



## Appeal Decision

Site visit made on 28 & 29 November 2017

by **B Bowker Mplan MRTPI**

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

Decision date: 22<sup>nd</sup> December 2017

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### **Appeal Ref: APP/Y2810/W/17/3178842** **Land off Holly Lodge Drive, Northampton**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Daventry District Council.
  - The application Ref DA/2016/1144, dated 5 December 2016, was refused by notice dated 6 March 2017.
  - The development proposed is outline planning application for up to 75 residential dwellings (including up to 35% affordable housing), demolition of existing outbuildings, introduction of structural planting and landscaping, informal public open space and children's play area, surface water attenuation and associated ancillary works. All matters to be reserved with the exception of vehicular access point to be provided from Holly Lodge Drive.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The proposal as submitted is for outline planning permission with all matters reserved apart from access. Appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. The layout plan and illustrative material submitted with the planning application have been taken into account for indicative purposes.
3. I allowed the appellants additional time following the hearing to provide a completed version of a Unilateral Undertaking (UU), a copy of which was duly received. The UU has been taken into account in my determination of the appeal.
4. A signed and dated Statement of Common Ground (SoCG) confirms that, following the submission of additional information, the Council no longer seek to defend its reason for refusal relating to an absence of an archaeological evaluation. Based on all I have seen and read, I have no reason to disagree on the consensus view reached on this matter. Accordingly, the main issues are as below.

### **Main Issues**

5. The main issues are:
  - The effect of the proposal on the character and appearance of the surrounding area;

- Whether the proposal would accord with the development strategy for the area;
- Whether the proposal would make adequate provision for affordable housing; and,
- Whether the proposal should make provision for the Northern Orbital Road (NOR).

## **Reasons**

### *Character and Appearance*

6. The appeal site comprises an open field that slopes gently down in a north east direction. The site is bounded by hedgerow on all sides and contains a stable. A public right of way is to the north of the site, open fields are to the north and immediate west, whilst the built form of Northampton, which includes residential and employment uses, is to the south, east and further west.
7. When viewed from public vantage points along the adjoining section of Holly Lodge Drive, Boughton Green Road and the public right of way, the site has a close visual relationship with the wider countryside. Whilst built form is to the west at Reynard Way, intervening domestic gardens, fields visually separate it from the site. This visual separation from Reynard Way and the vegetated roadside boundary along this section of Holly Lodge Drive further reinforces the close visual relationship of the site with the wider countryside. The vegetated roadside boundary of the site and surrounding boundaries, combined with the topography of the site and adjoining fields, provide a defined visual edge that defines the urban form of Northampton and the open countryside. The site makes a positive contribution to this defined visual edge and to the open countryside within which it is located.
8. During my site visit, I viewed the site from a number of viewpoints identified within the Landscape and Visual Impact Assessment (LVIA). I agree that the proposal would not have a harmful effect on the wider landscape. However, based on my site visit observations, I consider that the visual impact of the proposal when viewed from viewpoints 1, 2, 11 and 12 (from Holly Lodge Drive) and Nos 4, 5, 6, 7 (from the public right of way and adjoining lane, and Boughton Green Road) is greater than stated within the LVIA.
9. When viewed from public viewpoints along Holly Lodge Road, owing to the slope of the site, the upper sections of the dwellings would be noticeable against the backdrop of the countryside. From this vantage point, the proposal would have an isolated appearance in relation to surrounding built form. In this respect the proposal would harm the positive contribution of the site to the defined edge of Northampton and result in a visually harmful incursion into the open countryside, noticeable when viewed from Holly Lodge Road.
10. When viewed from the public right of way, the slope of the site would set the proposed dwellings in front of and below existing housing at Dixon Road. Consequently the proposal would comprise a prominent extension of built form into the countryside. When seen from this vantage point, the resultant harm would be particularly noticeable during winter months when leaf cover is low, as I saw during my site visit. To a lesser extent, the resultant harm would also be noticeable (despite the roadside hedgerow) when viewed from the adjoining

section of Boughton Green Road and the lane to the north east that adjoins the public right of way.

