



Department for  
Communities and  
Local Government

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Our Ref: APP/V2825/W/15/3028151  
APP/V2825/W/15/3028155

Your Ref:

09 August 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPLICATIONS BY BOVIS HOMES LTD  
PROPOSED DEVELOPMENT ON LAND SOUTH OF ROWTREE ROAD AND  
WEST OF WINDINGBROOK LANE, NORTHAMPTON  
APPLICATION REFERENCES: N/2013/1035 AND N/2013/1063**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr C J Ball, DArch DCons RIBA IHBC, who held a public local inquiry which sat for 9 days between 1 and 18 December 2015, into your client's appeals against the refusal of Northampton Borough Council ("the Council") to grant:

**Appeal A:** outline planning permission for the Northampton South Sustainable Urban Extension to be comprised of up to 1000 dwellings, a mixed use local centre, a site for a primary school, green infrastructure including formal and informal open space, reconfiguration and extension of Collingtree Park Golf Course, demolition of all existing buildings and structures within the site, new vehicular accesses off Windingbrook Lane and Rowtree Road, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) in accordance with application number N/2013/1035, dated 2 October 2013; and

**Appeal B:** full planning permission for 380 dwellings served by a new access from Windingbrook Lane and the reconfiguration of part of the Collingtree Park Golf Course, including a new temporary hole 17, demolition of all existing buildings and structures within the site, green infrastructure including formal and informal open space, car parking, sustainable drainage systems

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(including flood risk betterment) and infrastructure (including highway improvements) in accordance with application number N/2013/1063, dated 16 October 2013.

2. The appeals were recovered for the Secretary of State's determination on 22 May 2015 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because they involve proposals for residential development of over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.

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

3. The Inspector recommended that Appeal A should be allowed and planning permission granted subject to conditions, but that Appeal B should be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. 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. Your client's application for an award of costs is the subject of a separate decision letter which is also being issued today.

### **Environmental Statement**

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (IR18). The Secretary of State agrees with the Inspector (IR19) that the information provided in the Environmental Statement is adequate for the purposes of these appeal decisions.

### **Policy and Statutory Considerations**

6. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (JCS). The Secretary of State agrees with the Inspector at IR22 that JCS Policy N5: Northampton South Sustainable Urban Extension (SUE) is the key consideration and that the other JCS policies central to the appeals include policy S10: Sustainable Development Principles; Policy BN5: The Historic Environment; and Landscape and Policy BN9: Planning for Pollution Control.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework 2012 (the Framework); the planning practice guidance first published in March 2014; DEFRA's *Noise Policy Statement for England* (NPSE); BS8233:2014 *Guidance on sound insulation and noise reduction for buildings*; Historic England's Historic

Environment Good Practice Advice in Planning: 3 *the setting of heritage assets* and the Collingtree Village Conservation Area Appraisal and Management Plan.

8. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess. Furthermore, as required by section 72(1) of the LBCA Act, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### **Main issues**

9. The Secretary of State considers that the main issues in these appeals are those identified by the Inspector at IR233. The Secretary of State also agrees that the additional matters referred to at IR234 should be taken into account.

### *Five year supply of housing land*

10. Having regard to the Inspector's findings at IR235-239, the Secretary of State agrees with him that, as the Council cannot currently demonstrate a 5-year supply of housing land, paragraph 49 of the Framework makes it clear that relevant policies for the supply of housing should not be considered up-to-date so that, in accordance with paragraph 14 of the Framework, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits (IR235). Furthermore, in the case of these two appeals, the Secretary of State agrees with the Inspector that the most relevant policy for the supply of housing is JCS policy N5 (IR236), which allocates the Appeal A site as the Northampton South SUE to include up to 1000 dwellings. The Secretary of State agrees that, as a key policy of the recently adopted JCS, policy N5 carries very significant weight and that the Appeal A scheme would be entirely consistent with it. He also agrees that, for the reasons given at IR239, JCS policies S10, BN5 and BN9 carry the full weight of the up-to-date development plan.

