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Local Government

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Our Ref: APP/Y2810/W/14/3000977  
Your Ref: EMS.2196

Date: 27 August 2015

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY MILLER HOMES AT LAND OFF ELIZABETH ROAD/VICTORIA  
CLOSE, WEST HADDON, NORTHAMPTONSHIRE  
APPLICATION REF: DA/2013/0480**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Isobel McCretton, BA (Hons) MRPTI, who held a public local inquiry which opened on 10 March 2015 into your client's appeal against the decision of Daventry District Council to refuse outline planning permission for residential development of up to 80 dwellings, creation of new access and associated open space, landscaping and drainage infrastructure at Land off Elizabeth Road/Victoria Road, West Haddon, Northamptonshire in accordance with application number DA/2013/0480, dated 27 June 2013.
2. On 6 March 2015, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason for this direction is that the appeal involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's analysis

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and conclusions and agrees with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. Since the original application for planning permission was submitted, the scope of the application was amended as set out in IR46 and in paragraph 2.3 of your clients Proof of Evidence. The Secretary of State observes that the relevant drawing for the deliberation of this appeal which is listed at condition 4 is referenced EMS.2196-04-1D. The Secretary of State has determined the appeal on this basis and is satisfied that no prejudice has been caused to any party by this course of action.

### **Matters arising after the close of the inquiry**

5. The Secretary of State is in receipt of post inquiry representations which were received by the Planning Inspectorate too late to be considered by the Inspector from: Eamon McDowell, Area Planning Office at Daventry District Council dated 25 June 2015; Joanne Althorpe, Pegasus Group dated 2 July 2015; Katherine Daniels, Senior Planning Officer at Daventry District Council dated 2 July 2015; Tom James, Principal Planning Officer at Daventry District Council dated 7 July 2015; Alan Stephens dated 8 June and 27 July 2015 and a letter dated 8 July 2015 from Councillor Pat Baldwin, West Haddon Parish Council. The Secretary of State has also received a large amount of representations, since the close of the inquiry, in the form of standard letters. The Secretary of State has given careful consideration to the representations identified in this paragraph, but as they do not raise new matters that would affect his decision he has not considered it necessary to circulate them to parties prior to making his decision. Copies of the representations are not attached but will be provided on request from either of the addresses at the foot of the first page of this letter.

### **Policy considerations**

6. In deciding the appeal, 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. In this case, the development plan comprises the West Northamptonshire Joint Core Strategy adopted in 2014 (WNJCS) and the saved policies of the Daventry District Local Plan 1997 (DDLPP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR18-36.
8. The Secretary of State notes that the main parties in this appeal agreed that the emerging Daventry Settlements and Countryside Local Plan was at too early a state to attach much weight (IR37). As this document remains in the early stages of preparation and is therefore subject to change, it has been afforded little weight in this decision.

9. The Secretary of State has also taken account of the emerging West Haddon Neighbourhood Development Plan (WHNDP), including the points made, and the policies referred to by the Inspector at IR38. The Secretary of State notes the view of the main parties that the WHNDP attracts little weight at this stage (IR281). He observes that, whilst the WHNDP has been submitted for examination, the unresolved objections to it referred to by the Inspector at IR43 and IR282, limit the weight he attaches to it.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the planning practice guidance and the Community Infrastructure Levy (CIL) Regulations.

### **Main issues**

11. The Secretary of State agrees that the main material considerations in this case are those set out by the Inspector at IR228.

### **Character and Appearance and Public Rights of Way**

12. The Secretary of State has given very careful consideration to the Inspector's remarks at IR229-240. For the reasons the Inspector has given in IR233, he too considers that the Special Landscape Area (SLA) designation is outdated, but that it is clear that this is a valued landscape. For the reasons set out in IR237-239, the Secretary of State agrees with the Inspector that the appearance of the proposed development along the ridgeline when seen from the north would have a moderate adverse effect (IR239). Having had regard to the Inspector's remarks at IR240, he further agrees that the appeal scheme would exacerbate the extension of development from the hilltop village down onto the hill slopes.
13. The Secretary for State shares the Inspector's view set out at IR241 that, despite the existing houses to the east, there is a distinct impression of entering the countryside directly from the heart of the village at the southern end of the site and that this emphasises the rural setting of the village. Like her (IR241), he is of the opinion that, when viewed from the south, the appeal scheme would have a significant adverse visual impact.
14. The Secretary of State has given very careful consideration to the Inspector's analysis at IR246 – 249. For the reasons given by the Inspector in IR248, the Secretary of State also considers that the Public Right of Way functions as a much used local path for walks around the village and that, at present, there is a sense of being in the countryside. Like the Inspector (IR248), he also considers that the 'experience' of the footpath would be significantly diminished by the proposed development. The Secretary of State is also concerned that, for the reasons given by the Inspector in IR249, the view from the footpath towards the open countryside from around the ridge, about two-thirds of the way up the site would be severely curtailed by the proposed dwellings.
15. The Secretary of State agrees with the conclusions on these matters set out by the Inspector at IR250. Like her, the Secretary of State recognises that this site is important to the form and setting of West Haddon both in terms of its position as a hilltop village and its rural setting (IR250). He also concurs with her that the

proposed development would have a detrimental effect on the form and setting of the village contrary to DDLP policy HS11(C), that it would be unacceptable development in open countryside contrary to policies GN1 and HS24 (B), that it would detract from the SLA contrary to policy EN1 and that it would be detrimental to the character and appearance of the landscape contrary to WNJCS policy BN5 (IR250).

### **Location and Provision of Housing**

16. Having had regard to the Inspector's comments at IR251-253, the Secretary of State concurs with her view that the proposal, which is development in the countryside, does not accord with policies HS11, HS21 and HS24 of the DDLP (IR254). Like the Inspector (IR255), the Secretary of State has taken account of paragraph 49 of the Framework which states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable sites.
17. For the reasons given in IR256-269, the Secretary of State agrees with the Inspector that the Council has not under-delivered with regard to the trajectory set in the WNJCS and that a buffer of 5% is appropriate in this case (IR270). Having also taken account of the Inspector's comments at IR270, the Secretary of State shares her view that, on the basis of the evidence presented when the inquiry resumed, the Council is able to demonstrate a 5 year supply (+5%) of deliverable housing sites. Accordingly, like the Inspector (IR271), he does not consider that DDLP policies HS11, HS21 and HS24 are out-of-date in terms of paragraph 49 of the Framework. He also agrees with the Inspector (IR271) that, even so, there is no cap on development and the scheme must be considered in the context of the presumption in favour of sustainable development which runs throughout the Framework.

### **Sustainable Development**

18. For the reasons given by the Inspector at IR272-278, the Secretary of State agrees with the Inspector's overall conclusion that the development would not be sustainable in environmental terms and that this significantly and demonstrably outweighs the benefits of the proposal (IR278). He further agrees with her that, having had regard to the principles of sustainable development and national and development plan policies for the delivery of housing and protection of the countryside, this is not an appropriate site for residential development (IR279).

### **Other Matters**

#### West Haddon Neighbourhood Development Plan

19. With regard to the WHNDP, for the reasons given by the Inspector at IR280-285, the Secretary of State shares the Inspector's overall view that permitting the appeal proposal would undermine the WHNDP being put forward by the local community and that this would not accord with the thrust of paragraphs 183-185 of the Framework which aims to give local communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need (IR285).

## Biodiversity

20. Having had regard to the Inspector's remarks, the Secretary of State shares her view that there would be a net biodiversity gain as a result of the proposed development (IR288).

## Conditions and Obligations

21. The Secretary of State has considered the Inspector's comments at IR225 and IR289-296 on planning conditions and the schedule of conditions she recommends in the Annex of her report. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 in the Framework. However, the Secretary of State does not consider that the conditions would overcome his reasons for dismissing the appeal.

22. The Secretary of State has also considered the planning obligation dated 14 April 2015, the Inspector's remarks at IR9 and IR226-227 and national policy as set out in paragraphs 203-205 the Framework. For the reasons given by the Inspector at IR9 and IR227, he is satisfied that the obligations meet the tests set out at paragraph 204 of the Framework and comply with the CIL Regulations. Nevertheless, for the reasons set out in this decision letter, the Secretary of State does not consider that these obligations are sufficient to overcome his reasons for dismissing the appeal.

## Overall Conclusions

23. The Secretary of State has given very careful consideration to the Inspector's conclusions at IR297-301. He has concluded (paragraph 17 above) that the Council is able to demonstrate a 5 year supply of deliverable housing sites and that DDLP policies HS11, HS21 and HS24 are not out of date. He has also found that the appeal scheme would have a detrimental effect on the form and setting of West Haddon in terms of its position as a hilltop village and its rural setting and that it would be contrary to policies HS11, GN1, HS24 and EN1 (paragraph 15 above). The Secretary of State also agrees with the Inspector that the scheme would detract from the recreational value of the local footpath network (IR298). Bearing all these matters in mind, he shares the Inspector's view (IR298) that the scheme would not be sustainable development in environmental terms. He has also concluded that the scheme would undermine the WHNDP (paragraph 19 above).

24. Like the Inspector (IR299), the Secretary of State recognises that there are a number of economic and social benefits of the scheme, including the provision of 40% of the dwellings as affordable housing; the creation of construction jobs and generation of additional economic activity, payment of the New Homes Bonus to the Council and a net gain for biodiversity.

25. Like the Inspector (IR301), the Secretary of State takes the view that the benefits of the scheme are significantly and demonstrably outweighed by its adverse effects. He also concludes that the appeal is not in accordance with the development plan and that the material considerations which lend support to the scheme are not of sufficient weight to determine the appeal other than in accordance with the development plan.

### **Formal Decision**

26. 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 planning permission for residential development of up to 80 dwellings, creation of new access and associated open space, landscaping and drainage infrastructure at land off Elizabeth Road/Victoria Road, West Haddon, Northamptonshire in accordance with application number DA/2013/0480, dated 26 June 2013.

### **Right to challenge the decision**

27. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

28. A copy of this letter has been sent to Daventry District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

***Christine Symes***

Authorised by Secretary of State to sign in that behalf

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# **Report to the Secretary of State for Communities and Local Government**

**by Isobel McCretton BA(Hons) MRTPI**

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

**Date 8 July 2015**

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Town and Country Planning Act 1990 (As Amended)

Appeal by Miller Homes

Daventry District Council

Inquiry opened on 10 March 2015

Land of Elizabeth Road/Victoria Close, West Haddon, Northamptonshire

File Ref: APP/Y2810/W/14/3000977

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**File Ref: APP/Y2810/W/14/3000977**

**Land of Elizabeth Road/Victoria Close, West Haddon, Northamptonshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Miller Homes against the decision of Daventry District Council.
- The application Ref. DA/2013/0480, dated 26 June 2013, was refused by notice dated 22 September 2014.
- The development proposed is described as residential development of up to 80 dwellings, creation of new access and associated open space, landscaping and drainage infrastructure.

**Summary of Recommendation: The appeal be dismissed.**

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**Procedural Matters**

1. The Inquiry sat for 6 days: 10-12 March, 14-15 April and 17 April 2015. An accompanied visit to the site and footpaths around West Haddon took place on 15 April 2015.
2. The Secretary of State directed by letter dated 6 March 2016 that he shall determine this appeal. The reason for the direction is that the appeal involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made.
3. The application was in outline with access to be considered at this stage. All other matters (i.e. appearance, landscaping, layout and scale) are reserved. However an indicative layout has been submitted showing a scheme for 80 dwellings to illustrate how the site could be developed (drawing EMS.2196\_04-1C).
4. Prior to the opening of the Inquiry, it was suggested by a local resident that, in view of the 'Certificate B' details included in the planning application, notice<sup>1</sup> had not been served on all people with an interest in the land so that the application may have been invalid. At the Inquiry the appellants confirmed (para 108) that all interested parties had been correctly notified. Moreover, the parties who it was alleged has not been notified were, in fact, among the signatories of the completed S106 Agreement. There is therefore no reason to suppose that the application/appeal is invalid in this regard.
5. At the Inquiry the appellants submitted a completed S106 agreement (Doc 15). Details of the main provisions of the Agreement are set out below (para 226).
6. When the Inquiry opened on 10 March 2015 it was common ground between the main parties that the Council could not demonstrate a 5 year supply of deliverable housing sites in the terms required by the National Planning Policy

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<sup>1</sup> Required by Article 11 of the Town and Country Planning (Development Management Procedure) (England) Order 2010

Framework (the Framework). On 2 April 2015, during the adjournment of the Inquiry, the Council published the 'Daventry District Housing Land Availability as at 1 April 2015' (DOC 12) which concluded that the Council had a 5.94 years supply of available sites. The implications of this were included in a Supplementary Proofs of Evidence from Mr Wood for the Council (DOC 7) and Mr Lees for the appellant (DOC 2) and were discussed when the Inquiry resumed on 14 April.

7. The second round of consultation was taking place on the West Haddon Neighbourhood Development Plan (WHNDP) at the time that the Inquiry opened in March. When the Inquiry resumed in April the consultation period had ended and the WHNDP had been submitted to the Council for an independent examination to be arranged. The Council has confirmed that an independent examiner has been appointed, though the timescale for the examination and report is not yet known. The stage that the WHNDP has reached, and thus the weight which it can be accorded, may therefore have changed by the time the Secretary of State determines this appeal.
8. During the adjournment the Government published the 2012-based Household Projections for England 2012 – 2037. The parties were invited to comment at the Inquiry on these up to date statistics as they relate to this appeal and I have taken their responses into account in this report.
9. On 6 April 2015 the transitional period under Community Infrastructure Levy (CIL) Regulation 123(3) (as amended), after which s106 planning obligations designed to collect pooled contributions may not lawfully be used to fund infrastructure which could be funded from CIL, ended nationally. After this time only very limited pooled contributions in respect of up to five separate planning obligations that relate to planning permissions granted for development within the area of the charging authority is now permitted towards infrastructure projects which could be funded from CIL. The main parties confirmed that the provisions of the completed s106 Agreement accords with this restriction (para 112).
10. The planning application was recommended for approval by Officers subject to conditions and the completion of a S106 Agreement (DOC 10, APP1). However Members refused the application for the following reason:

*The proposal will result in development beyond the defined confines of the village which would affect open land of particular significance to the form and character of the village contrary to the provision of saved policies HS11(B) and (C) and HS21 of the Daventry District Local Plan and resulting in residential development in the open countryside contrary to the provisions of saved policy HS24 and GN1 (General) (F) of the Local Plan.*

*Furthermore the application site forms part of a designated Special Landscape Area as defined under saved policy EN1 of the Daventry District Local Plan. It is considered that the proposal would conflict with the provisions of saved policy EN1(D) in that whilst close to the settlement of West Haddon it would result in a visually intrusive form of development which would adversely affect the local landscape. The development would diminish the recreational value of the rural section of the rights of way that run through the site, and adjacent to the site, particularly (but not solely) footpaths FK5, FK7 and FK8.*

*The Council has had regard to the Framework, and has applied it in the context of a lack of five year supply, and considers that the proposal would not result in a sustainable form of development as described in paragraphs 18-219 of the Framework.*

## **The Site and Surroundings**

11. The appeal site comprises around 3.5ha of managed and grazed grassland located on an elevated ridge on the north western side of West Haddon. It is in the countryside, outside but adjoining the defined settlement boundary for West Haddon as designated in the Daventry District Local Plan 1997 (DDLPL), and within a designated Special Landscape Area (SLA).
12. To the north of the site are fields beyond which is the A428 West Haddon by-pass. To the east is the built up area of West Haddon with residential properties in Morrison Park Road, Church Close and Victoria Close. The site is bounded by fields to the north and west. To the south are a field and a small allotment area and the residential curtilage of Townley Barn.
13. The land rises from south to north, with a high point roughly two thirds of the way up the site, before falling away towards the by-pass and beyond. At this highest point there is a small enclosure formed by post and wire fencing which contains two large steel water tanks. The enclosure is generally unmanaged and is overgrown by scrub.
14. A public footpath (FK7), which is part of the Jurassic Way, enters West Haddon from the west into West End at a point near to the school/village hall, runs through the village and then northwards past the church. It crosses the southern end of the appeal site diagonally from east to west, and then continues northwards long the hedge line which demarcates the western boundary of the site. Beyond the site it goes across a field, through a tunnel under the bypass and then continues through the fields to Winwick and beyond. Another footpath (FK8) joins the Jurassic Way just beyond the north-west corner of the site and runs along the northern boundary and the edge of the village to the rear of the houses in Morrison Park Road. It links to another footpath which leads north eastwards out into the countryside beyond the by-pass before it emerges onto the B4036 Guilsborough Road which leads from the by-pass into the centre of the village. A third footpath (FK5) runs up Crown Lane and diagonally across the southern end of the appeal site on the same line as the Jurassic Way. At about the point that it meets the western boundary and the Jurassic Way continues northwards, FK5 then continues north-westwards through the adjoining field and into the countryside.
15. It is to be noted that the appeal site, although known locally as the Old Rec, is not a public open space. Other than along the route of the designated PRoW, there is no public right of access. It was the subject of an application in 2012 by the Parish Council for registration as a New Town or Village Green. This application was rejected by Northamptonshire County Council in June 2104 (DOC 1, APP 4 & 5).

## **Planning Policy**

16. The development plan includes the West Northamptonshire Joint Core Strategy (2014) (WNJCS) and the Daventry District Local Plan (1997) (DDLPL).

