp Arch NP.
- ID-141 Highway Note 12- Response to ID-139. Submitted by the Appellant.
- ID-142 Planning agreement relating to the appeal proposal. Submitted on behalf of the Appellant and the LPA.
- ID-143 Unilateral undertaking relating to the appeal proposal. Submitted by the Appellant.
- ID-144 Email dated 12 January 2018 from Mr Crates concerning amendments to the emerging SAP.

GENERAL DOCUMENTS

- G1 List of core documents.
- G2 Notification of appeal and inquiry.
- G3 Correspondence received in response to Document G2.

PLANS

- A Location plan ref 1031-101A.
- B Illustrative masterplan ref 1031-100H.



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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