11. Whilst appearance, landscaping, layout and scale are reserved for later consideration, taking into account the extent of views into the site from the above identified vantage points, satisfactory details at the reserved matters stage would not fully screen or mitigate the visual impact of the proposal. Nor would the public open space to the northern section of the site fully reduce the overall prominence and harmful visual impact of the proposal when viewed from the noted vantage points.
12. In reaching this view, I acknowledge that the Council's Landscape Officer raises no objection to the proposal in landscape terms. However, for the reasons given above, I disagree that additional landscaping, existing boundary vegetation, ridges to the north and north west, and the elevated housing to the immediate south would fully mitigate the impact of the development. It follows that I cannot agree that the proposal would improve the appearance of the site.
13. With reference to saved Daventry District Local Plan (LP) Policy EN10, the site is located within a Green Wedge. The parties disagree on the weight to be afforded to LP Policy EN10, based on its consistency with the National Planning Policy Framework (the Framework). The appellants consider that Policy EN10 is not consistent with paragraphs 76 - 77 of the Framework as the Green Wedge covers an extensive area. Reference is also made to an appeal decision<sup>1</sup> wherein the Inspector stated that the Green Wedge does not have the same permanence as a Green Belt. Nonetheless the Inspector stated that Policy EN10 is consistent with paragraph 17 of the Framework, and thus afforded it moderate weight.
14. The Council also refer to an appeal decision<sup>2</sup> wherein the Inspector considered that Policy EN10 was consistent with paragraph 17 of the Framework, with regard to the need to take into account the different role and character of different areas and to protect the intrinsic character and beauty of the countryside. Thus the Inspector afforded significant weight to Policy EN10.
15. The Council do not contest the appellants' comments in relation to the consistency of Policy EN10 with paragraphs 76-77 of the Framework. However, saved LP Policy EN10 does not preclude development and recognises different roles for the Green Wedge, which includes agriculture, forestry, recreation and wildlife value. In this context, I agree with the Inspector who determined the case at Boughton Road and consider that Policy EN10 would be consistent with the core planning principle set at paragraph 17 bullet point 5 of the Framework. Policy EN10 would also accord with JCS Policy R1, which refers to preserving areas of environmental importance.
16. Whilst 25% of the site would be public open space, the proposal would comprise predominantly built form. In addition, I have identified harm to the character and appearance of the surrounding area. Consequently the proposal would conflict with Part A) of LP Policy EN10. However, based on the size of the site in relation to the wider Green Wedge and its location relative to surrounding settlements, the proposal would not unacceptably reduce

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<sup>1</sup> APP/Y2810/A/12/2178421, Land to the east of Northampton Lane North, Moulton.

<sup>2</sup> APP/Y2810/A/14/2225722, Land off Boughton Road, Moulton, Northampton.

separation between settlements. The proposal would also comply with LP Policy EN10 Part C). Whilst the proposal would allow public access into the Green Wedge, this is not a factor required or given overriding favourable weight by Policy EN10. Nonetheless, the benefit of the proposed public open space is a matter I return to as part of the planning balance. Taking the above into account, the proposal would conflict with criterion A of Policy EN10.

17. In reaching this view, I have considered the permission<sup>3</sup> granted by the Council for 56 dwellings within the Green Wedge, based on the size of the site and its close relationship to adjacent housing. The Council assert that the same circumstances do not apply to the proposal before me. This aside, based on the information submitted I am unable to fully compare the cited application with the appeal proposal before me. Moreover I must determine the appeal on its own individual merits.
18. Therefore the proposal would have a harmful effect on the character and appearance of the surrounding area. Consequently the proposal would be contrary to West Northampton Joint Core Strategy (JCS) Policy S10 and saved LP Policy EN10. Combined and insofar as they relate to this matter, these policies seek to protect, conserve or enhance the natural environment and ensure that development would not be discordant with the predominantly open nature of a Green Wedge.