### ***West Northamptonshire Joint Core Strategy (WNJCS)***

17. The WNJCS was adopted by the Joint Planning Unit in December 2014. This was after the determination of the planning application, but the policies are now relevant to the determination of this appeal. This is the Local Plan Part 1 which sets the strategic policies for the growth of Daventry, Northampton and South Northamptonshire to 2029. The WNJCS makes provision in both Daventry and South Northamptonshire for meeting the needs of Northampton. This is defined as the Northampton Related Development Area (NRDA). The Statement of Common Ground (SOCG) states that the following policies of the WNJCS are relevant to the determination of this appeal: SA, S1, S3, S10, H1, H2, BN5, INF1 and R1 (DOC 1, APP 25/DOC 10, APP 4).
18. Policy SA reflects the presumption in favour of sustainable development set out in the National Planning Policy Framework (the Framework).
19. Policy S1 gives the distribution of development. Development will be concentrated primarily in and adjoining the principal urban area of Northampton. New development in the rural area will be limited with the emphasis being on enhancing and maintaining the distinctive character and vitality of rural communities; shortening journeys and facilitating access to jobs and services; strengthening rural enterprise and linkages between settlements and their hinterlands; and respecting the quality of tranquillity.
20. Policy S3 sets out the scale and distribution of housing development for 2011-2029. Daventry's requirement is to provide about 12,730 dwellings. This is split between Daventry Town (about 4620) and Daventry Rural (about 2360) and the NRDA (about 5750).
21. Policy S10 sets out the sustainable development principles with which development should accord including the protection, conservation and enhancement of the natural and built environment and heritage assets and their setting.
22. Policy H1 seeks a mix of house types, sizes and tenure across the plan area. It also requires proposals to make the most efficient use of land, having regard to various issues including the location and setting of the site; the existing character and density of the area; accessibility to services and facilities; proximity to public transport routes; and the implications of density for affordability and viability.
23. Policy H2 replaces policies H25-27 of the Local Plan in relation to the provision of affordable housing. The policy requires that in the rural areas, 40% of dwellings in new developments of 5 units or more are to be affordable, subject to issues of viability. The tenure mix should reflect local housing need and viability on individual sites.

24. Policy INF1 sets out the approach to infrastructure delivery. It states that new development will be supported by, and provide good access to, infrastructure, including physical, green and social elements.
25. Policy R1 is the spatial strategy for the rural areas. Development will be guided by a rural settlement hierarchy with the specific villages in each level of the hierarchy<sup>2</sup> with the distribution of the rural housing requirement being the subject of the Part 2 Local Plans. Policy R1 sets a number of criteria for new housing development. Schemes are required to provide a mix of dwelling types and sizes to meet the needs of all sectors of the community, including the elderly and vulnerable; not affect open land which is particular significance to the form and character of the village; preserve and enhance historic buildings and areas of historic or environmental importance including those identified in conservation area appraisals and village design statements; protect the amenity of existing residents; be of appropriate scale to the existing settlement; promote sustainable development that equally addresses economic, social and environmental issues; and be within the existing confines of the village.
26. Policy BN5 states that designated and non-designated heritage assets and their setting and landscapes will be conserved and enhanced in recognition of their individual and cumulative significance and contribution to West Northamptonshire's local distinctiveness and sense of place.
27. In addition, Policy C3 seeks to strengthen local and neighbourhood connections, particularly through improving strategic and local bus networks. Policy RC2 requires new residential development to make provision for community facilities and public open space and policy BN2 supports development that will deliver a net biodiversity gain.

### ***Daventry District Local Plan (DDL P)***

28. The DDL P was adopted in 1997 and covers the period 1991-2006. Various policies were saved by Direction dated 21 September 2007 (DOC 1, APP 12). With regard to the DDL P, the SOCG identifies the following saved policies as being relevant to the determination of the appeal: GN1, GN2, EN1, EN26, HS11, HS21, HS24, and RC1 (DOC 1, APP 14/DOC 10, APP 3).
29. Policy GN1 seeks to guide development proposals to accord with the broad strategy of the Northamptonshire Structure Plan. In particular, it seeks to protect and enhance the environment, severely restrain development in the open countryside, concentrate development in or closely associated with the large and small towns and limit development in villages.
30. Policy GN2 provides general guidance for all new development and requires proposals to be in keeping with the locality and not detract from local amenity. Proposals should not adversely affect an SLA.
31. Policy EN1 relates to SLAs. It states that planning permission will normally be granted for development providing it comprises agricultural, forestry, recreation

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<sup>2</sup> i.e. primary service villages, secondary service villages, other villages and small settlements/hamlets.

or tourism development; it relates to settlements within these areas; it relates to the re-use or adaptation of rural buildings providing their finished form, bulk and general design are in keeping with the surroundings; it does not adversely affect the character of the local landscape.

32. Policy EN26 relates to landscaping and states that where planning permission is granted, developers will be required to implement landscaping schemes.
33. Policy HS11 permits residential development in the defined Limited Development Villages (West Haddon, Crick, Brixworth and Long Buckby). These are considered to be sustainable locations for growth beyond the town of Daventry to meet Daventry's housing needs. Planning permission for residential development will be granted providing it meets a number of criteria including being small scale, within the existing confines of the village as defined on the proposal map, and does not affect open land which is of particular significance to the form and character of the village.
34. Policy HS21 specifically relates to West Haddon and states that planning permission will not normally be granted on sites outside the existing confines of the village other than on sites specifically identified in the Local Plan.
35. Policy HS24 resists residential development in the open countryside other than that which is essential for the purposes of agriculture or forestry, or the replacement of an existing dwelling.
36. Policy RC1 concerns the provision of open space in new developments. Provision of informal open space should usually be made at a standard of at least 10% of the development area or 0.2ha/50 houses, whichever is the greater.

### ***Daventry Settlements and Countryside Local Plan (DSCLP)***

37. This is the Part 2 Local Plan which follows on from the WNJCS. It is expected to define the settlement hierarchy in accordance with WNJCS policy R1 and to allocate the housing provision for Daventry. The Council produced and consulted on an Issues Paper in 2012, but progress on this plan has been slow. The main parties agree that the DSCLP is still at too early a state to attach much weight.

### ***The West Haddon Neighbourhood Development Plan (WHNDP/NDP)***

38. The Neighbourhood Development Plan area was designated in February 2014. A consultation exercise was carried out by the Neighbourhood Plan Steering Group in May 2014 and a pre-submission draft NDP was published for consultation in December 2014. The draft NDP was submitted to DDC and was subject to a further consultation exercise between 19 February and 2 April 2015. It has been submitted for independent examination and an examiner has been appointed.
39. Among the key aspects of the WHNP are a desire to take account of the wishes of local people; a concern with over-development; to retain the size and character of a traditional Northamptonshire hilltop village; to protect green spaces; to provide a range of housing to meet local needs; provide new public open space and play areas.

40. Emerging policy WH1 of the WHNDP requires that (a) the scale and form of the existing settlement should be maintained; (b) development on hill slopes and prominent sites on the edge of the village should be avoided to protect the profiles and skyline of the traditional hilltop village. In particular, the increasing suburbanisation between the A428 and the settlement boundary should be avoided; (c) protection of views into and out of the village as residents feel strongly that these are of particular significance.
41. Policy WH10 seeks to ensure that the housing needs of West Haddon are met up to 2029 without compromising the character of the village or leading to development that is of a scale that is inappropriate to local services and infrastructure, growth of 7% (i.e. 44 dwellings) of the existing housing stock will be supported.
42. The appeal site is proposed to be allocated as a Local Green Space (G1). The WHNDP states that the land is 'demonstrably special' as it is entirely within the area designated as a SLA and includes local and long distance public footpaths providing extensive views to the north over the SLA.
43. There are unresolved objections to the WHNDP which will be considered by an independent examiner. This includes an objection from the appellants (DOC 21).

### **Planning History**

44. There is no relevant planning history relating to this site.
45. However, there are 2 recent appeal decisions for development in West Haddon which are a material consideration in the determination of this appeal. An outline application for the erection of up to 80 dwellings on land off Guilsborough Road was dismissed on appeal on 18 August 2014 (DOC 1, APP 9) (the Jackson Site). A scheme for up to 100 dwellings on land between Guilsborough Road, Northampton Road and the A428 by-pass was allowed on 24 December 2014 (DOC 1, APP 10) (the Davidsons' Site).

### **The Proposals**

46. The application is in outline with all matters reserved other than access. An illustrative layout (drawing no. EMS.2196\_04\_1A) accompanied the application to demonstrate how the site could be developed. This drawing showed two surface water balancing ponds in the southern and western parts of the site. After discussions with the Council's landscape officer a further illustrative layout was produced, with the inclusion of a slightly wider landscape strip along the northern boundary. Also, after further work, it was found that the site could be drained by infiltration and so the balancing pond areas were subsequently replaced by open space (drawing no. EMS.2196\_04\_1C).
47. It is proposed to develop the site with up to 80 dwellings, open space and landscaping. The net density would be approximately 36 dwellings per hectare and 40% of the units would be affordable housing.

48. Access would be taken from Victoria Close and the junction between Victoria Close and Elizabeth Road formalised with a new priority T junction.
49. Formal and informal amenity space would be provided and existing perimeter vegetation retained and reinforced. A Biodiversity Management Plan (BMP) (DOC 27D) would provide for the translocation of neutral grassland as well as additional enhancements to benefit local wildlife, including bat and bird boxes and tree and shrub planting.
50. Financial contributions to services and facilities to meet the additional needs arising from the development are to be delivered through the s106 Agreement and are summarized in paragraph 226.

#### **Other Agreed Facts (SOCG) (DOC 11)**

51. Drawing no. NTT/2097/001 P4 submitted to the Council in November 2014 forms the access proposals for the site. The drawing has been confirmed by the Highways Authority and the local planning authority as being acceptable for these purposes: a suitable vehicular access is provided as part of the appeal proposals.
52. The proposed development is situated within walking distance of various services and facilities in West Haddon, including the primary school, doctor and shops.
53. There are limited employment opportunities in West Haddon. Further employment opportunities, notably at the Daventry International Rail Freight Terminal (DIRFT), are accessible by public transport. The 96 bus service has recently been improved to take account of DIRFT shift patterns.
54. While West Haddon Primary School is currently at capacity, Northamptonshire County Council has indicated that it is possible for the school to be extended.
55. Policy S3 of the WNJCS sets out a figure of 'about 2360 dwellings' to be built in the Daventry Rural area between 2011 and 2029.
56. Given the conclusions of the JCS Inspector's Report, the Council's housing land supply should be assessed against the annual requirements of the JCS housing trajectory rather than the annualised requirement of 388 dwellings per annum.
57. The delivery of 40% affordable housing is a benefit of the scheme.
58. The site was the subject of the Town and Village Green Application but this was rejected by Northamptonshire County Council. This is not a material planning consideration.

#### **THE CASE FOR MILLER HOMES**



59. The appellant seeks planning permission for the erection of up to 80 dwellings together with public open space, landscaping, drainage, infrastructure and access on land off Elizabeth Road/Victoria Close, West Haddon.
60. The planning application was presented to the Daventry District Council Planning Committee on the 17<sup>th</sup> September 2014 with a recommendation to grant planning permission, subject to conditions and a Section 106 obligation (DOC 1 APP 1). However, the Planning Committee chose to refuse the application and the decision notice cites a single narrative reason for refusal.
61. The appellant's submissions inevitably rely upon the substantive evidence given by the appellant's landscape and planning witnesses whose evidence is commended to the Inspector and the Secretary of State as representing a cogent and detailed justification for the appeal proposal.
62. The first main issue identified by the Inspector is predicated upon consideration of principally national policy as to whether the proposal represents sustainable development. As set out in the evidence of the appellant's planning witness, it is submitted that it does. Inevitably, the development of a greenfield site on the edge of the settlement will have some impact upon that site and its immediate environs. However, there appeared to be little criticism of the range of economic and social benefits that would specifically arise from this development particularly with regard to paragraphs 5.106 to 5.117 of Mr Lees' evidence (DOC 1). In particular, not only the direct construction and other jobs from building the development (120 and a further 240 respectively) but also the generation of some £20.448m of economic activity as well as council tax payments and new homes bonus payments. There will be a range of biodiversity enhancements and the provision for the first time of a substantial area of public open space which will be accessible both as of right and in perpetuity.
63. It is also necessary to consider the need to deliver housing. One aspect of this is the need to maintain a five-year housing land supply (HLS) pursuant to paragraph 47 of the Framework. However, as explained by the Inspector in the Pulley Lane decision (DOC 1, APP24) at paragraph IR 8.58 (endorsed by the Secretary of State at DL 14) even if the Council can demonstrate a five year supply the paragraph 14 test in the Framework still applies because the relevant policies are out of date, they are time expired and were drawn up in entirely different national planning policy context. The same is the case here. However, as at Pulley Lane, there is also the absence of a five-year housing land supply.

### ***Five year housing land supply***

64. At the first hearing session the Council accepted that it did not have a 5 year housing land supply and indeed it was a 20% authority in that it had a record of persistent failure to provide this housing requirement. In the interim period between the two hearing sessions the Council provided a further housing land supply update note and further evidence from Mr Wood (DOC 7). This sought to assert that the Council has well in excess of a 5 year housing land supply, namely 5.94 years and that it is no longer a 20% authority.

65. These contentions have been the subject of further exploration by the appellant and it is simply not accepted that the Council is able to maintain that it does have a 5 year housing land supply.
66. A detailed rebuttal note was provided (DOC 2) which dealt with Mr Wood's further contentions. The first point that may be observed is that the Council contends that it is not a 20% authority and has no persistent record of under delivery. As the appellant's witness explained, having regard to the requirements imposed on the Council, whether under its previous housing requirement figure (then derived from the Regional Spatial Strategy) or under the level of requirement pursuant to the WNJCS, it is simply fantasy to suggest that there has not been a persistent record of under delivery in Daventry. It was only looking over just the past three or four years that such an argument could be contended.
67. However, that is to ignore the considerable latitude granted by the JCS Inspector in allowing the initial use of a trajectory figure due to the appalling chronic failure of the Council to meet its housing requirements since at least 2006/07<sup>3</sup>. As the Cotswold judgment (DOC 1, APP 17, especially paragraphs 47 and 48) made clear, it is quite proper to look at a record of persistent default over an extended period of time, including a time period prior to a new full objectively assessed need (FOAN) being identified. That includes a period of time when a previous development plan requirement was in place. It also suggests one should look at periods of time well beyond five years. Inevitably, the exercise is one which must be carried out with a retrospective viewpoint. Otherwise a local planning authority would simply be able to expunge its previous record of failure by the adoption of a new plan with a new objectively assessed need (OAN). There is no indication whether in policy or in guidance that is the correct approach. In short, that contention should be rejected. Further, the trajectory rate indulgence allowed to the Council under the JCS does not, in itself, constitute the full OAN of Daventry. The Council was forced to accept in cross examination that the OAN does not vary from year to year in the manner set out in the trajectory.
68. As a result, there is still a substantial shortfall and the Council must apply a buffer of 20% to its housing land supply. When that is considered, particularly in combination with the other points set out below, it is evident that the Council simply does not have a robust five years housing land supply.
69. Indeed, even a cursory examination of the Council's position would not indicate that it has the sort of robustness required by the Practice Guidance<sup>4</sup>. The Council accepted in cross examination that it is in against those robustness requirements that its assessment comes to be judged.
70. The appellant did not take issue with the majority of the Council's contended supply. However, it did contest a limited number of parts of the Council supply figures. That said, those components indicate quite clearly the absence of a

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<sup>3</sup> See DOC 2 table in supplementary proof at p4, prior to para 2.9

<sup>4</sup> See Practice Guidance section 3 at numerous locations such as 004, 014, 029, 030, 032.

robust, demonstrated supply. Indeed, that is so notwithstanding the revised evidence given by Mr Wood on 14<sup>th</sup> April.

71. The appellant took issue with the delivery of housing within the five-year period from the Monksmoor site (which does benefit from planning permission), from four other allocated sites and the Council's approach to windfalls. It is noted that in April 2015, the Council (perhaps due to the scrutiny by the appellant) for the first time made at least some provision for a lapse rate in respect of its small sites.

#### *Monksmoor*

72. This has only one developer both carrying out and proposing to carry out the development. The sole source of information for the Council's assessment is that which came from the developer itself. The number of units delivered last year (64) is itself less than the developer had identified but is more than the figure of about 50 units per annum per outlet<sup>5</sup> which Mr Wood accepted in cross-examination is a realistic maximum figure per outlet from any development site. There is no figure given for 2 outlets within the same market area and the figure of 464 units contended for by the Council will only be achieved if 2 outlets are operating over the next 5 years. That is singularly improbable and, in consequence, the discount of 103 units proposed by the appellant is, if anything, generous to the Council's figures.

#### *Daventry Sites 3 and 6*

73. There has been no change in circumstances since the earlier Inquiry session hence Mr Lees' analysis (DOC 1 paragraph 5.134) still stands. The Council accepted that the site is not presently available. There is no planning permission nor has any EIA screening been undertaken and fundamentally the site is not available within the terms of Footnote 11 to Paragraph 47 of the Framework. On that basis there is no justification for this site falling within the robust supply identified by the Practice Guidance and it should be removed from the Council's supply calculation.

#### *Middlemore Sites 7 and 8*

74. The Council conceded at the earlier Inquiry session that this site should be reduced by 50 dwellings. Despite the Council's protestation that a further year should be included in the 2015 assessment, there has, in reality, been no change in circumstance since that time and, in consequence, the discount of 50 dwellings should continue.

#### *Daventry North East Sustainable Urban Extension (SUE)*

75. All that the Council has done is to reduce the supply to 75 dwellings and produce a new timetable. That is in circumstances where even the Council "*understands the developer who until recently was pursuing this site, will no longer be submitting an application and that a different house builder, or house*

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<sup>5</sup> i.e. on a large site the developer may proceed with more than one type of scheme simultaneously, aiming at different markets.

*builders, will take up this option”* (DOC 6, APP 1 p33). There is a wholesale absence of realism in the Council’s approach and, in order to give the requisite robustness to any figures, it is submitted that Mr Lees’ evidence for a supply of around 40 dwellings during the next 5 years is to be preferred.