### *Whether satisfactory living conditions would be created - with particular regard to noise levels*

11. Having carefully considered the Inspector's arguments at IR240-252, the Secretary of State agrees with his conclusion at IR253 that, although the appeal proposals as they stand would not create satisfactory living conditions for the residents of the proposed development, it would be entirely possible to design a layout of 1,000 houses which would meet the requirements of JCS policy N5 by mitigating the noise impact on dwellings by distance and landscape provision. He agrees with the Inspector at IR253 that, in the two appeal schemes as illustrated and designed, reasonable steps have not been taken to minimise the adverse impact of noise on the health and quality of life of future occupiers of the development. He also agrees that the proposals would not meet the requirement of JCS policy N5 to make provision for the structural greenspace in accordance with the inset map and that both appeal schemes would conflict with policies

S10(k) and BN9(e) of the JCS, the relevant guidance in Framework paragraphs 109 and 123, NPSE and BS 8233:2014.

*The effect of the proposed development on adjacent heritage assets*

12. The Secretary of State notes that the parties agree that the adjacent heritage assets consist of Collingtree Village Conservation Area and the Grade II\* listed St. Columba's Church at its heart (IR254). For the reasons given by the Inspector (IR255-258), the Secretary of State agrees that the distinctive rural quality of the setting of the heritage assets would be lost, harming the significance of the listed church and the conservation area. The Secretary of State therefore agrees with the Inspector at IR259 that, in terms of paragraph 134 of the Framework, this would amount to less than substantial harm to the significance of the heritage assets and that that harm has to be weighed against the public benefits of the proposal, including securing its optimum viable use.

*Highways*

13. For the reasons given at IR261-264, the Secretary of State agrees with the Inspector's conclusion at IR265 that the appellant's traffic assessment is robust and shows that the highway improvements and sustainable travel measures, within an integrated transport network, would cost-effectively limit the significant impacts of the development. He therefore also agrees that the residual cumulative impact of the appeal schemes would not be severe so the proposals would accord with paragraph 32 of the Framework.

*Flooding*

14. For the reasons given at IR266-269, the Secretary of State agrees with the Inspector that, overall, the flood-risk situation would be improved.

*Air Quality*

15. For the reasons given at IR270-272, the Secretary of State agrees with the Inspector that, although the site is located immediately beside the M1 motorway and designated an Air Quality Management Area because of high levels of air pollution from road traffic, provided an effective landscape buffer is in place as indicated on the JCS policy N5 inset map, air pollution would be unlikely to be a particular danger.

*Local Infrastructure*

16. For the reasons given at IR273-274, the Secretary of State agrees with the Inspector that, although the facilities proposed by the applicant are intended to meet the needs of the new residents, they would also be open to use by existing residents of the surrounding area and that this would be a local benefit (IR274).

## *Compliance with the local development plan and the Framework*

### *Appeal A*

17. The Secretary of State agrees with the Inspector that the allocation of the Appeal A site in the Local Plan as a SUE effectively amounts to an 'in principle' mandate for development (IR282-283). However, he also agrees with the Inspector that the illustrative layout would not meet the requirement of JCS policy N5 to make satisfactory provision for structural greenspace in terms of resolving design issues; it would conflict with JCS policies S10 and BN9 with regard to external noise levels; it would not preserve the setting of the listed church; and it would not sustain or enhance the heritage and landscape features which contribute to the character and setting of the conservation area, in conflict with JCS policy BN5 (IR284). The Secretary of State therefore agrees with the Inspector (IR285) that, as accepted by the Council, the imposition of an agreed condition requiring an appropriately detailed masterplan to be submitted prior to submission of any reserved matters application would provide a realistic and straightforward approach to securing the overall control over land use elements required by policy N5. Taking that into account, the Secretary of State agrees with the Inspector that, for the reasons given at IR287, the Appeal A scheme would represent sustainable development.