#### *Development Strategy*

19. Of relevance to this matter, JCS Policy S1 sets out the distribution of development within the plan area, focussing development in and adjoining the main urban areas of Northampton and Daventry, whilst limiting it in rural areas. JCS Policy S2 identifies Northampton at the highest hierarchy as a 'Regional Town Centre' whilst Policy S3 sets out in more detail the distribution of housing numbers within the plan area. JCS Policy S4 (at figure 4) defines the extent of the Northampton Related Development Area (NRDA) and anticipates that Northampton's housing needs will be met primarily within its existing urban area and at Sustainable Urban Extensions (SUE) within the NRDA.
20. JCS Policy R1 sets out the spatial strategy for rural areas, and states that development will be guided by a rural settlement hierarchy, to be set by Part 2 of the Local Plan. The policy also sets out requirements for residential development in rural areas (at criteria A-G) including for circumstances when the housing requirement is being met for rural areas. JCS Policy N1 states that the regeneration of Northampton will be supported by a number of measures, one of which includes by housing development within the existing urban area though urban capacity infill and allocated SUEs.
21. It is common ground that site is not located within the NRDA as defined by Policy S4 and that the Council cannot demonstrate a five year supply of housing land within the NRDA. In addition, during the hearing, with reference to an appeal decision<sup>4</sup>, the appellants highlighted that the NRDA boundary is the same as the Northampton principal urban area boundary. The principle point of disagreement between the parties relates to whether the proposal should be considered as development relating to the NRDA or to the rural area.

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<sup>3</sup> Council Ref DA/2014/0604.

<sup>4</sup> APP/Y2810/W/15/3011449, Land off Welford Road.

22. The appellants' highlights that Policy S1 A) acknowledges that development will be concentrated primarily in and adjoining the principal urban area of Northampton, with reference to the location of the site. In addition, the appellants consider that the site has a functional relationship with the NRDA. The appellants refer to a number of passages of policy support text to set out that the JCS acknowledges that housing development will be required outside existing settlement and administrative boundaries to meet the housing need of Northampton, and that Northampton has an important influence across the whole county and beyond. The Council also refer to a number of passages within policy support text to support its case. In this context, with reference to the court judgement<sup>5</sup> cited by the appellants, I acknowledge that supporting text to a policy is not policy or part of policy and is used to aid the decision maker in understanding the policy.
23. The appellants highlight that Policy S1 A) does not make reference to SUEs. However, paragraph 5.12 of the JCS entitled 'Development in the Towns and Adjoining the Towns' does and explains that the spatial strategy is one of concentrating additional development within the existing towns as far as possible and in a small number of large development areas called SUEs. In this case, I consider that the supporting text at paragraph 5.12 aids the decision maker in understanding Policy S1 and does not introduce additional policy requirements.
24. Whilst Policy S1 C) treats development at Towcester and Brackley differently; I agree with the Council that the appellants' interpretation of Policy S1 would imply that there is a buffer around Northampton considered suitable for development. In this context, I share the Council's concern that such an interpretation would encourage speculative development, contrary to the overarching strategy of the JCS. It is put to me that JCS Policy S4 does not set an absolute prevention for development outside the NRDA boundary. However, Policy S4 states that Northampton's housing and employment needs will be met primarily within Northampton's existing urban area and at SUEs within the NRDA, an approach consistent with Policy S1. In this light, I note that the site is not located within Northampton's existing urban area.
25. Consequently, although adjacent to the NRDA, I cannot agree that the proposal would be development for the NRDA, taking into account the JCS policies referred to, including supporting text, when read as a whole. This aside, the appellant contends that the proposal would meet the vision of the JCS. I also acknowledge that the proposal could contribute towards meeting housing need within the NRDA. In this context, Policy S4 states that additional development to meet the needs of Northampton will only be supported if it meets the vision, objectives and policies of the JCS. Based on my reasoning above, the proposal would not meet criterion A) of Policy S1, and as such criterion D) would apply. With reference to my findings in the preceding main issue, the proposal would be contrary to part 1) of Policy S1 D).
26. The parties disagree on whether JCS Policy R1 applies. Whilst the appellants contend that the definition of rural areas within JCS paragraph 5.11 relates to villages, the paragraph also refers to the 'wider rural area'. Moreover, taking into account my conclusion that the proposal would not comprise development for the NRDA, I agree with the Council that Policy R1 applies. As the proposal

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<sup>5</sup> Cherkley Campaign Limited and Mole Valley District Council and Longshot Cherkley Court Limited [2013] EWHC 2582 (Admin).

would not be within the confines of an existing village, and based on the harm identified in relation to the first main issue, the proposal would be contrary to criterion C and G of Policy R1. Furthermore the site is located within a rural area where the Council can demonstrate a five year supply of housing land. In this light, no evidence is before me to demonstrate that the proposal would comply with criteria i), ii), iv) and v) of Policy R1, which applies when housing requirements in rural areas have been met.