*Northampton College, Badby Road*

76. Surprisingly this site for 125 dwellings has been added back into the supply. The Council’s justification is that an outline application has now been submitted and that the delivery of the dwellings is not reliant upon the relocation of the college. However, it is to be noted that the site is not allocated and no developer has been identified for the site. All that appears to be the case is that the Council is relying on the future sale of the land such that new college facilities will be operational by September 2016. Instead of the college being relocated, it is understood that the college will continue to function on the same site but on a lesser portion of it. All that is proposed is that existing areas of the site will be re-developed for residential purposes, including the loss of a considerable area of open space and playing fields. That does not appear to be an approach which is consistent with the Framework, the Practice Guidance or, for that matter, the Council’s own Core Strategy. It is to be anticipated that any application will be the subject of considerable scrutiny and with a clear prospect of potential objection from Sport England whose views on this subject are well known. Given the current policy conflict, it would simply not be justifiable to place any reliance upon a site such as this coming forward within the next 5 year period, particularly as the form of development and the means by which it will be brought about has now so materially changed giving rise to a significant policy difficulty.

*Micklewell Park*

77. This is a new site which received a resolution to approve as an outline proposal in March 2015. No S106 obligation has as yet been signed. Surprisingly, the Council’s housing land supply report anticipates that 419 dwellings will be delivered from this site within the next 5 years. The projected programme (DOC 12, p35) anticipates the preparation of the first phase reserved matters and details 8 months from the receipt of the decision notice, final approval of all first phase matters 6 months thereafter and a start of work on site 2 months after that.
78. Even the Council appeared conscious that there is only scope for 3 months slippage. However, it only provides for 6 months of slippage amounting to a reduction of 31 houses in the 5 year period. That is egregiously over optimistic. Whether one utilises the appellant’s approach of discounting the entirety of Phase 3 within the 5 year supply or simply anticipating that no more than about 100 units will be delivered per year over the final 3 years of the first 5 year period, one comes to about the same figure of about 300 units or a discount of around 150 units.

*Windfalls*

79. The Council seeks to rely upon an average figure dating back 7 years (DOC 12). However, the figures which it has sought to utilise are not robust. It is notable that, in the last 3 years referred to (years 2012/13 to 2014/15), the number of

windfall completions were 86, 87 and 82 units respectively, excluding garden land. All of these are less than the 89 dwellings per annum utilised by the Council which appear to involve earlier years, back to 2008/09. Hence, if anything, it shows a decreasing trend and does not properly conform to the Framework's requirements for robustness in identifying, with confidence, how future windfall sites will continue to be delivered.

80. It is for that reason that the appellant's evidence of only providing 70 units over 3 years appears more appropriately robust for the purposes of carrying out any such housing land supply calculation.

#### *Conclusion on housing land supply*

81. Taking all of these calculations together it is evident that the Council simply does not have a robust 5 year housing land supply and the proposal must properly come to be considered upon that basis.

#### **Landscape**

82. The appellant's evidence upon this issue was clear, comprehensive and compelling. The evidence did not shy away from identifying where visual impacts would arise. However, these were both limited and localised so far as landscape character is concerned.
83. The evidence was that the likely effects would be neutral on the wider landscape character of the area of which the appeal site forms part. Self-evidently there would be changes to the appeal site by reason of development. However, those changes would not be of an extent or significance as to undermine the overall conclusion that the appeal site proposals are acceptable in landscape and visual terms.
84. As was identified in the officer's report recommending approval, no landscape objection was maintained. Further, the consultation response of the Council's own landscape officer stated "I consider in landscape terms the proposed outline application is acceptable". It is in that context that the evidence of the Council's landscape witness comes to be considered.
85. In contrast to the approach adopted by both the Council's officers and the appellant, the Council's case to this inquiry was somewhat curious and contrived. On the one hand it recognised that West Haddon is a hilltop village. In other words it is one which falls to be considered by reference to those landscape characteristics. Further, it is one which by its nature is visible from the surrounding countryside which looks towards it. Yet development adjacent to the existing hilltop village was criticised as somehow being somewhat incongruous with it. That is an inconsistency which was simply not resolved by Mr Allen or otherwise via the Council's evidence.
86. Nor was its reliance upon the site falling within the District Council's SLA. As became clear, this is something of an historic designation which harked back to the previous structure plan. Despite being given extensive opportunities to provide any proper evidential basis, the Council was unable to provide any proper justification for the SLA, its boundary or the characterisation of the appeal site as falling within it. Certainly it was agreed it was not based upon

any criteria driven landscape character work, either at the time of its designation or subsequently.

87. Further, it was accepted that the SLA designation, unlike other parts of the country (such as that adjacent to the Cotswolds) has no particular purpose or significance by reference to an identified landscape type. That is not the case in respect of this SLA. Further, Mr Allen accepted that he had not carried out any assessment of his own as to what the differences were in terms of the landscape character across the area covered by the SLA designation.
88. Notably, neither Mr Allen nor the Council could identify or suggest that there is any conflict with any specific paragraph or policy in the Framework. Indeed, both Mr Allen and Mr Holmes did not seek to contend that any conflict arises by reason of the development with regard to paragraph 109 of the Framework. That must be correct and is a conclusion which should be accepted.
89. The most that could be said by way of criticism of the appeal proposal was by reference to impacts as being "highly localised". Indeed, Mr Allen accepted that, beyond those local impacts, the wider impacts were "neutral" and he concurred with the assessment undertaken by Mr Peachey in his Landscape and Visual Impact Analysis (LVIA). Further he accepted that the appellant's LVIA was thorough and followed all of the requisite guidance in the Guidelines for LVIA (third edition). The only difference between the landscape witnesses was that Mr Allen did not agree with Mr Peachey's assessment in respect of local impacts upon the landscape.

#### *Hierarchy of landscape designations*

90. The GLVIA3 (at pages 82 to 83) has an acknowledged distinction between national and local designation. However in his assessment Mr Allen had elided the assessment relating to the local designation (which he accepted was the appropriate place for the consideration of the SLA) for those of national significance. This in part goes some way to explaining his exaggerated significance relating to a small number of highly localised visual impacts. As identified earlier and during the course of the evidence, there were significant areas of common ground between the two witnesses as to the likely visual effects and it was only in respect of two views where the two witnesses did not agree. It was only in respect of the small number of highly localised views that Mr Allen suggested that permission ought to be withheld. Certainly none of the more distant views to the north or east of the site were considered material such that permission ought to be withheld.

#### ***The local footpath network***

91. The reason for refusal referred to the public footpath on the site and the potential impact of the proposed development upon users of that footpath. However as the Council accepted, that footpath is already clearly influenced by the presence of the urban built form with views of houses in Morrison Park. In consequence, the Council had to accept that there was a difference, in a qualitative sense, upon this section of footpath (where localised impacts of significance were contended to occur) and the Jurassic Way footpath at further distance from the site. In short, at the very locations considered of greatest

significance to Mr Allen the footpath was already heavily influenced by the existing urban built form of West Haddon.

92. Further, the nature of the footpath is one that is not intending to avoid West Haddon either in terms of view or experience. As Mr Allen accepted the whole *raison d'être* of the Jurassic Way is arriving at, and departing from, settlements upon that way. In consequence, the urban form and experience of the urban edge is a specific part of that experience. The most that Mr Allen could refer to was the reduction in distance between the urban edge and the bypass over that short area of field enclosure. However, as the photos contained in Mr Peachey's evidence shows (and the site visit will also demonstrate) the urban edge of West Haddon is already evident from this location and would be left substantially unaffected in terms of quality of pedestrian experience from this viewpoint.
93. Mr Holmes did not assert on behalf of the Council that there was any conflict with paragraph 74 of the Framework. With regard to paragraph 75 there was no explicit reference to this paragraph in the reason for refusal but he sought to suggest that the proposal should be rejected because it failed to "*protect and enhance*" public rights of way and access. It was accepted in cross examination that the right of way will be maintained. Its surface would also be enhanced by reason of the appeal proposal.
94. However Mr Holmes sought to contend, by reference to paragraph 75 of the Framework, that due to an adverse impact on the visual experience of walkers in certain of the views closer to the appeal site, this would represent a conflict with paragraph 75 of the Framework. That would be a wholly impermissible extension and misreading of the terms of that policy. *As Lord Reed made clear in Tesco v Dundee CC [2012] UKSC 13* (at paragraphs 18 and 19) policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context. As a consequence "*planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean*". The same applies to national policy contained in the Framework.

### **Neighbourhood Development Plan**

95. As was explored during the course of the Inquiry, the WHNDP is at a relatively early stage. Whilst the consultation period for objections to the submitted plan has now expired no actual date for an examination has yet been set and Mr Wood explained that the examination was unlikely to occur much before July 2015.
96. That places the NDP at a relatively incipient stage in its process of evolution and where the clear application of policy is such that prematurity could not realistically represent a justified reason for withholding consent. Certainly the District Council did not contend such to this Inquiry and that approach must be considered correct.
97. Nor is our understanding assisted by an undue exploration of a series of decision letters whether from Inspectors or the Secretary of State where divergent views have been taken about the weight to be attributed to emerging NDPs in various parts of the country. Indeed, even in circumstances where a

neighbourhood plan has reached a more advanced stage than the one here (as at Faringdon, in Oxfordshire) (DOC 24, APP 6) the Secretary of State did not consider that an NDP (which had been examined and where matters were identified by the Examiner that needed to be resolved) did not constitute a reason to uphold a contention of prematurity or prejudice to the neighbourhood plan process. As a matter of pure logic such a plan is clearly further advanced than is the position in this instance.

98. The appellant has objected to a number of policies contained in the NDP and those will be the subject of consideration at the examination in due course. However, the release of the site as permitted will not fundamentally pre-determine or prevent the process for the promotion or adoption of that plan, albeit it may have an impact for some of the policies contained within it. That is the case with almost all emerging development plans. However, it is not a justification to prevent development in the interim or the consequence is that no development would take place anywhere where a development plan is being promoted. That is so whether it is a core strategy, a local plan, some other form of local development document or a neighbourhood plan. The principle remains precisely the same.

### ***Miscellaneous planning issues***

#### *Vehicular Access*

99. The vehicular access to the site is not the subject of any criticism by the Council and Mr Holmes was content to accept that Nottinghamshire County Council, as the Highway Authority, is happy that the site could be safely accommodated and no issue was raised with regard to vehicular access.

#### *Transport Sustainability*

100. The Council accepted that, consistent with the Framework at paragraphs 29 and 55, both the settlement and the site are adequately served by public transport having regard to the fact that this is a rural settlement. No justification was given for departing from the conclusions set out at paragraph 25 of the decision letter in respect of the site on Guilsborough Road (DOC 1, APP 10). The bus service referred to in that decision letter is the same bus service referred to by the Council in this case. Similarly, the peak hour improvements derived from the development of that site would be supplemented by those arising from the appeal development. As a result there would be no good reason to depart from that Inspector's conclusions that "*consequently, although the service does not go to the nearest town, Daventry, and car use may increase as a result of the proposed development, opportunities for sustainable transport modes have been taken up in line with paragraph 32 of the Framework*". Indeed, one of the appeal decisions prayed in aid by the Council at that Inquiry at Irchester (DOC 10, APP8) did not preclude either a finding of sustainability or the grant of permission.

#### *Brandon Lewis MP letter 27<sup>th</sup> March 2015*

101. Some reference was made to the letter issued by Brandon Lewis MP on 27 March 2015. It is not entirely clear to the appellant what this letter was seeking to do save to reiterate existing policy. No one appeared to contend to the inquiry that the letter purported to change policy in any material respect. In



consequence, the policy approach is that set out in the evidence of the appellant.

### **Development Plan**

102. Mr Lees' analysis of the development plan is set out in his proof of evidence and is not repeated here.
103. For the purposes of assessing the development plan and the extent to which it is out of date it is appropriate to have regard to the views expressed by the Secretary of State elsewhere where similar considerations arose. The Council did not demur from that view. Hence at the Pulley Lane, Droitwich appeal (DOC 1, APP24) the Inspector looked at settlement boundaries in the context of whether the housing policies of the plan were out of date. The Inspector (paragraph 8.14) found that they were. That was the conclusion with which the Secretary of State agreed (DL paragraph 11). Both of those gave rise to the conclusion that the development plan policies upon this issue were out of date. Similar considerations arise in the context of policies HS21 and HS24 of the Local Plan. In consequence, the appeal Inspector in respect of the Guilsborough Road site (DOC 1, APP10) found that both of those policies were relevant to the supply of housing and were out of date. As the Council accepted, there would be no proper justification for taking a contrary view here.
104. Similarly, although Mr Holmes did not wish to accept the logic of the position, the same Inspector (DOC 1, APP 10 para 11) accepted that decision makers have not maintained a blanket restriction on residential development beyond the confines of other villages (nor did he do so for West Haddon itself) when looking at Limited Development Villages in the changed times since the adoption of that plan in 1997. He went on "*even if this were not the case, Policy HS21 states that planning permission for residential development will not "normally" be granted on sites outside the existing confines of West Haddon. Arguably, the lack of 5 year supply of deliverable housing land means that "normal" circumstances are not in operation at present*".
105. More pertinently Criterion A of Policy HS11 must be out of date in its own terms. That plan was adopted 18 years ago, in very different circumstances and where the Council is reliant upon sites outside of development boundaries including in Limited Development Villages.
106. In respect of Criterion B the same point arises. As regards Criterion C it is accepted that the appeal site is not identified, otherwise than in context of this Inquiry as being "*in open land of particular significance to the form and character of the village*".
107. With regard to Policy EN1, dealing with the SLAs, it was accepted that for proper account to be taken of such policies, they must be evidence based. As Mr Allen accepted, there is no evidence and Mr Holmes was unable to identify any evidence of his own. As regards policies in the WNJCS, no conflict with policies S1, S3 or R1 were identified by Mr Holmes. Further he identified no conflict with Policy BN5. In consequence it can properly be deduced that there is no conflict with the policies of the adopted JCS.

### ***Other issues identified by the Inspector***

108. It was confirmed that all relevant property owners were properly notified via the agents for the Lucette's Trust, who confirmed that the Trust comprised four bare trustees. They were all served and this was confirmed in writing by the Trust's agent. Indeed, the trustees are among the signatories to the planning obligation.
109. As confirmed by both the Council and the appellant, the 2012 population projections do not have any material bearing on the consideration of and outcome of this appeal.
110. As for the cumulative effects of this proposal and other recent appeals on the character of the village, neither the Council via its witnesses nor the appellant contended that any such arose. It is respectfully submitted that no cumulative effects have been identified which have any bearing on the outcome of this appeal. West Haddon is and will remain a hilltop settlement whose character would be materially unaffected both by this proposal if permitted both on its own and in combination with the other developments which have been committed in the recent past.

### ***Conditions***

111. Whilst there was discussion as to the exact terminology of the proposed conditions there is no material dispute about them or the objects to which they are directed. Certainly it is agreed that, if permitted, the development of the site can be appropriately and adequately controlled by the conditions proposed by the Council and discussed at the Inquiry.

### ***Section 106 obligation***

112. This has now been executed in final form (DOC 15) and meets the relevant requirements of CIL Regulation 122. The Inspector in addition asked whether the effect of Regulation 123(3) has any consequence in this case. It was confirmed on behalf of the Council that the terms of the obligation are considered satisfactory to the Council and the only remaining query, post April 2015, relating to the bus service transport contributions is satisfactorily resolved. It was explained, on behalf of the Council, that no more than three obligations (including this obligation) have been entered into in respect of this contribution to infrastructure since 2010.
113. In consequence, both parties consider that the obligations proposed in the section 106 agreement comply with the requirements of CIL regulation 122. However, as identified during the obligations session, in the event that the Inspector or the Secretary of State were to conclude that any aspects of the proposed obligation did not so comply, the obligation contains a suitable "blue pencil" provision that allows any such offending element to be excised and the obligation to take effect absent such element.

### ***Benefits of the proposed development***

114. As set out above, there is no identified reason why the presumption in favour of sustainable development set out in paragraph 14 of the Framework would not continue to subsist. That indicates that any adverse impacts of granting

permission would have to significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The benefits of the proposed development are in themselves very substantial: it will provide for housing and affordable housing in circumstances where there is an existing significant and continuing need. As Mr Holmes accepted, the Council is seeking to secure the benefit of affordable housing and significant weight ought to be attributed to that benefit. In addition, a number of significant economic benefits are identified in Mr Lees' evidence (DOC 1 paragraphs 5.110 to 5.112) which are accepted by the Council.

115. As to affordable housing, the figures set out in Mr Lees' evidence (DOC 1, p44) are clear that out of a total identified need<sup>6</sup> the Council has only delivered 213 dwellings, a shortfall of 562 affordable dwellings. That is testament to the very considerable weight that ought to be attributed to this need. As to viability, no evidence was given by the Council to indicate why the site would not be viable to come forward and that must remain a simple unjustified assertion, shorn of any evidential justification.
116. Biodiversity improvements, both through the translocated grassland and the landscaping and open space within the site also should be accorded weight.
117. Mr Holmes was at pains in his evidence in chief to refer to paragraph 40 of the Guilsborough Road appeal decision (DOC 1, APP10). Quite properly the Inspector, in responding to representations made by the Parish Council, made clear that his decision was not to be regarded as setting any form of precedent for further development in the village nor to be interpreted as a finding that West Haddon is necessarily a sustainable location for any future residential development. However, the Council was simply unable to identify any factor to support any contention or distinction between that decision and this. Mr Holmes was very clear that no question of cumulative impact having an adverse impact would arise by reason of the grant of permission for the appeal proposal alongside the Guilsborough Road site. Nor were there any features relating to the proposed development of the appeal site which would render it unsustainable in comparison with that permitted on the Guilsborough Road site. In short, when one comes to assess the appeal proposal both alongside, and in the context of, the considerations that also pertained to the Guilsborough Road site in West Haddon, no identified distinctions could be highlighted by the Council as to present any justified reason for a different approach being taken. The same approach is respectfully submitted to the Inspector and to the Secretary of State in this instance also.

### **Conclusions**

118. The appeal proposal represents sustainable development adjacent to a settlement which has very recently also been found to be sustainable for development of a broadly similar scale to that proposed on the appeal site. That is not an invitation to adopt that decision as a precedent. It is simply to recognise both the clear parallels and the absence of any justified identified

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<sup>6</sup> As identified in the SHMA of 755 affordable dwellings between 2008 and 2013

reason to reach a different conclusion. Certainly none was advanced by the Council's planning witness to this Inquiry.