### *Appeal B*

18. However, for the reasons given at IR288-295, the Secretary of State agrees with the Inspector that, while the early delivery of new housing on the Appeal B site would be a major public benefit, that would be clearly outweighed by the harm the development would cause to important heritage assets and by its failure to properly mitigate the impact of noise on the living conditions of future occupiers. He agrees that there is no clear and convincing justification for this harm and that, taken as a whole, there are no material considerations sufficient to outweigh the conflict of the Appeal B proposal with the local development plan (IR294). For the reasons given by the Inspector at IR295, the Secretary of State agrees that the Appeal B scheme as proposed would not create a high quality built environment which would support the health and wellbeing of the local community. Nor would it protect the historic environment from irreversible harm. It would therefore fail to perform the social and environmental roles of sustainable development and, since all three roles are mutually dependent, the Secretary of State agrees that the Appeal B scheme as a whole cannot be considered to be sustainable development.

### **Conditions and Obligations**

19. The Secretary of State has considered the recommended conditions set out at Annex A to the IR (in relation to Appeal A) and at Annex B (in relation to Appeal B), along with the Inspector's comments on them at IR299-304. He is satisfied that the proposed conditions are reasonable and necessary and meet the tests of the Framework and the guidance. He has therefore incorporated the conditions applicable to Appeal A in his decision as set out at Annex A to this letter. However, he does not consider that the conditions proposed by the Inspector in respect of Appeal B overcome his reasons for refusing that appeal.

20. The Secretary of State has also considered the Inspector's comments on the two s106 Agreements at IR296-298. The version drafted to cover the pre-CIL Charging Schedule situation has now fallen away, and the Secretary of State is satisfied that the terms of the extant Agreement meet the tests in the CIL Regulations.

### **Overall conclusions and planning balance**

#### *Appeal A*

21. The Secretary of State has had regard to the fact that the Appeal A site is allocated in the JCS as a sustainable urban extension of some 1000 houses and associated infrastructure. He agrees that it represents part of the planned expansion of the town and is a key element in the provision of new housing to meet a pressing need. While acknowledging that some aspects of the illustrative layout are unacceptable, the Secretary of State is satisfied that these can be addressed through conditions requiring the approval of reserved matters, resulting in the delivery of up to 1000 new houses and representing a major planning benefit.

#### *Appeal B*

22. The Secretary of State concludes that the detailed scheme for the Appeal B part of the overall site would result in harm to the historic environment and, through the shortfall in noise mitigation measures, would not provide acceptable living conditions for future residents. It would therefore conflict with the development plan and would not preserve the setting of significant heritage assets. Thus, while accepting that the delivery of 378 houses, including 15% affordable homes, would be a major public benefit, he concludes that, on balance there are no material considerations sufficient to outweigh the conflict and justify the grant of permission.

### **Public Sector Equality Duty**

23. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. In this regard, and in coming to his decision, the Secretary of State acknowledges that the Appeal A scheme will have some positive impact on protected persons arising from the provision of affordable housing, but he does not consider this benefit to be sufficient to outweigh his reasons for dismissing Appeal B.

## **Formal Decision**

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

- allows **Appeal A** and grants outline planning permission for the Northampton South Sustainable Urban Extension to be comprised of up to 1000 dwellings, a mixed use local centre, a site for a primary school, green infrastructure including formal and informal open space, reconfiguration and extension of Collingtree Park Golf Course, demolition of all existing buildings and structures within the site, new vehicular accesses off Windingbrook Lane and Rowtree Road, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) in accordance with application number N/2013/1035, dated 2 October 2013, subject to conditions at Annex A to this letter; and
- dismisses **Appeal B** and refuses full planning permission for 380 dwellings served by a new access from Windingbrook Lane and the reconfiguration of part of the Collingtree Park Golf Course, including a new temporary hole 17, demolition of all existing buildings and structures within the site, green infrastructure including formal and informal open space, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) in accordance with application number N/2013/1063, dated 16 October 2013.