27. However as no substantive evidence is before me to demonstrate that the proposal would undermine the regeneration of Northampton, the proposal would not conflict with Policy N1. That said, the absence of conflict with Policy N1 would not outweigh or prevent the conflict of the proposal identified in respect of JCS Policies S1, S4 and R1. Consequently, based on the conflict of the proposal with Policies S1, S4 and R1, the proposal would not accord with the vision, objectives or development strategy of the JCS.
28. In reaching this view, I note that the appeal proposal at Welford Road (which adjoined the NRDA) was considered as development for the NRDA. However, unlike the proposal before me, the Inspector at the Welford Road appeal concluded that the site was both physically and visually separate from the wider open landscape, with reference to a SUE to the immediate east and a bypass proposed for construction to the north and west of the site. Such site specific circumstances do not apply to the proposal before me. Furthermore, with reference to paragraph 24 of the appeal decision, it is clear that the Inspector took into account the site's location (adjoining the NRDA, existing housing, a SUE and a nearby proposed bypass) as a factor in determining whether the proposal comprised development for the NRDA. In this context, my conclusion that the proposal would be viewed as being located within the countryside strengthens my view that the proposal would not comprise development for the NRDA.
29. In the light of paragraph 215 of the Framework, the parties disagree on the weight to be afforded to saved policies HS24 and GN1 of the LP. The appellants contend that LP policies HS24 and GN1 are inconsistent with the Framework, namely the requirement to significantly boost the supply of housing. To support its case, the appellants refer to appeal decisions<sup>6</sup> wherein limited weight was afforded to LP policies HS24 and GN1, on the basis they were adopted prior to the Framework and were not considered generally consistent with the overall presumption in favour of sustainable development through planned and positive growth.
30. The Council refer to a more recent appeal decision<sup>7</sup> involving residential development wherein the Inspector considered that the guiding principles of Policy GN1 closely reflect the Framework. The Inspector noted that whilst Policy GN1 seeks to restrain development in the open countryside, it does not impose an outright ban on development in the countryside, and as such has a high degree of consistency with the Framework. I acknowledge that the LP does not include housing allocations beyond 2006 and that the LP builds on the principles<sup>8</sup> of the 1989 County Structure Plan.

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<sup>6</sup> APP/Y2810/W/15/3011449, Land off Welford Road, Northampton and APP/Y2810/A/14/2225722, Land off Boughton Road, Moulton, Northampton.

<sup>7</sup> APP/Y2810/W/15/3049288, Land off Woodford Road, Byfield.

<sup>8</sup> Paragraph 2.1 of the LP.

31. That said, saved Policy GN1, with particular reference to criterion D, does not impose a blanket protection of the countryside and as such does not conflict with the requirement to significantly boost the supply of housing, the presumption in favour of sustainable development through planned and positive growth anticipated by the Framework. Furthermore, the approach of Policy HS24 to restrain development in the countryside and Policy GN2 are both consistent with paragraph 17 bullet point 5 of the Framework which recognises the intrinsic character and beauty of the countryside. On this basis I afford full weight to saved LP policies GN1 and HS24.
32. In the context of Section 38 (5) of the Town Planning and Compulsory Purchase Act 2004 (TCPA), for similar reasons given above, I cannot agree that LP Policy GN1 is in conflict with JCS policies SA and S1. In my view, policy GN1 criterion D would not conflict with the approach to development set out at JCS Policy S1 criterion A. In addition, policy HS24 would reflect the restrained approach to development in the countryside set by JCS Policy S1 criterion D and Policy R1. Consequently, based on the harm identified in respect of the first main issue, the proposal would be contrary to Policy GN1 criteria B and F and thus Policy GN1 when read as a whole. In addition the proposal would not meet any of the exceptions listed within Policy HS24.
33. Therefore the proposal would not accord with the development strategy for the area. Consequently, the proposal would be contrary to JCS policies S1, S4, and R1, and saved LP Policies GN1 and HS24 which are of most relevant to this issue. The requirements of these policies are set out above.