119. The Council, despite its protestations to the contrary, does not have a robustly justified 5 year housing land supply of specific deliverable sites. That was the position at the outset of this Inquiry and, despite the Council's efforts in the interim, that position had not changed at the close of the Inquiry. The proposal is one which continues to benefit from the presumption in favour of sustainable development. There are clear benefits of the proposal in terms of market and affordable housing together with the provision of open space and biodiversity enhancement. These are not outweighed by any of the identified impacts.
120. The landscape and visual impacts are, at most, localised and will be ameliorated by an appropriate landscaping scheme. The site is located adjacent to existing housing in what is now accepted to be a hilltop settlement, the character of which is to accommodate development which will inevitably be visible from surrounding areas. No long distance views were identified as being harmed by the Council in their detailed landscape evidence.
121. The reliance placed by the Council upon the SLA designation is misplaced. The SLA designation is derived from a now defunct structure plan. The original justification for it is unknown, and no evidence either to support it as a matter of weight or significance of that designation has been initiated or undertaken by the Council. The Council do not contend that this is a valued landscape within paragraph 109 of the NPPF.
122. The emerging neighbourhood plan is accepted by both the Council and the appellant to be a material consideration, but one to which only limited weight can be attributed at this stage. Indeed, consistent with the Secretary of State's policy contained within the Framework, there would be no justification for refusing the proposal by reason of any alleged prematurity.
123. Mr Humphreys did contend that prematurity was a justification to refuse permission but his entreaties did not find favour even with the Council. Mr Wood made clear when recalled to give evidence that, notwithstanding the expiry of the consultation period, only limited weight could be accorded to the NDP. He certainly did not contend that the impact of the proposed development on the NDP and the NDP process (if any) would be a sound justification to withhold permission. No other arguments were advanced by parties opposed to the development relating to the impact on the NDP process. In those circumstances, and in the absence of any justified argument based upon the argument of prematurity, it is submitted that this ground of objection should be rejected. Indeed, it may be noted that the same views were adopted by the parties to the Guilsborough Road Inquiry.
124. The proposed development gives rise to substantial benefits which are not outweighed by any of the alleged detrimental impacts and, consistent with the presumption in favour of sustainable development, it is submitted that the appeal should be upheld and planning permission ought to be granted.

## **THE CASE FOR DAVENTRY DISTRICT COUNCIL**

125. This appeal is against the refusal by Daventry District Council for outline planning permission for up to 80 dwellings and associated infrastructure at land off Elizabeth Road and Victoria Close, West Haddon.

### ***Housing Land Supply***

126. The starting point at the beginning of the Inquiry was one of agreement that the Council could not, at present, demonstrate a 5 year housing land supply for the 5 year period 2014 – 2019, but that period expired at the end of March 2015. For this period the Council shows a 5.94 year housing land supply. The gap between the Council and the appellant in terms of a 5 year housing land supply for 2014-2019 is found in Mr Lees' table (DOC 1, p.42 paragraph 5.141) and was less than a year's supply at between 4.68 and 3.85 years. In fact that gap narrowed somewhat with Mr Wood conceding in cross examination 100 dwellings on the Daventry NE SUE because that particular proposal has failed to progress at all since last September. The appellant would prefer to see it taken out of the 2014-2019 statistics altogether. However, while it is conceded that it will only start to build out in the latter part of the 2014-2019 period, it is, nevertheless, available now, has funding and, subject to the EIA and an application coming forward, should still deliver 100 units by 2019. Even so, for the 2014-2019 five year period, the number of years' supply difference between the parties was narrower than before in the region of 3.84 – 4.5 years.
127. We have now moved into the 2015 -2020 5 year period. The gap has now risen to 1.72 years following receipt of a supplemental proof of evidence from Mr Lees (DOC 2) immediately before the start of the 5<sup>th</sup> day of the Inquiry. The 5 year land supply is self-evidently specifically about Daventry. It is therefore important that the sites' contributing to the supply are considered in the local context. This has been done by the Council. It has been in contact with developers/promoters of sites with a capacity of 25 units or more. In the vast majority of cases, responses have been received which have informed the final assumptions in the 2015 report.
128. This approach is consistent with the advice in the Practice Guidance 3 (Housing & Economic Land Availability) at paragraph 23 (20140306). It means assessments have been undertaken with the developer/promoter wherever possible. They are well placed to know their site, their product and the local market. The appellant on the other hand has done no such exercise. They have sought to rely on generic points (mostly un-evidenced) and have not made any approaches to the promoters or developers of the sites to understand the local circumstances. Indeed, Mr Lees had not even been to a site that he was making points about the need for site preparation. Moreover, the appellant has sought to discount by reference to the need for contracts to be entered into and due diligence exercise undertaken as if such exercises, and the length of such exercises, were unique to the sites identified by the Council in their HLA report, while this appeal site was somehow exempt from such considerations or time factors. Such a position is absurd.
129. The appellant has sought to argue that sites in Daventry town are not deliverable and that they are not available now. The definition of 'available' is set out in the Framework paragraphs 20-23 and 'deliverable' at paragraphs 30-33. It is these definitions, not any other, that must be borne in mind when an assessment is made. All the sites should be tested against these definitions.

The Council is confident that it will be concluded as Mr Wood has and has evidenced, that the sites meet this definition. If they meet this definition today, then they comply with footnote 11 of the Framework.

### *Lapse Rate*

130. In cross examination the appellant then sought to argue a lapse rate. It is no part of the appellant's case that there should be a lapse rate and none is found in the appellant's evidence. It was suggested that there should be a lapse rate simply because of Daventry's persistent under-delivery, but this was rejected. A number of appeal cases were referred to, including in Mr Lees' proof – Pulley Lane, Droitwich Spa and Highfields Farm Tetbury (DOC 1, APP 24 and APP 40).
131. However Mr Wood had already said he believed a site specific assessment needed to be made to justify a lapse rate and it was shown in re-examination that this had been done in both cases and, moreover, in the appeal decision at Woodford Halse (DOC 6, APP F), this issue had been considered by an Inspector as recently as September of 2014 (DL para 20) and the conclusion was that a lapse rate was not required for Daventry District where the Inspector states "*I note that a 10% rate was applied at Droitwich Spa (DOC 1, APP 24), but it appears to me that the Inspector's comments in that case related to that particular local authority. In this case the evidence before me does not show that a lapse rate need be applied.*"
132. Notwithstanding this, Mr Wood has now introduced a lapse rate of 105 units into the 2015-2020 HLA report (DOC 12) which is agreed by Mr Lees. He did suggest even more, perhaps 10% based on reference to an old report by Sir Roger Tym (not presented to this Inquiry and so forming no part of this evidence to this Inquiry) although Mr Lees suggested a higher figure might be appropriate because of larger sites. However, since Mr Wood assessed **all** sites in the District, large and small, and concluded only the small sites had lapsed in the period under consideration, no such inflation of the lapse rate is necessary. Moreover, applying the WNJCS trajectory, which the Appellants accept is the correct basis for determining housing land supply in Daventry District, it can be seen that Daventry District has met or exceeded its annualised figures set out in the trajectory for the first 4 years of the plan period and, accordingly, applies a 5%, as opposed to a 20%, add on since there is no persistent under-delivery in the last 4 years as shown in the trajectory and the completions achieved. In fact, applying the LPA's figures, whether you apply a 5% or a 20% add on, then there remains a 5 year housing land supply for Daventry District for 2015-2020.
133. The appellant challenges this by saying that the period to be applied should not be 4 years but 5 years if it is to be robust and this is right. The Practice Guidance says<sup>7</sup> "*Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible*" Well it is not possible as there is only 4 years information during the plan period on which it can be based. To overcome this, the appellant seeks to look back to the RSS figures which predated the WNJCS trajectory which annualised at 540. But as

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<sup>7</sup> Paragraph: 035 Reference ID: 3-035-20140306

the Council explained, the problem here is that these were growth target figures not based on any objective assessment of housing need.

134. The very next paragraph of the Practice Guidance<sup>8</sup>, which it is acknowledged deals with oversupply, says *"For a plan to be found sound it would have to be based on an objectively assessed need for housing."* So too, it is submitted, must a housing land availability assessment, and to do otherwise would be to fall outside the advice in the Framework (paragraph 47 bullet point 1). So it is maintained that 4 years is an acceptable period to demonstrate that the 5% rate should be applied as opposed to 20%, and there is some comfort for this in the Cotswold decision (DOC 1, APP 41 paragraph 48), where the Inspector considered 2 years insufficient but, in that context, a period in excess of 5 years to be too long. There were specific reasons for that longer period relating to the recession but applying the logic of the Inspector in that decision combined with the reasons given by Mr Wood in evidence, then this 4 year period seems appropriate. Moreover, the table prepared by Mr Lees also seeks to annualise the trajectory at 388 per annum which is a complete nonsense. Were it not, the LPA might take the annualised figure and consider its housing land availability to be well in excess of 6 years, but because the LPA is now reaching the peak of its trajectory as set out in the WNJCS the challenge is that much greater but has, it is submitted, been achieved for 2015-2020 by a significant margin.
135. Reference has been made to paragraph 36<sup>9</sup> of the Practice Guidance dealing with oversupply and the sentence that follows immediately on from the one just quoted says that, when assessing the objectively assessed housing need "consideration can be given to evidence that the Council has delivered over and above its housing need in previous years". In the 2015 HLA report this Council has done just that.

### *Windfalls*

136. Then there are the reductions that Mr Lees has sought to apply to the Housing Land Supply Reports. The Council, as explained, has based the windfall allowance on a 7 year average. Seven years of consistent provision of windfalls, and while the level of windfalls, as one might expect, has varied, the average is seven dwellings in excess of the figure actually achieved last year. That is 7 in excess of 82 and thus, it is submitted, highly comparable.
137. Unlike the Council, the appellant has provided no evidence to support a reduction in the windfall allowance. Again this was considered at paragraph 13 of the Inspector's Decision Letter for land off Guilsborough Road West Haddon (DOC 1, APP9) where, applying the same evidence presented to this Inquiry as to him by the Council, he concluded *"I am of the opinion that this represents compelling evidence, sufficient to justify the inclusion of this figure in their calculations"*. The whole paragraph should be read, but this last sentence acts as a useful summary and is based on the same data available to the end of March 2015. Indeed, the windfall figure for 2015-2020 is only 3 less than 2014-

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<sup>8</sup> Paragraph: 036 Reference ID: 3-036-20140306

<sup>9</sup> *ibid*

2019 figure and based on the same calculation but now over a longer, 7 year, period.

#### *Middlemore*

138. In the Woodford Halse decision of September 2014 (DOC 10, APP5) it is worth noting that in paragraph 19 of that same decision the Inspector was invited then to reduce a number of dwellings from the supply on Middlemore which he declined to discount because he was satisfied that the land was in the ownership of the Council and there were no unresolved legal problems such as multiple ownerships or ransom strips etc (Framework footnote 11). Despite this decision and clear advice that things have not changed other than that we are in another 5 year housing land supply period, the appellant persists in seeking an arbitrary reduction on this site. Furthermore, no evidence is proffered other than that the disposal of the land will involve agreement of contracts and due diligence checks. The same as on any land disposal, including no doubt this appeal site if this were to go ahead. So this discount is clearly wrong and should not be applied. This submission can be repeated time and again across reductions asserted by the Appellant.

#### *Daventry NE SUE*

139. Turning to the other sites identified in initial cross examination of Mr Wood based on the 2014-2019 HLA but having regard now to the 2015-2020 HLA – Daventry NE SUE is down for just 75 dwellings to 2020. So the parties appear to be just 25 dwellings adrift on this. Just last August the Council was suggesting the figure was 350 (DOC 6 APPH paragraph 14), so to the Council's credit, it has moved considerably from that point in light of the evidence of concerns about its delivery in the short term. There are issues for this site, but there is also funding for it. It seems absurd, therefore, that, on a site owned by the Council, to suggest that 75 dwellings cannot come forward by 2020 and no evidence has been put forward to show why such a small number cannot be delivered in that time frame. The Inspector in the Woodford Halse decision referred to earlier had the benefit of the Guilsborough Road (DOC 1 APP 9) decision letter and specifically supported him on this point saying "*In my view, the adjustment the Council has made is sufficient to make the timetable a realistic prospect at the present time*" (DL paragraph 17).

140. Then there is the link road red herring. This, as Mr Wood has advised is a misunderstanding of the position. A significant number, well in excess of 75 dwellings, can be provided on that site before the link road is needed and there is a need for some housing to help fund the link road.

#### *Monksmoor*

141. Mr Lees seeks to reduce this site by 122 dwellings from the 2014-19 supply. This is a site with planning permission and a reserved matters application in for phases 1 and 2. Mr Wood was not persuaded that a build rate of 40 dwellings per annum was a maximum on any one site and pointed to sites where higher delivery rates had been achieved. Accordingly, the Council is of the view that all 633 dwellings will be built out by 2020, especially if more than 1 outlet is provided as planned. Moreover, no evidence of any double counting has been put forward by the appellant and so this concern which has been raised should



be struck out. This site has been considered by previous Inspectors in the last few months and the Council's figures have not been disputed.

#### *Daventry Sites 3 and 6.*

142. The number of dwellings to 2020 is just 50 on a site owned by the Council, is available now and has funding available to bring forward the development. To suggest that this site will not deliver 50 dwellings by 2020 is frankly absurd and the reduction is not supported by any evidence from the appellant other than their opinion, which is obviously respected but there is no reason to support here.

#### *Daventry College*

143. Daventry College is a site which, because of the SEMLEP funding, has an imperative to get underway which extends beyond the planning process, with a requirement that new college facilities must be operational by September 2016. Therefore there is a clear imperative to progress the housing side of this development arrangement to provide the further funding. There are open space planning issues which are planning constraints and it is accepted that Sport England may object, as may others. However there are planning constraints on the appeal site so the decision cannot be pre-judged any more than it would have been unwise so to do on Elizabeth Road, West Haddon. The site is in Daventry Town and is vital to facilitate the delivery of wider educational objectives. Accordingly, the Council has confidence in the delivery of this site in the 5 year period.

#### *Micklewell Park*

144. The developers are looking at a build out of the whole site in 4.83 years. There is a resolution to grant consent subject to a s106 obligation and the negotiations for this are well under way. The Council has taken a more conservative approach and has said only 419 dwellings will be delivered by 2020. Mr Lees says only 296, but this figure is again based on no clear assessment. It is not even consistent with his extremely pessimistic completion rate on developments of 40 dwellings per annum or the 1 a week suggested in cross examination. So this figure appears purely arbitrary. Again, the Council says that the developer/promoter has given clear build out rates; the Council has moderated those figures down from 450 to 419 and there is no evidence to suggest a lower figure should be applied.

#### ***Landscape***

145. Turning to the landscape issues including Policy EN1. The first key point to address is whether the site is or is not in a Special Landscape Area. The simple answer must be that it is, and thus far there is some agreement between the Council and the appellant. But what was the SLA put there for? Can we make any sense of it now? Has not the bypass undermined the SLA? Why did the Council's own landscape officer not raise an issue? Should or will SLAs continue to exist going into the future?

146. In the absence of any statutory designated landscapes in Northamptonshire the purpose of the SLA was to protect the character of the undoubtedly attractive countryside in the County. The rationale behind the fixing of the boundaries has

not been verified during this Inquiry, but it is clear that they were carefully and painstakingly drawn up several years ago. While some forensic investigation amid the archives of Northamptonshire County Council might uncover some interesting historical analysis this serves little use now. The question must be whether the SLA can be read now and there has been evidence that it can.

147. Of interest was the evidence given by Mr Allen where he explained precisely why, in his view, the land between Guilsborough Road and Northampton Road was excluded from the SLA but that land just across the Guilsborough Road was in the SLA. The point he was making is that the SLA can be read now at that point and can also be read on the appeal site. It is of interest to note that, while the appellants can point to challenges against similar designations elsewhere in the country, there is nothing to challenge the SLA here or elsewhere in West Northamptonshire.
148. Of course, if a straight line is drawn from the appeal site to the bypass you come to a point close by where the bypass is raised, albeit it is in a cutting either side of that short raised stretch. Yes, it is in the SLA. Yes, it can be seen for short stretches such as this but, in the main, it is in a cutting or at level, minimising or removing its visual impact completely as one looks across the undulating landscape. So, as agreed between the two landscape witnesses, there is some impact. The question is how much? The appellant, with one exception, says moderate or less; the Council says severe, particularly at local viewpoints, and it is the local impact on the local landscape, close to the village of West Haddon, that brought about the refusal.
149. Paragraph 75 of the Framework requires planning policies to protect and enhance the public right of way (PRoW), which is a county trail. There is no dispute that the alignment of the PRoW is protected by this proposal, but the question is whether its setting and amenity value would be enhanced running beside the existing hedge and this proposed development. The Council's witnesses both say it would not.
150. It was suggested for the appellant that if too narrow an interpretation of 'protect' is applied then there is a risk that no development would ever be permitted where a footpath is affected. The Council does not accept this. The footpath has been protected, that is accepted. It has not been diverted but neither has it been enhanced. Yes, it would be better lit along that stretch because it passes alongside a housing development, but no additional links are provided and the open outlook and features of this much used path at present are not protected despite the path being retained. It is submitted that the development would have a harmful effect and so does not meet the paragraph 75 test.
151. This is not to say the PRoW will not be used as much if the appeal is allowed as it is now, but the rural character and local amenity value would be affected and it would not be enhanced and arguably not fully protected. This goes to the sustainability of the proposed development. It is true that, as you walk along the footpath now, you can see the edge of West Haddon and no one suggests otherwise. The difference is that, with the proposed scheme, the footpath would be confined to a narrow corridor by development that would adversely alter the open nature of the views of the surrounding countryside enjoyed by

users, remove the rural setting of the PRoW and the visual separation with the built up area of the village.