25. An applicant for any consent, agreement or approval required by a condition of the Appeal A permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

26. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

## **Right to challenge the decisions**

27. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decisions may be challenged. This must be done by making an application to the High Court within six weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

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

Yours faithfully

*Jean Nowak*

Authorised by Secretary of State to sign in that behalf

## **Annex A: Conditions relating to Appeal A**

1) Prior to the submission of any reserved matters application, a Masterplan and Design Code covering the whole of the site shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall be formulated having regard to the submitted Design and Access Statement and respond to the recommendations of Building for Life 12, and shall include the following details:

- A phasing plan for the development, including an affordable housing phasing plan.
- The proposed movement network delineating the primary, secondary and tertiary streets and pedestrian and cycleway connections, setting out the approach to estate design, treatment of non-vehicular routes and car and cycle parking.
- The proposed layout, use and function of all open space within the development.
- The approach to and design principles applied to car parking (on street and off-street).
- Phased layout principles to include urban structure, form and layout of the built environment, building heights, densities, legibility, means of enclosure, key gateways, landmark buildings and key groups.
- The design approach for areas within the public realm including landscaping and hard surface treatments, lighting, street trees, boundary treatments, street furniture and play equipment.
- Servicing, including utilities, design for the storage and collection of waste and recyclable materials.
- External materials, to include a palette of wall and roof finishes, windows, doors, porches, heads, cills, chimneys, eaves and verges and rainwater goods.
- The design principles that will be applied to the development to encourage security and community safety.
- The specific design principles that will be applied to the Local Centre.
- The design principles for the incorporation of a Sustainable Urban Drainage System (SUDS) throughout the development.

Thereafter, any reserved matters application for any phase of development shall comply with the principles established within the approved Design Code.

2) Prior to the submission of any reserved matters application, a detailed phasing plan for the development that identifies stages at which each element of the proposed development (including the local centre, community hall, open space, sports provision, play equipment, primary school, housing, highway infrastructure and SUDs) shall be commenced, completed and made available for occupation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.

3) For each phase of the development details of the layout and scale of the buildings, their appearance and landscaping, and the means of access other than that approved, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development of that phase shall be carried out as approved.

4) Application for approval of the first phase reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. All other applications for the approval of reserved matters shall be made to the local planning authority within 10 years from the date of this permission



5) Each phase of the development hereby permitted shall begin not later than 2 years from the date of approval of that phase's reserved matters.

6) The number of residential units to be constructed on the site shall not exceed 1,000.

7) The development and all reserved matters applications submitted pursuant to this permission shall not materially depart from the following plans and parameters:

- Proposed Windingbrook Lane Priority Junction (28015/001F)
- Proposed Rowtree Road Compact Roundabout (28015/002F)
- Up to 2.03 hectares for the provision of a primary school
- A minimum of 29.43 hectares of strategic open space
- A local centre comprising of 450 sq m of convenience retail floorspace (Use Class A1), 360 sq m of flexible commercial floorspace to accommodate uses within use Classes A1(shops), A2 (financial & professional services), A3 (restaurants/cafes), A4 (Drinking Establishments), A5 (Hot Food Takeaways) B1 (Business) and D1 (non-residential institutions) and 725 sq m for a community facility incorporating meeting rooms (Class D1).

8) Contemporaneously with the submission of reserved matters applications for each phase of development, a Sustainability Strategy indicating compliance with Part L of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved Sustainability Strategy.

9) Concurrently with the submission of reserved matters applications for each phase of development, full details of the proposed surface treatment of all roads, access and parking areas, footpaths, cycleways and private drives including their gradients within that phase shall be submitted to and approved in writing by the Local Planning Authority and shall be provided in full prior to that development phase being first brought into use.