#### *Affordable Housing*

34. Of relevance, JCS Policy H2 states that on site affordable housing should be provided at a proportion of 40 % for development comprising more than 5 homes (when located in rural areas) and at 35% for development of 15 dwellings or more (when located in the NRDA). Based on my findings above, the proposal would not comprise development for the NRDA and would be located within a rural area. Consequently the proposal would be required to ensure that 40% of the proposed dwellings comprise affordable housing. As the submitted UU includes a clause to deliver 40% affordable housing, the proposal would meet the requirements of JCS Policy H2.
35. In reaching this view, I have taken into account the Council's adopted Housing Allocations Scheme document. However, based on what I heard during the hearing, this document merely sets out the mechanism for affordable housing delivery based on the requirements of Policy H2. Consequently this document is not determinative in establishing which affordable housing requirement applies to the proposal.
36. Therefore the proposal would make adequate provision for affordable housing and thus accord with JCS Policy H2, the requirements of which are set out above.

#### *Northern Orbital Road*

37. Regulation 122 of The Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework set out that planning obligations should only be sought where they meet the relevant tests, namely that the contribution is; necessary to make the development acceptable in planning terms; is directly

related to the development; and is fairly and reasonably related in scale and kind to the development.

38. The Council explained at the hearing that it does not dispute the output of the submitted Transport Assessment, which I note concludes that the proposal would provide a better than nil detriment level of mitigation. In addition, based on what I heard during the hearing, the NOR project remains at an early stage with a detailed final route and sources of funding yet to be determined.
39. I understand that one option for the NOR involves a spur road that would pass through the northern end of the site. However, at the hearing the Council raised no concern on the basis that the proposal would prejudice the delivery of the NOR. Moreover no substantive evidence is before me to demonstrate that a contribution to the NOR is necessary to make the proposal acceptable in planning terms.
40. Therefore the proposal should not make provision for the NOR. Consequently the proposal would accord with JCS policies INF1 and INF 2 which seek to ensure that development provides the necessary on and off-site infrastructure required to support it and mitigate its impact.

#### *Planning Obligation*

41. The submitted UU would secure on-site affordable housing, a contribution towards the NOR, public open space, a sustainable urban drainage scheme, and financial contributions towards household transport packs, healthcare, library, and primary school provision. Based on my reasoning above, the contribution sought towards the NOR would not meet the statutory tests.
42. The need for a contribution towards healthcare provision is based on comments received from NHS England. However, no indication has been given of how the money sought for healthcare provision would be spent, nor has a substantive case been put forward to outline the resultant planning harm that would arise in the absence of this contribution. Consequently, on the basis of the evidence before me, it has not been demonstrated that this obligation meets the statutory tests.
43. Aside from the contributions sought in relation to health care and the NOR, based on the submitted evidence, including the Council's Infrastructure and Developer Contributions Supplementary Planning Document, I am satisfied that the remaining obligations sought meet the relevant statutory tests. The weight afforded to the obligations is considered further in the planning balance below.

#### *Overall Balance*

44. Section 38 (6) of the TCPA states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. Based on my reasoning above the proposal would conflict with JCS policies S1, S4, S10 and R1, and saved LP Policies EN10, GN1 and HS24.
45. A number of material considerations are cited in support of the proposal that, in the light of the three dimensions<sup>9</sup> of sustainable development defined by the

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<sup>9</sup> Economic, social and environmental.