152. A key issue for the Council is that the appeal proposal does not simply perch atop the hill on the edge of West Haddon but spills down towards the bypass creating, in the view of the Council, a harmful impact. Mr Peachey suggests the Morrison Park development does exactly the same thing. Mr Allen disputes this and says Morrison Park sits atop the ridge, while the proposed development would spill over the crest of the ridge into the open countryside in the SLA, adjacent to the village settlement boundary. It is noted that Mr Lees in his cross examination does not consider this to be open countryside and that term should be reserved only for remote rural locations, but the Council considers this to be open countryside at this location. The generally accepted definition in Development Plans up and down the country is that open countryside refers to countryside beyond the limits of an existing settlement which, self-evidently, would include the appeal site here.
153. Policy EN1 which deals with SLAs in the DDLP is a criteria based policy and, as such, accords with Para 113 of the Framework. It does not restrict all development in SLAs and identifies criteria whereby development would be permitted. The difficulty with this proposed development is its adverse effect on the character of the local landscape and, as the Council has demonstrated, not just because of its visual impact but because it goes to the integrity of the SLA in this location and effectively undermines the narrative of the SLA as it is now in this location. This issue, and indeed this policy, is given more emphasis in the Council's submission in light of the recent letter of Brandon Lewis MP to the Planning Inspectorate during the adjournment of this appeal (DOC 22). This approach supports the position taken by the Inspector in the Irchester appeal (DOC 10, APP 9) quoted by Mr Holmes in his evidence (DOC 10, paragraph 6.38).
154. Mr Lees directs us to the case of Colman (DOC 1, APP 23) and he considered in re-examination that Policy ENV1 referred to in paragraph 21 of that judgment is very similar to EN1 of the DDLP. However, in the Colman case policy ENV1 says "Development in the countryside will only be permitted where ..." whereas DDLP policy EN1 says "Planning permission will normally be granted for development provides that: ...". It was accepted in cross examination that EN1 is a permissive policy. Clearly ENV1 in Colman is not. It was also accepted that EN1 is criteria based.
155. Nevertheless, then Mr Lees concluded that, while explicitly EN1 does not exclude housing, implicitly it does because all built development and, especially housing, adversely affects the character of the local landscape. That is not the position of the Council who look to consider each application against this policy on its own merits and this is a judgement call. In some cases appropriate development may make a positive contribution to a local landscape character. It will inevitably have an impact, but that impact could be positive. Not so here, however, with this appeal proposal. If EN1 was as absolute as Mr Lees suggests, indeed as absolute as ENV1 in the Colman decision where development would 'only be granted if .....', then perhaps a case could be made for finding policy EN1 discordant with the Framework. But it is not and such an approach does not allow a countervailing economic or similar benefit to be

weighed in the scales. Indeed that approach has been undertaken by the Council and will need to be undertaken by the Inspector in the recommendation to the Secretary of State, entirely consistent with EN1.

156. Reference was also made in re-examination of Mr Lees to the Winchcombe<sup>10</sup> appeal decision (DOC 1, APP 42) of 14<sup>th</sup> May 2013 in Gloucestershire. It is always hard to compare policy positions and appeal decisions between two different authorities, and each application and site is different, but it is noted that the Inspector found, in paragraph 16 of her decision, that the policy was criteria based and permissive in tone, which rings with Policy EN1, and no criticism of that policy was made in terms of its compliance with the Framework. What was clear was that the development provided an opportunity to improve the setting of the town and create a softer edge, particularly in the SLA area (DL paragraphs 18 and 31). This contrasts with Mr Allen's comments (DOC 8 paragraph 4.1.7) about the hard edge that would be created by extending the edge of the village of West Haddon westwards at this point.
157. There was discussion of the letter from Brandon Lewis MP (DOC 22) which came out during the time this Inquiry was adjourned. The appellant says that it adds nothing to the current national policy position. That may be so in a strict sense. What, however, it does seek to do is to draw attention to the importance of valuing the character of the local countryside whether it is designated or not. In this case the appeal site is within a local designation and therefore it is submitted that proper consideration should be given to that factor in light of the letter.
158. There is little to be added about visual amenity. There is evidence from both the experts in this area and a table comparing their findings. Most important of all the site visit provided a chance to view the site and surrounding and walk the paths. The Council maintains its submission that the impact is substantial/adverse overall. As for the landscape character assessments, they do not form planning policy and, although there are expectations to protect, conserve and enhance these areas, non-compliance is not a breach of planning policy. It remains a consideration and there is Mr Allen's evidence on these assessments which raises concern in relation to this appeal proposal.

### ***Housing Policy***

159. The next matter is housing policy and in particular DDLP policies HS24, HS21 and HS11. Dealing briefly first with HS11, the appellant questioned its relevance because the policy appears to apply to development in Limited Development Villages, whereas the appeal site is beyond the village limits. As Mr Holmes indicated in his evidence the Council has long applied policy HS11 to include the village and its immediate surrounds, otherwise reference to the requirements of agriculture for example in paragraph 4.49 of the supporting text makes little sense. Accordingly, it was applied in the reason for refusal and was also applied in the last two decision letters at West Haddon (DOC 1, APP 9 & 10) with no adverse comment.

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<sup>10</sup> APP/G1630/A/12/2183317 15.5.2013 Appendix 42 of Mr Lees' proof

160. The decision to refuse this application was made when the Council considered it had a 5 year housing land supply. When the inquiry opened the position, applying the 2014-2019 HLA, was that it did not. Now, applying the 2015-2020 HLA, the LPA considers it has a land supply well in excess of 5 years, almost 6 years. It was always envisaged from the outset of the appeal that such a change may be possible. What this means so far as the Council is concerned is that these policies are not out of date and should be given their full weight. While the plan is time expired, its saved policies have consistently been applied where appropriate and given their full weight. Accordingly, this is development in the open countryside which does not meet any of the limited exceptions and so the development contravenes the policy. Nor is it small scale, nor is it within the existing confines of the village of West Haddon, thus contravening policy HS21. It also affects open land which is significant to the form and character of the village.
161. Mr Holmes for the Council considers the scenario that the Council may have a 5 year housing land supply (DOC 10 paragraphs 6.29-6.32). No such consideration is given by the appellant, so there is no evidence from the appellant on this point who assumed that the 2015-2020 land supply would continue to be below 5 years. That being the case, Mr Holmes's evidence remains unchallenged. It does not preclude further development because the question of sustainability is still at issue. Also, if the benefits of the proposal are sufficient to outweigh the policy position, even though it contravenes the DDLP, the material considerations of sustainability as found in the Framework and the Development Plan (notably the WNJCS) would prevail as put in the Broughton appeal decision (DOC 10, APP 9) at paragraph 39. That, the Council submits, is not the case here and therefore the Development Plan policies should prevail.

### ***Sustainability***

162. Consideration of sustainability helps illustrate why this is not the case. Starting with those policies to which reference has already been made, HS24 and HS21, these have been accepted as being relevant to the determination of numerous appeals in Daventry District, even where the Inspector has determined that Daventry does not have a 5 year housing land supply. Only one appeal decision letter has taken a contrary view and that is the decision relating to land between Guilsborough Road and Northampton Road, West Haddon (DOC 10, APP10 paragraph 10).
163. Two observations can be made on this point. Firstly, only HS21 and HS24 are determined out of date by that Inspector. He deliberately excludes policy HS11. Policy GN1 which will be referred to shortly, formed no part of that appeal decision or reason for refusal. Secondly, the Inspector was clear not to set a precedent by his decision, casting doubt on whether future development proposals would be acceptable. He states at paragraph 40 *"While I have concluded that the appeal scheme is acceptable given the site context and housing land supply situation, the fact that up to 100 dwellings have been allowed on appeal in West Haddon would be a consideration to be weighed in the balance when considering any future development proposals."*

164. Decisions have been submitted at West Haddon (DOC 10, APP2), Byfield (DOC 10, APP6), Moulton<sup>11</sup> (DOC 10, APP6) and Woodford Halse (DOC 10, APP5) where consideration of sustainability has been applied to development proposals because these policies have been considered primarily to relate to control of development in the open countryside. Accordingly, even if the Council's assessment of housing land availability is not accepted, then it is submitted there is ample justification to apply these policies when considering development in the open countryside. To this can be added HS11, to which reference has already been made, and GN1 to severely restrain development in the open countryside. To these can also be added policies in the recently adopted WNJCS and, in particular, policies SA, S1 and R1 and BN5, which cover landscape as well as heritage assets. Here of course the former is being considered.
165. There is then the legal issue (i.e. the proper interpretation of policy) as to whether the presumption in favour of sustainable development will arise, i.e. before the test in paragraph 14 of the Framework arises, the development must have been found (overall) to be sustainable. This issue became particularly relevant when an application for permission to appeal against the decision of Lang J in *Davis v. SSCLG*<sup>12</sup> (which had concluded that the development must indeed first have been found to be sustainable), was refused by the Court of Appeal (February 2014).
166. Since then there has been a further decision of the High Court, Patterson J in *Dartford v. SSCLG*<sup>13</sup>. Patterson J, whilst rejecting the elevation of the comments of the judge in *Davis* to a formulaic approach, nevertheless agreed with Lang J "*that it would be contrary to the fundamental principles of the NPPF if the presumption in favour of development, in paragraph 14, applied equally to sustainable and non-sustainable development. To do so would make a nonsense of Government policy on sustainable development.*" Therefore some alternative or elevated test is required.
167. *Dartford* is of equal status to that in *Davis*; albeit, that the Court of Appeal did not grant permission to appeal against Lang J's decision.
168. The test to be applied in considering whether development is sustainable is also not clear. If it is a "significant adverse must outweigh benefits" test, then it appears to add nothing to the identical test in paragraph 14. In *Dartford*, it was submitted on behalf of the Secretary of State that "*sustainable development is about seeking an overall net positive contribution to economic, social and environmental gains together.*" This submission does not seem to have been rejected, so it may be that the test involves a simple weighing of harm and benefits rather than a need to find significant adverse impacts outweighing benefits.

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<sup>11</sup> APP/Y2810/A/13/2202009

<sup>12</sup> [2013] EWHC 3058 (Admin)

<sup>13</sup> [[2014] EWHC] 2636 (Admin)

169. Assuming that to be the case then the primary issue is that of environmental sustainability. Mr Holmes' and Mr Humphreys' assessment of West Haddon is that it is not that sustainable as a village. It has some facilities, a post office, a mini market, a couple of pubs, 2 churches, a primary school and a beauty salon, a village hall and some sports clubs. No more nor less than one might expect in any small to medium village, but there is no secondary school and the bus service takes people only to Northampton or Rugby and, of importance, to DIRFT, a local employment centre, but not to the closest town Daventry. So people will have to drive and the development offers no more infrastructure to make this offering more sustainable. The employment opportunities in the village are few and so those living in West Haddon who work will almost all have to travel outside the village.
170. These points do not appear to have been disputed by the appellant, but the appellant does point to the economic benefits arising from development of the appeal proposal and seeks to put a value on them. The figures are not disputed, but whether this will be spent locally is questionable because of the limited offering in the village. What is clear is that this site is a much loved and used local space – the Old Rec as it is known locally – with the footpath running through it, whose recreational value will be diminished if this appeal was allowed. It involves translocation of rare grassland which would be completely unnecessary but for this development proposal and it goes to the very integrity of the SLA in this area as has been submitted already.
171. This local importance which has led to a number of local submissions from Cllr Millar, Sir Richard Tilt, the Parish Council and Richard Humphreys QC and others, is significant as the WHNDP progresses and, as we have heard, has now been submitted. As we get closer to adoption of that Plan so the weight attached to it increases and the relevance of paragraph 76 of the Framework grows.
172. There is a suggestion that scale has already been established by the allowed West Haddon appeal in allowing 100 dwellings in the village recently and that therefore a development of 80 must be considered acceptable in scale. Firstly 80 is not small-scale, nor indeed is 100. The decision to allow 100 was based on the exceptional circumstance of the Council not having a 5 year housing land supply at the time the decision was made so the question of scale was not considered by the decision maker. It could be argued, in light of the above, whether it should have been, but that was the decision.
173. So scale, particularly where there is a 5 year housing land supply, is highly relevant on each application and should be considered at its own location on its own merits. To this can be added the cumulative impact on the village from development. As Sir Richard Tilt explained this development alone represents a 13% increase in the size of the village and there has already been a 22% increase in the size of the village so the cumulative impact would be over a third added on to the size of the village. So the concerns as to sustainability are highly relevant.
174. The appellant seeks to assert that scale has already been deemed acceptable by the allowed appeal decision at Guilsborough/Northampton Road (DOC 1, APP 10) but as has been discussed in this appeal, the Inspector was clear that this appeal did not set a precedent, and the fact that 100 dwellings had been

allowed should be weighed in the balance when considering any future development proposals such as this appeal (paragraph 40).

### **WNJCS**

175. The recently adopted JCS is just 4 months old, and is thus up to date and incorporates many important aspects of the Framework, including sustainability. Mr Holmes has given a helpful run through of relevant policies from the WNJCS which did not form part of the reason for refusal as it was not adopted when the Council made their decision. It is now adopted and forms part of the Development Plan. In the Council's submission it adds weight to the DDLP policies that have been applied. It is a Part 1 plan. It does not address the hierarchy of settlements or the designation of special landscape areas, or something similar, which will all be considered as part of the Part 2 Plan for which funding has been identified to further progress.

### **Conclusion**

176. This is development in the open countryside, in a SLA where a development of this type and scale would adversely affect the SLA and create a poor edge to the village which would harm the local countryside. As such it is environmentally unsustainable where the harm outweighs the benefits (and we acknowledge there are benefits to this proposal). But it is also in a district which can now, it is submitted, demonstrate and has demonstrated a 5 year housing land supply in its recent HLA Report for 2015-2020. Therefore while we accept that the DDLP may be time expired, none of its saved policies are out of date. Moreover, this is not a sustainable development nor is West Haddon. For all its commendable facilities it remains a relatively small village and contains facilities commensurate with a small village and not one expanding so rapidly. Therefore the Council commends to the Inspector and to the Secretary of State that this appeal should be dismissed for the reasons given.

### **THE CASE FOR THE WEST HADDON NEIGHBOURHOOD DEVELOPMENT PLAN STEERING GROUP (Sir Richard Tilt)**

177. The WHNDP Steering Group was formed 18 months prior to the Inquiry.

178. NDPs, informed by the Practice Guidance, are giving direct power to communities to shape their growth. The Localism Act 2011 influenced the way neighbourhood plans developed and there was strong Government support to enable people to get the right development for their community. The WHNDP should be given substantial weight.

179. The area was designated by DDC in February 2014. There had been monthly meetings which were published on the NDP website, in local media, hard copy newsletter and the PC website as set out in the Consultation Statement.

180. A survey in May/June 2014 took in all the properties. There had been a 75% response rate and the main points had been supported by 90% of the respondents. The main points from the consultation were:

- West Haddon should maintain its rural character and form
- Existing open green spaces should be protected



- All children should be able to go to the village school
  - 75% felt that the village should not increase by more than 10% in the next 10 years (existing planning permissions meant that it would increase by 22%)
181. Thus the WHNDP was clearly based on the results of consultation. 45 comments were received after the first consultation. Amendments were made, including allowance for the additional 100 dwellings which had been allowed on appeal. The NDP was then formally submitted to DDC on 12 February 2015 with consultation taking place 19 February – 2 April. An independent examiner was shortly to be appointed. The WHNDP was therefore at an advanced stage.
182. During a consultation exercise in March to make sure that there was still support for the NDP, 600 signatures of support were submitted after a leaflet distribution. There may have been even more supporters, but time ran out. Most properties in the village display signs opposing the development.
183. The NDP needs to be in conformity with the WNJCS. The bulk of the housing provision for 2011-2029 identified in the JCS is to be met in the urban areas of Northampton, Daventry town and Brackley. Only 220 houses remain to be allocated in the next 14 years in the Rural Area. 136 were already proposed in West Haddon and they were now identified in the NDP. It was questionable whether the Part 2 Local Plan would allocate any more dwellings to West Haddon.
184. With regard to the Local Plan, policy R1 excludes development outside the settlement boundary. The Local Plan was adopted in 1997 but this is a saved policy and the NDP conforms with it. Policy HS11 suggests that planning permission can be granted if the development is small scale and does not affect open land which is significant to the form and character of the village. This rules out the appeal site. The appellant accepts that policy HS11 is extant and relevant.
185. Now that Daventry can demonstrate 5.94 years of housing land supply it is assumed that this is now not such an issue as it originally was.
186. The NDP and the objections to the development are consistent with the relevant paragraphs of the Framework:
- Paragraph 7 – the three dimensions of sustainable development. This application fails because of the lack of accessible local services; it does not protect the natural environment; there is a lack of available employment with most people travelling by car and bus services difficult for work trips; it would increase the rural population and result in more car trips therefore increased CO<sub>2</sub> emissions
  - Paragraph 16 – neighbourhoods should develop plans which align with strategic development needs. The WHNDP aligns with the JCS which does not envisage this sort of development.
  - Paragraph 17 – local people should be empowered to shape their surroundings/recognise the intrinsic character and beauty of the countryside. The countryside starts in the heart of the village and gives easy access to all. The footpath opens up views to Honey Hill which is a local beauty spot. The

letter to the Planning Inspectorate from Brandon Lewis MP was a reminder of the importance of this paragraph of the Framework. This area has a specific designation and regard must be had to its role and nature.