10) Development shall not commence on any phase of development until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority relating to that phase. The CEMP shall include the following:-

- a) the management of traffic and routing during construction: to address site access, routes within site kept free from obstruction, wheel washing, travel plan for construction workers, loading and unloading, vehicle parking and turning areas, a scheme for prevention of surface water discharges onto the highway;
- b) The location of access points for site traffic for that phase of development;
- c) detailed measures for the control of dust during the construction phase of development;
- d) the location and size of compounds;
- e) the location and form of temporary buildings, adverts and hoardings;
- f) details for the safe storage of any fuels, oils and lubricants;
- g) construction of exclusion zones to prevent soil compaction for large scale planting areas, public and school playing fields, and remediation of any soil compaction;
- h) a scheme for the handling and storage of topsoil;
- i) details of the methods of protection of trees, hedgerows and water features in accordance with Condition 20;
- j) a scheme for the protection of areas of ecological interest and for the mitigation of any possible harm to such areas;
- k) details of any temporary lighting;

- l) procedures for maintaining good public relations including complaint management, public consultation and liaison;
- m) measures for the control of noise emanating from the site during the construction period;
- n) Construction Plant Directional signage (on and off site);
- o) provision for all site operatives, visitors and construction vehicles, loading and unloading of plant and materials;
- p) waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from construction works including confirmation of any material exports, routing and deposition sites.

The approved CEMP and measures contained therein shall be adhered to throughout the construction period.

11) No construction work (including use of machinery and/or plant maintenance) shall be carried out on the site outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays or at any time on Sundays, Bank Holidays or other statutory holidays. No construction traffic shall enter or leave the site before 0700 Mondays to Saturday or at any time on Sundays, Bank Holidays or other statutory holidays.

12) Prior to the commencement of development, engineering and construction details of the two access junctions to the site as shown indicatively upon approved drawings 28015/001 Rev F (Windingbrook Lane) and 28015/002 Rev F (Rowtree Road) shall be submitted to and approved in writing by the Local Planning Authority. The Windingbrook Lane junction shall be provided prior to the commencement of any other works on site and in accordance with the approved details. The Rowtree Road junction shall be provided at the start of Phase 2 in accordance with the approved details.

13) No dwelling shall be occupied until details of the precise location and engineering and construction details of the following walking and cycling measures have been submitted to and approved in writing by the Local

Planning Authority and the works have been carried out in accordance with the approved details:

- 2no. pedestrian / cycle connections to existing bridleway KG2
- Provision of on-road advisory cycle lane on Hilldrop Road (to be delivered at the start of Phase 2) and Penvale Road
- Upgrade of existing footway in the southern verge of Mereway between the junction with Penvale Road and the A451 Queen Eleanor Roundabout
- 2no. controlled pedestrian crossings on Rowtree Road (the second of which is to be delivered at the start of Phase 2).

14) No dwelling shall be occupied until engineering and construction details of the following highway improvements have been submitted to and approved in writing by the Local Planning Authority and the works have been carried out in accordance with the approved details:

- Improvement to Rowtree Road / London Road / Wooldale Road roundabout (TA Figure 15.2)
- Improvement to Rowtree Road/Butts Road Roundabout (TA Figure 15.3) (to be delivered prior to the occupation of 379 dwellings on site)
- Improvements to Rowtree Road/Penvale Road junction (TA Figure 15.4) (to be delivered prior to the occupation of 379 dwellings on site)
- Improvements to A45/Queen Eleanor Interchange (TA Figure 15.6)

- Improvements to Towcester Road/Mereway/Tesco/Danes Camp Way roundabout (TA Figure 15.7)

15) Three peak hour part classified junction turning and queue count surveys shall be undertaken at the Berry Lane / Wooldale Road junction:

- The first one being undertaken in the last neutral month before works commence to the Rowtree Road / London Road / Wooldale Road Roundabout;

- The second one being undertaken in the first neutral month after works are completed to the Rowtree Road / London Road / Wooldale Road Roundabout;

- The third one being undertaken in a neutral month one year afterwards.

Should both the latter two surveys demonstrate that the conditions at the Berry Lane / Wooldale Road junction have not improved, the improvements shown on Figure 15.5 of the Transport Assessment shall be implemented.

16) Prior to the first occupation of any dwelling a full Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The measures contained in the agreed Residential Travel Plan shall be carried out in accordance with the approved details.