- Framework, the appellants consider determinatively weigh in favour of the proposal.
46. *Economic benefits.* The appellants anticipate that the proposal would generate £7.1 million construction spend; support 61 full time construction jobs and 66 indirect jobs in associated industries. In addition, future occupants are anticipated to generate £2.4 million in gross expenditure, support local services and business, and increase Council tax revenue. The proposal would also generate New Homes Bonus revenue. The highway improvements associated with the proposal would also bring some benefit to users of the local highway network. The noted economic benefits attract some weight in favour of the appeal.
47. *Social benefits.* The proposal would provide market and affordable housing which, with reference to a cited Secretary of State decision<sup>10</sup>, is a significant benefit irrespective of whether the Council can demonstrate a five year supply of housing land. In this respect, with reference to my findings above, I also note that the affordable housing element of the proposal would accord with JCS Policy H2. In addition, the appellants would accept outline permission with reduced timescales to ensure the timely delivery of the market and affordable housing. I also note that the Council cannot demonstrate a five year supply of housing land<sup>11</sup> for the adjacent NRDA. The public open space would also be of some benefit to residents in the wider area.
48. These social benefits attract significant weight in favour of the appeal. However, as the financial contributions sought towards library, and primary school education provision and household transport packs are for mitigation purposes, they can only be considered as neutral factors in the planning balance.
49. *Environmental benefits.* The proposal would provide extensive planting, a public open space and a water attenuation basin, features which would improve biodiversity at the site. In addition, the Council acknowledges<sup>12</sup> that future occupants would have access to services and facilities by means other than the private car. Whilst the Council considers that these benefits are not unique to the site, they nonetheless attract some weight in favour of the appeal.
50. Combined, the benefits identified above attract significant weight in favour of the appeal. However, the Framework states that the three dimensions of sustainable development should be sought simultaneously through the planning system. Based on the harm identified in relation to the first main issue, the proposal would be deficient in respect of the environmental dimension. Consequently the proposal would not represent sustainable development as defined and sought by the Framework.
51. Furthermore, the primacy of the development plan is established in Section 38 (6) of the TCPA and at paragraph 2 of the Framework. In addition, paragraph 12 of the Framework states that proposed development that conflicts with an up-to-date Local Plan should be refused unless material considerations indicate otherwise. In this case, the material considerations before me do not outweigh

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<sup>10</sup> APP/C3105/A/14/2226552. Land at Sibford Road, Hook Norton.

<sup>11</sup> The Council's Officer's Report identified that the NRDA has a housing land supply of 3.10 years as of 1 April 2016.

<sup>12</sup> Within the SoCG.

the considerable weight afforded to the conflict of the proposal with the development plan when taken as a whole.

52. Moreover, even if I were to conclude that the site is development for the NRDA where there is a shortfall in five-year housing land supply and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission identified in relation to character and appearance and the conflict with the development strategy of the area would significantly and demonstrably outweigh the benefits identified above.

**Conclusion**

53. For the reasons given above, and having taken all matters raised into account, I conclude the appeal should be dismissed.

*B Bowker*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Stuart Carvel	Gladman Developments
Nina Pindham	Counsel
Tim Poupard	Gladman Developments
David Stoddart	Prime TP

### **FOR THE LOCAL PLANNING AUTHORITY:**

Tom James	Principal Policy Officer
Richard Wood	Local Strategy Manager
Steve Ellis	Major Projects Officer
Matt Hammon	Northamptonshire County Council, Project Manager NOR

### **INTERESTED PERSONS:**

John Clarke	Boughton Parish Council
Harpal Singh	Local Resident
Joanne Christopher	Daventry District Council

### **DOCUMENTS SUBMITTED AT THE HEARING:**

1. List of addresses that were sent the appeal notification letter.
2. Daventry District Local Plan Proposals Map, Inset Maps, Sheet 2.
3. The case of Tesco Stores Ltd v Dundee City Council [2012] UKSC 13.
4. The case of North Wiltshire DC v SSE & Clover [1992] 65 P&CR 137.
5. Appeal decision Ref APP/B2002/W/17/3178259.
6. Daventry District Housing Allocation Scheme, adopted July 2017.
7. Settlements and Countryside Local Plan Part 2 (Emerging Draft Consultation).

### **DOCUMENTS SUBMITTED AFTER THE HEARING:**

1. A signed, dated and completed Planning Obligation.