- Paragraph 72 – important to ensure sufficient school places to meet the needs of existing and new communities. The school has insufficient places and would need to expand.
  - Paragraph 74 – existing open space, sports and recreational buildings and land should not be built on. This would develop an open space important to the village
  - Paragraph 75 – protect and enhance public rights of way and access. The route of the footpath would be protected but not enhanced. The proposal would be detrimental to the footpath.
  - Paragraph 76 – Local communities through NDPs should be able to identify for special protection green areas of particular importance to them. By designating land a Local Green Space local communities will be able to rule out new development other than in very special circumstances. The appeal site has been so identified in the WHNDP.
  - Paragraph 77 – criteria for designation of Local Green Space. The site is in close proximity to the local community, is special and locally significant and widely used. Its beauty lies in being part of the hilltop village. It is local in character and not an extensive tract of land.
  - Paragraph 109 – protect and enhance valued landscapes. This is part of a valued landscape.
  - Paragraph 183 – Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. The WHNDP is the community’s shared vision for the village.
  - Paragraph 184 – Align with strategic policies. The WHNDP clearly conforms with the JCS.
  - Paragraph 216 – weight to policies in emerging plans. The WHNDP is at an advanced stage. The Practice Guidance sets out 6 steps for the adoption of a NDP and this is at stage 4. With the appointment of an examiner it will be at stage 5. Prematurity ought to be considered because of the stage of the NDP and no decision should be taken on this application until the process is complete.
187. The Parish Council requested that the appeal be recovered by the Secretary of State because of his statement in July 2014<sup>14</sup> that he wished to be satisfied that NDPs were taken into account when they reached the submission stage. The strength and weight given to NDPs arises from the Localism Act. Prematurity can be considered where the NDP has reached the end of the publicity period which this has.

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<sup>14</sup> Written Ministerial Statement 10 July 2014 – Nick Boles Communities and Local Government

188. Full account should be taken of the fact that the proposed development goes against the WHNDP, the JCS and breaches the saved policies of the DDLP. Development already permitted will increase the size of West Haddon by 24%. This would add a further 13% i.e. the village would increase by 37%, yet the latest population projections suggest that there will be only a 13% increase in population. Therefore a 37% increase is disproportionate.

### **THE CASE FOR THE PARISH COUNCIL (GILL WELLS, PARISH CLERK)**

189. There were 300 people at a community walk on 1 March to protest about the development. The PC supports their opposition to the scheme. There was significant disquiet in the village about a number of aspects of the proposal:
190. The access is inadequate to take the traffic from 80 houses which would mean an additional 160 cars or more. Elizabeth Road is only 4.9m wide, whereas the normal standard is 5.5m. Because of a lack of garages on Elizabeth Road there is considerable on-street parking, including on the verges.
191. The development would be outside the confines of the village. The views from the footpath are valued and the SLA has strong support. It would harm the rural setting of the village.
192. The scale of the proposal, adding 13% to the village, is too large and would damage social cohesion.
193. The school has insufficient capacity and children have to be bussed to other villages. There is the same problem with secondary school.
194. The JCS target does not have to be met until 2029.
195. The WHNDP is at an advanced stage. The proposal would be contrary to the clear views of the village, the WHNDP and the JCS.

### **THE CASE FOR CLLR MILLAR – WARD COUNCILLOR**

196. Throughout the NDP process the village has been very engaged. This is the third large application in the village. It is a sensitive site because of where it is in an SLA and where the entrance would be located. Shortly before the Inquiry there had been 300 people at a community walk opposing the proposal. The entrance would be between 2 houses. This is not a good way into the site. There was also concern about water run-off from the development.
197. There has been a lot of growth in the village in the last 30 years. In terms of infrastructure the school and pre-school are at capacity.
198. The JCS is now adopted. A rural settlement plan will allocate development. Only 220 more houses need to be allocated to 2029, therefore there is no real urgency to build housing in the rural areas. Plenty more sites are likely to come forward.

## **THE CASE FOR MR RICHARD HUMPHREYS QC – LOCAL RESIDENT**

199. The points are set out in more detail in the submitted statement and appendices (DOC 24).
200. There were a number of important decisions of the Secretary of State and court judgements. Lang J had held that for the application of paragraph 14 of the Framework, development must be regarded as sustainable. In Dartford, the exercise was not formulaic. Pattison J had found that it was necessary to look to see where the balance lay. It was a conventional balancing of all policies in the Framework rather than just paragraph 14. The latest judgement from Lang J was to weigh the lack of a 5 year HLS with the Framework as a whole. Therefore, when assessing development with regard to sections 18-219 it was necessary to look at social, economic and environmental factors, not to apply the paragraph 14 test to that balance. This has not been drawn to the attention of the Inquiry in relation to the application of the presumption in favour of sustainable development.
201. Detailed comments on the various documents are in Appendix A (DOC 24). The LVCO document submitted to the Council in June 2013 recommended in favour of the scheme, but it was necessary to see what shaped those recommendations. A balanced application would have produced an LVIA. The LVCO assumes that the development was acceptable and so looked and how the layout and landscape strategy could accommodate the development. Therefore the viewpoints most used were not included. (LVCO Fig2). There was no assessment from viewpoint 7, only viewpoint 1. However later, when Mr Peachey produced the LVIA, he accepted that, at viewpoint 7, there would be major adverse impact. From the ridge, around the 183m contour shown on the plans, about half the development would be on the downward slope. There was no suggestion at all of this in the LVCO: what was submitted to the Officers said nothing about a major adverse impact.
202. The Landscape Officer made no reference to the Framework i.e. whether this was a valued landscape. There was no value ascribed to the alterations and no qualitative assessment. This was inadequate. The main concern was the view from the north, but it ignored the boundaries of the SLA and the Landscape Character Area (LCA), yet the area shares the key character of the land to the north which is the LCA. Therefore the Planning Officer had the LVCO and the Landscape Officer's comments which do not pass muster. This lets down the public interest of West Haddon.
203. The Planning Officer looked at each point and decided whether the impact was enough to refuse the proposal, yet the subsequent LVIA showed a major adverse impact. Added to this the remaining narrow view along the footpath would be blocked by trees. The site visit would show the surprising views which are not mentioned.
204. Thus the Planning Officer had done an assessment without the benefit of an LVIA. The report mentions paragraph 109 of the Framework but does not develop the point as to whether the landscape is valued and if not, why not, but was unaware of a major adverse impact on the western boundary.

205. There are few hilltop villages in the area: Cold Ashby and Naseby referred to are not in the locality.
206. Walking along the footpath through the appeal site, the view opens up and from the ridge onwards the bypass can be seen, but the landscape dominates. In future when the proposed development is there, the whole experience of getting to the countryside will be postponed until beyond the bypass. Views from within the site will have been lost.
207. Most people enter from the south east corner and there is a sense of openness beyond. One is aware of Morrison Park on the right hand side, but it does not dominate as the footpath takes you away from the boundary so that there is sufficient setback from that development. The first viewpoint is underestimated. This is where the countryside comes into the village and connects it with the landscape beyond. That is why it is in the same character area. There are 3 axes to the village which have been there for centuries. The countryside comes into the village on all sides.
208. The appraisal does not go beyond viewpoint 13 towards Honey Hill. From there the ridge of West Haddon is evident, yet this is not assessed. I am not persuaded that the impact on other views is negligible. The landscape impacts are not as highly localised as suggested.
209. As set out in the Winslow decision (DOC 24, APP 5), the landscape does not have to be designated to be valued. This was also addressed in the Irchester appeal (DOC 10, APP 8). Most weight is given to designated landscapes such as National Parks and AONBs, but it is clear that government policy is to preserve and enhance other landscapes.
210. The details of the development need to be made clear in any conditions. The present view is of the skyline seeming to touch the ground. The Design and Access Statement (DAS) stated that buildings may be up to 10.8m in height to the ridgeline, and that there would be 'keynote' buildings. Although Mr Lees referred to no building being higher than 2½ storeys, no height is given, and the DAS has not been amended.
211. The 5 year HLS is not determinative as seen in other appeal decisions. It is also appropriate to consider a sub-district area as in the Devizes decision (DOC 24, APP 3). The recently adopted WNJCS requirement for the rural areas can clearly be met by 2029 (only 220 units out of 2360 are still to be identified across 78 villages) and it may be that the Part 2 Local Plan will not allocate any new development to West Haddon given the development already permitted. There is 14 years to make up the 220 dwellings and care must be taken not to cause problems in the rural area.
212. This is not that sustainable a location. The buses are poor. There may be an improvement in peak hours for services to DIRFT, but not outside these times. There are few local jobs and facilities. There are no plans for the expansion of the school. There will be a bus to other schools, but this shows it is not sustainable as it cannot sustain local pupils. On the other hand there is no suggestion that there are viability issues for the existing services in the village.

213. Paragraph 74 of the Framework protects open space which is public value. The glossary indicates that it can also be a visual amenity. Paragraph 75 provides for the protection and enhancement of public rights of way and access.
214. The New Homes Bonus should be disregarded. There is no known connection to the proposed development. The Inspector in the Davidson's/Guilsborough Road case was wrong to give it weight.
215. The cumulative impact of the development must be considered as well as the development of the rest of the land to the west on which the appellant has an option. (There is the potential for several hundred houses and a much larger area was put forward as a SHLAA site). The appeal proposal carves out a field on the western boundary which is clearly put in as a 'foot in the door' for future development. This is a bolt-on with no character justification. The appellant owns other land which could be used for the same purpose.
216. With regard to the issue of prematurity, this proposal would undermine the NDP process. A number of the Secretary of States' appeal decisions (DOC 24, APP 1-5) have addressed the issues even where there no 5 year HLS etc. Paragraph 216 of the Framework says that limited weight should be given to plans where there are unresolved objections, but this means that it is accorded some weight and does not mean that prematurity does not bite. In the Malmesbury case (Doc 24, APP2) there were substantial unresolved objections.

#### **THE CASE FOR MR PORTER – LOCAL RESIDENT**

217. Mr Porter indicated that he was speaking as a concerned villager and as someone who had contributed to the preparation of the WHNDP.
218. There had been much debate about the 5 year land supply during the Inquiry. This argument should not be used as a 'silver bullet' that wipes out all other evidence and should not be used by landowners and developers to turn our rural villages into towns.
219. West Haddon, through the generations, has grown and accommodated more than its fair share of new houses. Since he moved to the village in 1996 it had absorbed two large schemes and several smaller ones, and currently there were consents in place for around 130 new houses in the next three years – an increase of well over 20%. This contrasted with 77% of respondents to a recent consultation wanting no more than 10% growth and the recent Household Projections issued by the Government stating that Daventry District will see an increase of 13.3% between 2014 and 2029.
220. As well as the consented sites in West Haddon there are two large sites under construction or consented in neighbouring Long Buckby, two more in Crick and 6,200 units recently granted planning permission less than 10 minutes away at the Rugby Radio Mast site. Common sense should tell any impartial observer that there is more than adequate housing supply in the vicinity of West Haddon for 5 years and well beyond.
221. The Old Rec holds a particular place in the hearts of West Haddon Villagers. It sits close to the centre of the village and provides a vital bridge from the built

environment to the rural splendour of Northamptonshire within which the village sits. Whether you want to embark on a variety of circular walks within and around the village, take a stroll down to the neighbouring hamlet of Winwick, or set off further afield via the Jurassic Way, the chances are that you will start in or pass through the Old Rec. Whatever its official designation, the Old Rec is of special value to our village. Nowhere defined the character of West Haddon more. If the site is approached by taking the short footpath from the churchyard to the southern end of the Old Rec, the significance of the site to the community and the connection it gives to the countryside in which we live will be appreciated.

222. This application is not in accordance with the now adopted WNJCS. It is also not in accordance with the clear wishes of the village as voiced in the very well supported consultation for the NDP that has now been submitted to DDC; the hundreds of yellow posters seen in the windows throughout the village; and the hugely well attended community walk held earlier this month when around 300 villagers turned out and many more sent messages of support as they were either away, playing for their teams or too infirm to join in.
223. Evidence of that support is seen in the panorama poster that recorded this heart-warming community event which can be passed to Secretary of State (DOC 25/25A).

## **SUMMARY OF WRITTEN REPRESENTATIONS**

224. 90 Letters of objection were received in response to the notification of the appeal, including from Chris Heaton-Harris MP, the local Member of Parliament who requested that the appeal be recovered by the Secretary of State. The main points of objection are:
- i) The proposed development is outside the confines of the village, in the countryside and in the SLA. It is therefore contrary to the policies of the DDLP.
  - ii) The proposal would have an unacceptable visual impact on this hilltop village, on the character of the footpath which runs through the site and the views from it. This is a much used local path which gives residents easy access to an area of natural beauty.
  - iii) The scale of the development is out of keeping with the village. The DDLP designates this as a Limited Development Village. However a recent appeal decision granted permission for 100 dwellings, against the wishes of the community, and there are around 36 others in the pipeline. If this development is allowed the cumulative effect would mean around a 35% increase in the size of the village which is disproportionate and unsustainable.
  - iv) A lot of time and effort has gone into preparing the WHNDP which is well supported and, in accordance with Government policy, expresses how the local community wishes to see the village develop. The NDP puts a cap of 7% on new growth and designates the appeal site as Protected Green Space. The proposal would be contrary to the NDP.

- v) The proposed access through Elizabeth Road would be substandard and unsuitable for the size of the proposed development. It is below the normally required width and on-street parking further restricts the flow of traffic.
- vi) The traffic from the development would add to congestion and parking in the village.
- vii) Facilities in the village are limited. There would be undue pressure on services such as the medical facilities which are already stretched. The local primary school is at capacity. There is no room for it to expand, and the contributions from the developer would not therefore create extra spaces but would be used by the County Council to fund a bus for children to be taken to schools in other villages. This is unacceptable, particularly for primary school age children. Pre-school facilities are also at capacity.
- viii) There are existing problems of surface water flooding in the High Street and West End and water pressure problems which are likely to be exacerbated by the addition of all the new dwellings.
- ix) The benefits such as the New Homes Bonus would not be felt by the local community which would have to bear the brunt of the problems.

## **CONDITIONS AND OBLIGATIONS**

### ***Conditions***

225. Were planning permission to be granted, a number of conditions were discussed at the Inquiry (DOC 17). If the Secretary of State is minded to allow the appeal it is recommended that the conditions are set out in the Annex to this Report are imposed for the reasons given at paragraphs 289-296.

### ***S106 Agreement***

226. The completed S106 Agreement (DOC 15) would secure a number of measures, including;

- 40% of the proposed dwellings as affordable housing.
- Financial contributions of between £520 and £8,120/2-5 bed dwelling would be made towards the provision of additional primary education and £599 and £10,024/ 2-5 bed dwelling for secondary education facilities.
- £477/dwelling towards indoor sports facilities in West Haddon.
- £68/dwelling towards indoor youth facilities.
- £621/dwelling towards an extension of the GP Medical Surgery in West Haddon in the first instance, or the GP Practice's main surgery in Crick.
- On site open space and a sum to the Parish Council for its maintenance or the establishment of a private management company.



- off site open space providing an area for translocated grassland and a scheme for its management.
  - on-site open space and its transfer to a private management company or the Parish Council.
  - off-site open space.
  - A transport contribution of £30, 000 towards bus shelters, raised borders, and signage, the provision of one month's travel card/dwelling and £1000/dwelling for the enhancement of the no.96 bus service.
  - Healthcare contribution of £621/dwelling
227. I am satisfied that the completed deed meets the tests for obligations set out in the Framework and/or accords with s122 of the Community Infrastructure Levy Regulations 2010 i.e. the measures outlined are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind. The proportion of affordable housing secured by the agreement accords with policy H2 of the WNJCS. The financial contributions towards education, sports and youth facilities and off-site open space are necessary to meet the additional need arising from the development, and the transport improvements accord with objectives to encourage sustainable travel. The agreement also sets out measures to secure the provision and management of the open space to be provided within the development and the translocated grassland which, as well as providing a resource for future residents, would be a net biodiversity gain.

## **INSPECTOR'S CONCLUSIONS**

The numbers in square brackets [ ] refer to relevant paragraphs in the parties' cases as set out above.

### **Main Considerations**

228. From the Council's reason for refusal and the submissions and representations set out above, I am of the view that the main considerations in this case are:

- The effect of the proposal on the character and appearance of the area and the recreational value of the local footpath network; and
- Whether this is an appropriate site for residential development, having regard to the principles of sustainable development, and national and development plan policies for the protection of the countryside and the delivery of housing.

### ***Character and Appearance***

229. The site lies within a designated SLA. DLP policy EN1 states that planning permission will normally be granted for development provided that, among other things, it relates to settlements within these areas and does not adversely affect the character of the local landscape. Policy HS11 is permissive of development in Limited Development Villages (which includes West Haddon) providing, among other things, it does not affect open land which is of particular significance to the form and character of the village. The site is not within the village confines, but in evidence the Council indicated that it is also generally used in assessing development adjoining the settlement boundary. I have adopted this approach.

230. Policy GN1 indicates that the granting of planning permission will be guided by, amongst other things, the need to severely restrain development in the open countryside. Although the appellant considers that this restrictive policy does not accord with the Framework, one of the core principles of the Framework is that planning should recognise the intrinsic character and beauty of the countryside. The letter from Brandon Lewis MP to the Planning Inspectorate in March 2015 (DOC 22) underlines this point, though it does not add to the policy set out in the Framework.

231. The appellant maintained that policy BN5 of the WNJCS (DOC 1 APP25) seems to relate primarily to the protection of heritage assets. However this policy also recognises the importance of the landscape in the distinctiveness of an area. The policy therefore looks, not only at securing and enhancing the significance of the area's heritage assets and setting but also the landscape. It requires development in areas of landscape sensitivity and/or (my emphasis) known historic or heritage significance to meet a number of requirements. Development should sustain and enhance heritage and landscape features which contribute to the character of the area including the skyline and landscape settings of towns and villages.

232. It was argued for the appellant that the SLA designation is an outdated, blanket designation stemming from the former Structure Plan, and that policy EN1,

which seeks to protect SLAs, does not fully accord with the Framework as it does not follow the cost/benefit approach which allows decision makers to balance harm and benefits. However unlike the similar policy in another appeal decision drawn to my attention (Pulley Lane - DOC 1, APP 24), it is a criteria based policy which is permissive of development other than in certain circumstances [154]. Of particular relevance to this case is EN1(D) which requires that the development does not adversely affect the character of the local landscape. I disagree with the appellant's contention that any development would infringe this criterion: development will inevitably change the landscape, but this does not mean to say that the effect on the landscape would necessarily be adverse[155].