17) Prior to the commencement of any works affecting any existing public right of way, full details of any enhancement, improvement, diversion or closure shall be submitted for approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and in accordance with a timetable to be agreed in writing with the Local Planning Authority.

18) No development shall take place in each phase of development until an Arboricultural Method Statement, in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations", including details and proposed timing of all proposed tree works to any tree or hedge on, or, if consent obtained, adjacent to, the site and replacement tree planting, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development of each phase of development shall be carried out in accordance with the approved details.

19) No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of the proposed type, and a plan of the proposed position of, measures for the protection of trees and hedges that are to be retained on the site, in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations", have been submitted to, and approved in writing by, the Local Planning Authority. The measures identified, including tree protection barriers, shall be implemented in accordance with these details and shall remain in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition and the ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made (including addition/removal of topsoil/subsoil) without prior written consent of the Local Planning Authority.

20) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 0.5% (1 in 200) probability critical storm with climate change allowance will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall comply with the parameters set out in the agreed FRA (Peter Brett Associates, 28015/012 Rev4, February 2014) and shall also include:

- Full calculations and detailed drawings with levels to Ordnance Datum, including flow control structures.
- Designing for exceedance and consideration of overland flows.
- Accommodation of the existing spring on site.
- Details of how the scheme shall be maintained and managed after completion to support the Section 106 Agreement

21) Prior to the submission of any reserved matters application for that part of the golf course within the flood plain, a scheme for flood plain compensation must be submitted to, and approved in writing by, the local planning authority. The scheme shall also include:

- Flood plain compensation on a level for level, volume for volume basis up to the 0.5% (1 in 200) probability flood with climate change.
- Additional storage as set out in section 9 of the agreed FRA, (Peter Brett Associates, 28015/012 Rev4, February 2014).
- Evidence that flood risk is not increased elsewhere as a result of the re-profiling of ground levels.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

22) No development approved by this planning permission shall take place until such time as a scheme for works to Wootton Brook has been submitted to, and approved in writing by, the local planning authority. The scheme shall comply with the parameters set out in the agreed Flood Risk Assessment, (Peter Brett Associates, 28015/012 Rev4, February 2014) and shall also include:

- Full detailed design of the Wootton Brook Crossing and any associated mitigation.
- Details of localised channel improvements to improve conveyance.
- Details of the long term management and maintenance of the Wootton Brook and associated flood plain.
- Evidence that flood risk is not increased elsewhere as a result of the crossing or other works to the Wootton Brook.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

23) No building works which comprise 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 has been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works have been carried out in accordance with the approved scheme.

24) Prior to the commencement of development details of a suitable fence adjacent to the boundary with the railway, to prevent golf balls from entering railway land, shall be submitted to and approved in writing by the Local Planning Authority. The fence shall be erected before the proposed new golf holes 4 and 5 adjacent to the railway line are brought into use.

25) No development shall take place until a phased programme of further archaeological work (in accordance with the details outlined in the ES accompanying the application) shall be submitted to and approved in writing by the Local Planning Authority. The further archaeological work shall be undertaken prior to the commencement of any infrastructure phase, landscaping phase or development parcel (as identified in the phasing plan to be agreed under Condition 7) where such further archaeological work is required.