233. There is no documentary evidence which shows the reasoning as to how the boundary of the SLA was derived locally [86, 87]. Even so the area around and including the appeal site carries this designation. The designation accompanied Structure Plan policies aimed at protecting the countryside, and so I do not consider it unreasonable to say that the SLA seeks to protect the more attractive areas of the surrounding countryside. It seems to me that the open character of the SLA areas around West Haddon differ from the more enclosed area to the south and west. I agree that the SLA designation is outdated, but the Framework states that the planning system should protect valued landscapes. From the emerging NDP and the representations of many local residents, it is clear that this is a valued landscape [186, 189, 191, 206-9, 221].
234. Since the SLA designation, there have been a number of published landscape character studies. The site is within the National Character Area (NCA) profile 95: Northamptonshire Uplands, and the NCA provides a broad view at a regional scale of the key landscape features. This particular NCA includes gently rolling, rounded hills and valleys, long low ridge lines and variety in the land form, with wide, far reaching views from the edges across the ridge tops.
235. The Environmental Character and Green Infrastructure Suite (ECS 2008)<sup>15</sup> is a Landscape Character Assessment covering the whole county. Among other things this work has informed the WNJCS. One of the aims is to replace the SLA designations with a more objective character based assessment. At a regional scale it defines a number of Environmental Character Area (ECA) and at sub-regional scale, Landscape Character Types (LCT). The appeal site and much of the village fall within the West Northamptonshire Uplands ECA, while the south-eastern edge of the village and immediate landscape off Guilsborough Road is defined as the Central Northamptonshire Plateaux and Valleys ECA. The appeal site is also located in the Ironstone Upland LCT and, more specifically the Guilsborough Ironstone Uplands LCA which extends to the north east of West Haddon.
236. The Landscape and Visual Constraints and Opportunities (LVCO) report (DOC 27C) submitted with the planning application was not an appraisal of the landscape impact of the proposal but was *'to guide the masterplan for residential development to secure a scale and form of development that is considered acceptable in landscape and visual terms'* (DOC 27C paragraph 4.1)

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<sup>15</sup> Published by the River Nene Regional Park Partnership

i.e. the development of the site was taken as a given [201]. Both the landscape witnesses carried out an LVIA for the Inquiry (DOC 3 APP3 and DOC9). The LVIA's are based on the GLVIA, and assess viewpoints in terms of magnitude of the impact, the sensitivity of the receptors and the overall effect. As far as long distance views are concerned, they were in broad agreement as to the visual impact on the landscape. The main concerns and disagreement were focussed on local impacts in and around the site [148]. At the Inquiry a table was drawn up by the main parties to show the viewpoints over which there was a difference of opinion (DOC 18) [90].

237. West Haddon is a hilltop village. One of the main areas of disagreement between the parties is the appearance of the proposed development along the ridgeline when seen from the north. In this view the appellant claimed that it would appear as a small extension to the Morrison Park development and that there would be a minor adverse effect on the landscape. The Council considers that there would be a moderate, adverse effect.
238. Because of the slope of the land, the angle of the northern boundary of the site and the curve of the bypass, development on the appeal site would come much closer to the bypass than the Morrison Park houses, reducing the gap to around 75m. The bypass is on an embankment at this point and so the development would be very visible. The increasing suburbanisation of the area between the village and the bypass is a concern highlighted in the WHNDP.
239. Walking southwards along the footpath and emerging from the tunnel under the bypass the development would be seen more or less directly ahead. There was some dispute at the Inquiry as to whether the dwellings on the appeal site would appear higher and thus more prominent in the landscape than the existing houses. It appears from the contours shown on drawing JEP3 that some of the dwellings towards the northern edge of the appeal site would sit on or above the 180m contour, whereas those on the edge of Morrison Park sit below it. Especially as the Design and Access Statement, which sets the parameters for the development and which has not been amended [210], envisages 3 keynote buildings along this edge (DOC 27A, paragraph 4.5.2 and diagram). I therefore agree with the Council as to the adverse effect on this view.
240. Moreover the ECA of the West Northamptonshire Uplands (DOC 3, APP3) notes that any development of the few hilltop villages should seek to avoid extending down onto the hill slopes. This has, to some extent, happened with the Morrison park development, but I consider that the effect would be exacerbated by the proposed development which would include buildings on the land which slopes down from the ridge.
241. The other main area of disagreement is the degree of the adverse visual impact when viewed from the south. Despite the existing houses to the east, there is a distinct impression of entering the countryside directly from the heart of the village at the southern end of the site. [207] This emphasises the rural setting of the village. Although the southernmost part of the site where the footpath crosses diagonally from east to west would be retained as open space, the proposed development, rising up the slope, would have a significant adverse visual impact.

242. I am also concerned that the area to the west for the translocated grassland seems to bear little relationship with the rest of the appeal site or the surrounding landscape. It is divorced from the site in terms of character and appearance and appears as a random area carved out of the adjoining field. There is no physical justification for the selection of this area, and the only landscape feature relating it to the adjoining development is the intervening hedge on the eastern boundary of the proposed grassland area.
243. At present the field is fallow, but it is not apparent how the translocated grassland might be affected by future farming activity. Residents suggest that it would be a 'toe hold' to justify further development to the west [215]. There is no substantiated evidence to show that this is the case, though it was part of a larger site put forward in the call for sites for the SHLAA. Any future development would be the subject of detailed consideration on its own merits and is not a reason to withhold planning permission in this case.
244. The SLA has been taken into account in the 2 recent appeal decisions in West Haddon. In the Davidson's appeal, (DOC 1, APP10) it was noted that the site was unaffected by the SLA designation which surrounds much of the village. The site is on a plateau rather than the steeper, more exposed village edges, and is relatively contained in both long and short range views. The Inspector found that although it was outside the confines of the village, it would not appear as an incursion into the open countryside which I consider would result from this appeal scheme.
245. In the Jackson case (DOC 1, APP9), that site was in the SLA. It was noted that the site is part of the open countryside which surrounds the village and is part of its rural setting. The adverse impacts of the views from the local footpaths adjoining and crossing the site were also part of the reason that the scheme was turned down. I am of the opinion that the same considerations apply in this current appeal.

### ***PRoWs***

246. Paragraph 75 of the Framework states that planning should protect and enhance public rights of way and access. The appellant argues that the footpath which runs along the western edge of the site would be protected as it is to be retained. Also the surface would be upgraded which would enhance access for some, though only insofar as it crosses through the appeal site [93].
247. The Jurassic Way is a long distance footpath which runs between Banbury in Oxfordshire and Stamford in Lincolnshire, largely following the Jurassic limestone ridge in Northamptonshire. Its nature is that it periodically passes through small towns and villages including West Haddon. It is maintained that only a quarter of a mile additional stretch of the long distance footpath would be directly alongside the proposed dwellings on the appeal site and that additional planting and landscaping and an area of open space within the site are proposed.
248. Even so, I agree that the 'experience' of the footpath would be significantly diminished. Although the development would extend along only a small part of the long distance path, the PRoW clearly functions as a much used local path for walks around the village. At present it is well separated from built development

so, with fields to both east and west, there is a sense of being in the countryside, even though only a relatively short distance from the nearest dwellings. Walking the path through the appeal site is a very different experience from the footpath (FK8) which passes to the north of Morrison Park Road. That path directly adjoins the residential boundaries of the houses and, in part, is enclosed with fences to one side and trees and hedges on the other as would be the case with the proposed development. There is acute awareness of residential activity just behind the fences and the path has a much more urban feel. An additional stretch of this path, immediately to the south of the site, would also run close to the proposed dwellings.

249. Both the Council and the appellant agree that there would be a major adverse impact on views from the footpath towards the open countryside from around the ridge, about two-thirds of the way up the site. From around this ridge the views to the north-east are limited by the existing houses, but extensive views open up to the north and north-west, out over the bypass which is below the level of the site at this point, and which has surprisingly little visual impact on the panoramic views as, for the most part, it is in a cutting or at grade. This view, also identified in the NDP, would be severely curtailed by the proposed dwellings. There would only be a small gap between the houses and the retained trees through which the panoramic views could be seen until dropping down to a lower, level just outside the site where the path joins FK8. At this point the stretch of the by pass which is on an embankment intrudes much more into the view and it would become more of a focus.
250. Overall I find that this site is important to the form and setting of West Haddon, both in terms of its position as a hilltop village and its rural setting. The proposed development would have a detrimental effect on the form and setting of the village contrary to DDLP policy HS11(C), would be unacceptable development in open countryside contrary to policies GN1 and HS24(B) and would detract from the SLA contrary to policy EN1. It would be detrimental to the character and appearance of the landscape contrary to WNJCS policy BN5. It would also have an adverse effect on the recreational value of the PROWs, particularly the path through the site, such that while its line would be preserved it would not be enhanced as required by paragraph 75 of the Framework.

### ***Location and Provision of Housing***

251. The appeal site is outside the defined confines of West Haddon. DLP policy HS21 seeks to prevent development outside the confines of West Haddon other than on allocated sites, which the appeal site is not [34].
252. West Haddon is defined in the DDLP policy HS11 as a 'Limited Development Village' where planning permission will be granted subject to certain criteria [33]. Criteria A, B and C do not apply in to this development. The proposal does not accord Criterion C is discussed above [250].
253. Policy HS24 states that planning permission will not be granted for residential development in the open countryside other than for the reuse or conversion of buildings for the purposes of agriculture or forestry or is the replacement of an existing dwelling. Neither of these criteria apply this case. Although it was argued for the appellant that this was not 'open countryside', being adjoining

the settlement boundary and well contained [152], quite clearly the supporting text to policy HS21 indicates that further development outside the existing confines will be considered to be an encroachment into open countryside.

254. Therefore, the proposal, which is development in the countryside, does not accord with policies HS11, HS21 and HS24 of the DDLP.

### *Housing Land Supply*

255. The Framework seeks to boost significantly the supply of housing (paragraph 47). Housing applications should be considered in the context of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable sites (paragraph 49). The appellants argue that policies HS11, HS21 and HS24 are out of date as they restrict the supply of housing.

256. At the outset of the Inquiry as set out in the SOCG the Council agreed that, based on the 2014 HLA Assessment, it could not demonstrate a 5 year HLS [64, 126]. That position changed when the 2015 HLA report was published on 2 April 2015 in which the Council calculated a 5.94 year supply [127]. The Council also maintained that, because of delivery rates in the preceding 4 years, and based on the trajectory set out in the WNJCS, it was no longer an authority to which a 20% rather than 5% buffer should be applied [134]. Both the housing land supply figures and the requirement for only a 5% buffer are contested by the appellant [65-71, 81]].

257. Most sites in the District are for fewer than 15 dwellings. The Council considers them straightforward to deliver and requiring little, if any, off-site infrastructure. As such, there is no reason to suppose that they will not come forward within the next 5 years. A further 16 sites with permission for 15+ dwellings have also been identified and the Council's assumptions about completion rates are set out in HLA 2015, Appendix 2. This is based on consultation with all developers/promoters of the schemes for most of the sites, with confirmation sought about anticipated build-out rates in accordance with the advice in the Practice Guidance [128].

258. Nonetheless, the appellant took issue with the deliverability of a number of the sites identified by the Council [72-81]. Footnote 11 to paragraph 47 of the Framework sets out what should be considered to be a deliverable housing site and this is also included in the Practice Guidance [129]. The sites where the deliverability is disputed are assessed with this in mind:

### *Daventry 3 & 6 [73, 142]*

259. A planning application has been submitted but has not been determined. The appellant argues that no EIA screening has been undertaken and that the site cannot be said to be available. This site is on the edge of the town centre, and is owned by the Council. It has no significant constraints and although there is no resolution to dispose of the site, the Council has funding in its capital programme to undertake preparatory work. I do not consider that out of the potential 300 dwellings on this site it is unreasonable to expect that 50 dwellings would come forward within 5 years, as allowed for by the Council, albeit it may be towards the end of the period.

*Middlemore 7 & 8* [74, 138]

260. This is an allocated site. There is a lapsed planning permission and a development brief. At the outset of the Inquiry the Council conceded that there should be a reduction of 50 dwellings in its estimate for this site as, to date, there is only a commitment for a scheme of 50 homes to rent. At the resumed Inquiry the Council maintained that there is now another year to be included in the 2015 HLA assessment and so the figure should remain at 100, but as there is no other interest in the site I agree that only 50, not 100, dwellings should be included for this site.

*Monksmoor* [72,141]

261. The site has planning permission for phases 1 & 2. The appellant takes issue with the Council's estimated rate of delivery rate for this site, considering it to be greater than would normally be found on a site with a single developer. It would also be greater than the figure of around 52 units/annum which the Council conceded is a realistic output from a single outlet. However, the figure has been based on the developer's expectation of delivery and that 2 outlets would be opened up on the site. There was discussion at the Inquiry as to how realistic the figures are, and whether it is likely that a single developer might open up 2 outlets on a site. However, given the upturn in the housing market after the prolonged recession and the lack of substantiated evidence to back up the appellant's assertion that the delivery could not be achieved, I do not consider it unreasonable at this stage to consider that the Council's estimate, which takes a mid point on the developer's figures, can be achieved in the 5 year period.

*Daventry NE SUE* [75, 139]

262. This is a large, strategic site which the Council estimates would produce 75 dwellings, ultimately, could deliver around 4,000 dwellings with 2,600 in the plan period. There have been problems with the withdrawal of the original developer, but there is already interest from another volume house builder. The appellant argues that there is a need for a link road to be built, but the Council confirmed that it would be possible for some of the development to take place without the construction of the link road. Moreover, some development on the site will contribute towards the funding of the link road through the New Homes Bonus. I therefore consider that the inclusion of 75 dwellings is reasonable.

*Daventry College* [76, 143]

263. Although there has not been progress on this site until fairly recently, there is now a requirement for new college facilities to be operational by September 2016. However proposals for this site raise a number of conflicting policy issues which will need to be resolved, particularly the need to meet education objectives and the loss of open space/playing fields to which Sport England is likely to object. Given this conflict I consider that it cannot be relied on to deliver the number of dwellings put forward by the Council and should be deleted from the HLS figures at this stage.



*Micklewell Park* [77, 144]

264. There is outline planning permission for 450 homes on this site subject to the signing of a S106 agreement. The appellant argues that the timetable necessary for the approval of reserved matters is unrealistic, but the Council states that the developers are looking to build the whole site out (450 units) within the 5 year period []. The Council has taken a more cautious approach and reduced this to the delivery of 419 homes by 2020. Again, although there is a dispute about build out rates, there is no substantiated evidence which shows that the Council's reduced view of the developer's own assessment is unreasonable, particularly given the improving market conditions.

*Windfalls* [79, 136]

265. The Council's estimate for windfalls is based on an average figure over the last 7 years. The appellant points out that in the last 3 years the number of windfalls has been 86, 87 and 82 units respectively, and that this is below the 89 dwellings/annum allowed for by the Council in the 2015 HLA. Nonetheless, it seems to me that the historic figures show that although there has been a fall off in some years, on average the windfall rate has held up quite well during the recession. Even were there to be a slight fall off it makes only a marginal difference to the overall supply figures. The Council has scrutinised the figures carefully and excluded developments which have been on garden land. Indeed, the Inspector in the Jackson appeal considered the Council's assessment in this respect to be '*compelling evidence, sufficient to justify the inclusion of this figure in their calculations*' (DOC 9, paragraph 13). I therefore do not see the need to reduce the figure by 57 dwellings as suggested by the appellant.

*Lapse Rate* [130]

266. It was no part of the appellant's original case that the Council had not included a lapse rate in its assessment. However this has been added in the 2015 HLA report and is agreed by the appellant [132].

*5% or 20% Buffer*

267. The appellant argues that the housing numbers required should be increased because of past under delivery [66]. The Council's case for considering that only a 5% rather than a 20% buffer should be included is based on delivering or exceeding the annualised requirement in the first 4 years of the WNJCS plan period, but the appellant considers that, looking further back, historic delivery was poor and that the Practice Guidance requires under supply to be dealt with in the first 5 years of the plan period where possible [67]. Various appeal decisions are referred to by the appellant in support of this where the Secretary of State and/or Inspectors have considered the appropriate time period over which targets and delivery should be assessed.

268. Nonetheless, it seems to me that the decision in each appeal has been based on the particular circumstances of that authority with regard to planning policy, housing need and past delivery rates and I consider it appropriate to do so in this case. There are only 4 years of supply figures available for the WNJCS plan period and, in these years, the Council has met or exceeded its target. Earlier housing targets (2001-2011) were based on the East Midlands Regional Spatial Strategy (RSS) which has been revoked. The RSS figures were based on

growth target figures rather than being derived from an OAHN as required by the Framework. [133-5]

269. More importantly, the historic record of undersupply was considered by the Inspector who examined the JCS and found it to be sound. The JCS figures are based on a housing trajectory starting in 2011 with the Inspector taking into account the previous record of under delivery (during the period of the RSS), delivery in the early years of the plan and the OAHN. The trajectory provides for a step change in delivery in the middle part of the plan period, mainly from Sustainable Urban Extensions coming on stream. The JCS has been adopted unchallenged and, although the recommended period for assessing delivery set out in the Practice Guidance is 5 years, and in some appeal cases it has been found appropriate to look back over a longer period, given the circumstances in this case I see no reason to take a different approach from that established in the recently adopted JCS. In addition, assessment of the Council's HLS against the WNJCS trajectory was agreed between the main parties in the SOCG (DOC 11).
270. In summary, I consider that the Council has not under-delivered with regard to the trajectory set in the WNJCS and I agree that a buffer of 5% is appropriate. As such the requirement would be 2,759 dwellings for the period 2015-2020, giving an annual requirement of 552 dwellings. Although the appellant contends whether some of the sites are 'available' in terms of the Framework, I am satisfied that, in general, the sites identified accord with the advice in the Practice Guidance in this regard. There is no requirement for there to be detailed approval and there is reasonable confidence that there are no legal or technical issues which cannot be overcome other than where highlighted above and discounted. Even allowing for the adjustments which I have indicated should be made to the likely delivery from some of the sites identified, I consider that, on the basis of the evidence presented when the inquiry resumed, the Council is able to demonstrate a 5 year supply (+5%) of deliverable housing sites.
271. Thus, in terms of paragraph 49 of the Framework, I do not consider that DDLP policies HS11, HS21 and HS24 are out of date. Even so, there is no cap on development and the scheme must be considered in the context of the presumption in favour of sustainable development which runs throughout the Framework. Paragraph 7 of the Framework indicates that there are three dimensions to sustainable development - economic, social and environmental.

### *Sustainable Development*

272. The appeal cites a number of economic benefits of the scheme which weigh in favour of the proposals [144-146 and DOC 1 paragraphs 5.110-5.113]. There is the potential to generate 120 construction jobs and a further 240 jobs in the supply chain; the generation of around £20,448 of economic activity; the payment of £554,831 to DDC and around £20,448 to Northamptonshire CC through the New Homes Bonus (NHB). Such economic benefits accord with the Government's objective of building a strong, responsive and competitive economy. However these benefits, particularly in the NHB, are not specifically related to West Haddon [224].

273. In social terms, the scheme would provide 40% of the units as affordable housing. This would accord with policy H2 of the WNJCS, but would go to meeting a District-wide need rather than an identified local need.
274. It is argued by third parties that, despite being a Limited Development Village as designated in the DDLP, the West Haddon is not in a particularly sustainable location as there are limited facilities and some, such as the medical centre and the school are already stretched [186,193]. Financial contributions made through the S106 towards these facilities [226] are intended to address these matters, but children are still likely to be bussed to schools in other villages [224].
275. There are few employment opportunities on the village. There is no bus to the nearest large town (Daventry) but there is a direct bus serve to Rugby and Northampton which serve for shopping rather than employment [169] and peak hours improvements to the service to DIRFT would also be secured by the s106.
276. The facilities which exist in the village are generally accessible on foot from the site, though there is no evidence that there is a need for additional housing to support them.
277. Thus, while there is the opportunity to access some services and facilities by non-car modes of travel, it can be expected that there would be additional trips by car for many day to day needs and employment as a result of the development.
278. The first issue set out above considered the environmental issues associated with the proposal. In view of the adverse effects of the scheme which I have identified, I find that the development would not be sustainable in environmental terms and that this significantly and demonstrably outweighs the benefits of the proposal.
279. I conclude that, having regard to the principles of sustainable development and national and development plan policies for the delivery of housing and the protection of the countryside, this is not an appropriate site for residential development.

### **Other Matters**

#### *West Haddon Neighbourhood Development Plan*

280. The WNJCS adopts a hierarchical approach to the location of housing and, through policy R1, allocates about 2360 dwellings to the Daventry Rural Area. While this is not a ceiling, of these only 220 units remain to be allocated through the 78 villages to the end of the Plan period [183]. The allocations will take place through the Part 2 Local Plans. As far as policy R1 seeks to allocate some housing in the rural areas, the proposed scheme would not conflict with this policy, and it may well be that as with the DDLP, some of the allocations will be in the existing Limited Development Villages. This includes West Haddon. Nevertheless, the site is outside the development boundary and, as identified above, conflicts with DDLP policy HS21 and criterion G of JCS policy R1 in this regard. The supporting text to policy HS11, which allows development within Limited Development Villages, indicates that there is a concern to prevent development which would be inappropriate in scale and character.

281. The WHNDP identifies the appeal site as Protected Green Space (PGS). The Council does not argue a prematurity point with regard to paragraph 216 of the Framework and both the appellant and the Council consider that the WHNDP should be given little weight at this stage [122]. This matter, however was put strongly by the NDP Steering Group [186], the Parish Council [195] and local residents [222, 224] and was behind requests for the appeal to be recovered [187].
282. Since the Inquiry closed an independent examiner has been appointed. The NDP has therefore reached Step 5 of the 7 Steps as set out in the Practice Guidance<sup>16</sup>. The appellant has submitted an objection to the designation of the site as PGS (DOC 21) and this remains a substantial unresolved matter.
283. The NDP was amended to accommodate the permission for 100 dwellings granted on the Davidson's site in 2014. Overall, the NDP envisages growth of around 7% in the plan period. The appeal proposal itself would represent 13% growth and, when added to the extant permissions, would result in a 37% growth in the size of the village [188]. Local residents argue that this is not how they wish to see the village develop as expressed in the strong support in the village for the NDP.
284. The appeal proposal would also represent of the order of 36% of the Daventry Rural Area allocation to 2029 but, as argued by local residents, given the scale of development already permitted in West Haddon it may be that no further allocations would be made in the village or, if allocations are made they would be smaller in scale and within the settlement boundary in line with the NDP [183]. This appears to be acknowledged in the Davidson's appeal where the Inspector commented '*the fact that up to 100 dwellings have been allowed on appeal in West Haddon would be a consideration to be weighed in the balance when considering any future development proposals*' (DOC 1, APP 10).
285. Therefore, it seems to me that, at this quite advanced stage of the process, permitting the appeal proposal would undermine the NDP being put forward by the local community and that this would not accord with the thrust of paragraphs 183-185 of the Framework which aims to give local communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.

### Access

286. Objectors claim that Elizabeth Road is inadequate to serve the scale of the proposed development, especially as there is considerable on-street parking in the area [190]. Drawing NTT/2097/0001/P1 (DOC 27K) shows that Elizabeth Road is between 4.9022m and 5.5791m wide along its length to Guilsborough Road. Also a priority junction would be formed making traffic priorities clearer at the intersection of the 2 'arms' of Victoria Close. Northamptonshire County Council, The Highway Authority has raised no objection in this regard (DOC 27K). Furthermore, the Council would have the power to introduce parking

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<sup>16</sup> Practice Guidance para 080 Reference ID: 41-080-2015029

restrictions or other measures if obstructions were being caused on Elizabeth Road.

### *Drainage*

287. Concerns have been expressed about the effect of the additional houses on drainage in the area as there have been flooding problems in the village [224viii]. However the water company, Anglian Water, has indicated that the sewerage system has capacity for the flows. With regard to surface water drainage, initially it was proposed to provide a system with balancing ponds. However further work indicated that a percolation system could be feasible. The water company requested that, if planning permission were granted conditions should be imposed.

### *Biodiversity*

288. With the proposals for the translocated grassland, along with additional planting, landscaping and open space within the development and other measures highlighted in the Biodiversity Management Plan (DOC 27D) there would be a net biodiversity gain as a result of the proposed development [116].

## **CONDITIONS**

289. A list of conditions agreed by the Council and the appellant was discussed at the Inquiry (DOC 17). I have considered these in the light of the advice in the Practice Guidance in recommending the conditions to be imposed if planning permission were to be granted. The recommended conditions are set out in the Annex attached to this report.
290. In addition to the standard conditions relating to the timescale for the submission of the reserved matters (scale, appearance, layout and landscaping), and the commencement of development, it is necessary to require that the development is carried out in accordance with the detailed drawings relating to the access which is not a reserved matter. I also recommend a condition requiring the implementation of the Travel Plan which was submitted with the planning application but which was not included in the agreed conditions.
291. In the interests of the living conditions and safety of future residents and/or the amenity of the wider area, conditions requiring the approval of details of foul and surface water drainage and the phasing of connection, a scheme for mitigation for protecting the new dwellings from noise the A428 by-pass, details of a single fire hydrant within the development
292. To ensure that potential risks from contamination have been fully assessed, and as recommended by the Phase 1 Desk Study by BSP (June 2013) submitted with the planning application, it is necessary to require a scheme for investigation of contamination on the site and any necessary remediation prior to the commencement of development.
293. In the interests of highway safety and the living conditions of nearby and future residents, it is reasonable to require the submission of a Construction

Management Plan, the details of any enhancement to PRowS and a scheme for external lighting.

294. To accord with paragraph 141 of the Framework in respect of the recording of heritage assets, and because of archaeological findings when the nearby by-pass was constructed, the implementation of a programme of archaeological works in accordance with an approved written scheme of investigation is required.
295. In the interest of biodiversity net gain, approval of an Ecological Management Plan is required in accordance with the recommendations of the submitted Ecological Appraisal, Biodiversity Management Plan and Bat Survey. A scheme for protecting existing tree and hedgerows during construction is also required.
296. Although not included in the list of agreed conditions, to accord with objectives for sustainable development it is reasonable to require the implementation of the submitted Travel Plan.

## **CONCLUSION**

297. The Council can demonstrate a 5 year HLS, and so the policies for the supply of housing in the DDLP are not out of date.
298. The development would be detrimental to the character and appearance of the area, which is a designated SLA, part of a valued landscape and an area of land which is important to the form and character of the village of West Haddon. It would also detract from the recreational value of the local footpath network. The scheme would not accord with policies of the WNJCS, the DDLP and the Framework in this regard and would not be sustainable development in environmental terms.
299. There are a number of economic and social benefits of the scheme, particularly the provision of 40% of the dwellings as affordable housing. There would also be benefits from the creation of construction jobs and generation of additional economic activity, payment of the NHB to the Council, and a net gain for biodiversity.
300. The scheme would not accord with the emerging WHNDP which is at an advanced stage and this is also a material consideration, though not one on its own which would warrant dismissal of this appeal.
301. Overall I conclude that the benefits of the scheme are significantly and demonstrably outweighed by the adverse effects of the proposed development.

## **RECOMMENDATION**

302. I recommend that the appeal be dismissed.
303. In the event that the Secretary of State disagrees, I recommend applying the attached conditions for the reasons given above. I am also satisfied that the submitted s106 agreement is required in order to mitigate the effects of the development and that it would meet the requirements of s122 and s123 of the Community Infrastructure Levy Regulations 2010 and the Framework.

*Isobel McCretton*

INSPECTOR

## **ANNEX - SCHEDULE OF CONDITIONS**

1. Details of the appearance, landscaping, layout and scale, (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before the development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
3. The development hereby permitted shall be made to the Local Planning Authority not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans in respect of those matters not reserved for later approval: EMS.2196\_04-1D; NTT 2097 001 Rev P4.
5. No development affecting existing public rights of way shall take place until a scheme of enhancement or improvement has been submitted to and approved in writing by the Local Planning Authority. Development thereafter shall take place in accordance with the approved scheme.
6. No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CMP shall thereafter be implemented and adhered to throughout the construction period. The CMP shall include and specify the provision for the following:
  - Overall strategy for managing environmental impacts that arise during construction;
  - Measures to control the emission of dust and dirt during construction;
  - Control of noise emanating from the site during construction;
  - Hours of construction work for the development;
  - Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure;
  - Designation, layout and design of construction access and egress points;
  - Internal site circulation routes;
  - Directional signage (on and off site);
  - Emergency vehicles;
  - Loading and unloading of plant and materials from all site operatives', visitors' and construction vehicles during the construction period;
  - On-site parking of all site operatives', visitors' and construction vehicles during the construction period;



- Measures to prevent mud and other such material migrating onto the public highway from construction vehicles;
  - Routing agreement for construction traffic;
  - Enclosure of phase or development parcels and the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing where appropriate;
  - Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  - Details of tree protection, to ensure the retained vegetation is protected during construction works.
7. No development which comprises the erection of a building required to be served by water services shall be undertaken in connection with any phase of the development hereby permitted until full details of a scheme, including phasing, for the provision of mains foul sewage infrastructure on and off site, together with a surface water management strategy, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
8. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has been previously been submitted to and approved in writing of the Local Planning Authority. The results of the site investigation shall be made available to the Local Planning Authority before any of the development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins.
9. If, during the course of the development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall thereafter incorporate the approved additional measures.
10. No development shall commence until a noise mitigation scheme for protecting the proposed dwellings from traffic noise from the A428 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, which shall be retained thereafter.
11. No development shall commence until a scheme to demonstrate that the internal noise levels within the residential units will conform to the guideline values for indoor ambient noise levels identified by BS 8233 2014 – Guidance on Sound Insulation and Noise Reduction for Buildings 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, which shall be retained thereafter.

- 12.No development shall take place until a programme of archaeological works has been implemented in accordance with a written scheme of investigation, which has been first submitted to and approved in writing by the Local Planning Authority.
- 13.No development shall take place until an Ecological Management Plan (EMP) for the site has been submitted to and approved in writing by the Local Planning Authority. The EMP shall be in accordance with the recommendations in Chapter 4 of the submitted Ecological Appraisal and Bat Survey by FPCR, dated July 14 and the Biodiversity Management Plan by FPCR dated July 2014, unless otherwise agreed in writing by the Local Planning Authority. The EMP shall include the details of the protection, retention and enhancement of existing hedgerows on the site. Development shall be carried out in accordance with the approved EMP.
- 14.No development shall take place until details of the location of a single fire hydrant has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved scheme.
15. No development shall take place until a scheme detailing the provision of external lighting and associated infrastructure has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley LLB, Dip LG	Senior Planning Solicitor, District Law (Kettering, Daventry and Wellingborough)
He called:	
Richard Wood Dip URP, MRTPI	Strategic Planning Manager DDC
David Allen Dip LA, CMLI	Managing Director, Allen Pyke Assocs
James Holmes BA(Hons) MA, MRTPI	Associate Director, Aitchison Rafferty

### FOR THE APPELLANT:

Peter Goatley	of Counsel, instructed by Pegasus Planning Group
He called:	
Jeremy Peachey M.LD, BSc, MLI	Landscape Design Director Pegasus Planning Group
Gary Lees BA(Hons) BTP, MRTPI	Director, Pegasus Planning Group

### INTERESTED PERSONS:

Sir Richard Tilt	West Haddon Neighbourhood Development Plan Steering Group
Gill Wells	West Haddon Parish Council
Richard Humphreys QC	Local Resident
Cllr Chris Millar	Ward Councillor
Charles Porter	Local Resident

**LIST OF DOCUMENTS:**

- Document 1 Proof of Evidence and Appendices 1-47 of Mr Lees
- Document 2 Supplemental Proof of Mr Lees
- Document 3 Proof of Evidence, Figures JEP 1-5 and Appendices 1-3 of Mr Peachey
- Document 4 Summary Proof of Mr Peachey
- Document 5 Proof of Evidence of Mr Wood
- Document 6 Appendices A-N to Proof of Evidence of Mr Wood
- Document 7 Supplementary Proof of Mr Wood
- Document 8 Proof of Evidence of Mr Allen
- Document 9 Appendices A, B, C, D1 & D2 to Proof of Evidence of Mr Allen
- Document 10 Proof of Evidence and Appendices 1-9 of Mr Holmes
- Document 11 Statement of Common Ground (SOCG)
- Document 12 Daventry District Housing Land Availability 2105 (2015 HLA)
- Document 13 Outline opening submissions for the appellant
- Document 14 Biodiversity Management Plan – final version July 2014
- Document 15 Signed S106 Agreement
- Document 16 Outline closing submissions on behalf of the appellant
- Document 17 Suggested conditions from the Environmental Health Officer
- Document 18 Comparison of assessment of viewpoints Peachey/Allen highlighting points of disagreement
- Document 19 List of agreed planning conditions
- Document 20 Representations in support on the Neighbourhood Development Plan
- Document 21 Objections to the Neighbourhood Development Plan
- Document 22 Letter from Brandon Lewis MP to the Planning Inspectorate 27/3/15
- Document 23 Closing submissions for Daventry District Council
- Document 24 Statement and Appendices 1-6 of Richard Humphreys QC
- Document 25/25A Photograph/Poster showing community walk in support of opposition to the proposed development
- Document 26 Statement from Mr Porter
- Document 27A-N Bundle of reports etc submitted with the planning application:
  - A Planning Statement

- B Design and Access Statement
- C Landscape and Visual Constraints and Opportunities Report
- D Biodiversity Management Plan
- E Ecological Appraisal
- F Bat Report
- G Arboricultural Assessment
- H Flood Risk Assessment
- I Phase 1 Desk Study
- J Transport Assessment
- K Bundle of additional transport assessment information
- L Travel Plan
- M Archaeological Geographical Survey
- N Archaeological Trial Trenching

**LIST OF DRAWINGS:**

- A1 Appeal Site (EMS.2196\_01-1A)
- B1 Indicative layout submitted with the planning application (EMS.2196\_04-1A)
- C1 Amended Indicative layout (EMS.2196\_04-1D) (DOC 1 APP3)
- D1 Topographical Survey (17628-OGL)
- D1 Access details (NTT/2097/0001/P4) (DOC 1, APP7)
- E1 Settlement Analysis Plan (Amended) (JEP-3)
- F1 Agreed route for site visit

## Abbreviations Used in the Report

BMP	Biodiversity Management Plan
CIL	Community Infrastructure Levy Regulations 2010
DDC	Daventry District Council
DDLDP	Daventry District Local Plan 1997
DIRFT	Daventry International Rail Freight Terminal
ECA	Environmental Character Area
FOAN	Full Objectively Assessed Need
GLVIA3	Guidelines for Landscape and Visual Impact Analysis Third Edition)
HLA	Housing Land Availability
HLS	Housing Land Supply
LCA	Landscape Character Assessment
LCT	Landscape Character Type
LCVO	Landscape Visual Constraints and Opportunities
LVIA	Landscape and Visual Impact Assessment
NCA	National Character Area
NDP	Neighbourhood Development Plan
NRDA	Northampton Related Development Area
PGS	Protected Green Space
Practice Guidance	Planning Practice Guidance
PRoW	Public Right of Way
RSS	Regional Spatial Strategy
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SLA	Special Landscape Area
SOCG	Statement of Common Ground
SUE	Sustainable Urban Extension
WHNDP	West Haddon Neighbourhood Development Plan
WNJCS	West Northamptonshire Joint Core Strategy 2014



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

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

#### **Challenges under Section 288 of the TCP Act**

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

#### **SECTION 2: AWARDS OF COSTS**

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

#### **SECTION 3: INSPECTION OF DOCUMENTS**

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