- 26) Prior to the commencement of the demolition of buildings on site a Mitigation Strategy detailing the measures to be put in place to ensure that the risk of harm to bats during demolition is minimised shall be submitted to and approved in writing by the Local Planning Authority; demolition shall be implemented in accordance with the approved details. The Mitigation Strategy shall include details of replacement bat boxes to be sited on retained features to provide alternative roosting opportunities and details of an appropriate Natural England European Protected Species Derogation Licence to undertake the Mitigation Strategy.
- 27) Prior to the commencement of development a Mitigation Strategy detailing the measures to be put in place to ensure that the risk of harm to otters during construction work is minimised shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved details.
- 28) Prior to the submission of any reserved matters application an Ecological Construction Method Statement (ECMS) setting out in detail the measures to be implemented to protect ecological resources (as specified in paragraph 9.6.37 of the approved Environmental Statement) shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved Statement.
- 29) Prior to the submission of any reserved matters application a Landscaping and Ecological Management Plan (LEMP) setting out in detail the long-term management measures to be implemented (as specified in paragraph 9.6.40 of the approved Environmental Statement) shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved Plan.
- 30) Before any non-residential development commences as part of the overall development a Noise Assessment shall be submitted for approval in writing to the Local Planning Authority specifying the sources of internal and external noise and the provisions to be made for its control. The approved scheme shall be implemented prior to the occupation of the non-residential unit in accordance with the approved details.
- 31) Before any non-residential development commences as part of the overall development a scheme shall be submitted for approval in writing by the Local Planning Authority which specifies the arrangements to be made for deliveries to the premises concerned. The scheme shall be carried out in accordance with the approved details.
- 32) Concurrently with the Reserved Matters submission for each phase, a Noise Assessment of the exposure of proposed residential premises, with particular reference to bedrooms, based on the final building and estate layout, due to transportation noise shall be submitted for approval in writing to the Local Planning Authority. In particular the assessment shall identify the dwellings where the LAeq, night 55 dB noise level is exceeded at bedroom window height. The assessment shall take into account the likely growth of traffic over the next 15 years. Where any bedroom is exposed to noise levels in excess of LAeq night 55 dB, the submitted Noise Assessment shall include a scheme to protect those rooms. This will include provision for additional ventilation and / or heat control that will allow the occupant to keep the windows closed, independent of weather conditions.
- 33) Prior to the first occupation of the development, full details (including the precise alignment and the construction materials) of any acoustic barrier proposed shall be submitted to and approved in writing by the Local Planning Authority and the barrier shall subsequently be installed in accordance with the approved details.
- 34) Prior to the commencement of Phase 2 of the development, an area of land measuring at least 1.01ha will be identified within the proposed Strategic Open Space for the provision of community food production. The nature of this provision will be agreed in prior consultation with the local resident population. Full details of the provision including timing of

implementation shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed timing.

35) Prior to the commencement of development, an intrusive investigation in respect of possible contaminants and ground gas generation within the site shall be completed – the scope and methodology of which shall be submitted to and approved in writing by the Local Planning Authority. The results of any such investigation shall be used to produce a method statement for any remedial work, which, if required, shall be submitted to and approved in writing by the Local Planning Authority. All remedial works found to be required shall be fully implemented in accordance with the approved details and a validation report shall be submitted to and approved in writing by the Local Planning Authority within 2 weeks of the completion of the development hereby approved. In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported immediately in writing to the Local Planning Authority and subsequently investigated, remediated and validated in accordance with the full requirements of this condition.

36) The residential units hereby approved shall be designed to provide accessible and adaptable accommodation that meets the optional requirement M4(2) of Part M of the Building Regulations.

37) Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), the commercial premises hereby approved shall not be used for any purposes other than those in use classes A1, A2, A3, A4, A5, B1 and D1 of the aforementioned order.

38) Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), at no time shall the total gross retail floor area of the development hereby approved exceed 810 sq m and any individual unit exceed 500 sq m gross floor area.

39) Prior to the commencement of each phase, details of the provision for the storage and collection of refuse and materials for recycling shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.

40) Locally Equipped and Neighbourhood Equipped Areas of Play shall be provided across the site in accordance with the indicative positions depicted upon the Parameter Plan (BHL001- 015 J); full details (including for their management and maintenance) shall be submitted contemporaneously with subsequent reserved matters applications and be approved in writing by the Local Planning Authority, development shall be implemented in accordance with the approved details.

41) No development shall commence on phases 2 and 3 (as defined by drawing number BHL0001/019/d – Indicative Phasing) until a 'Deed of Adherence' in the form set out in the Ninth Schedule to the Section 106 Agreement dated 22 December 2015 relating to this permission has been executed by all the landowners of the land comprising phases 2 and 3 to secure necessary on- and off-site contributions.

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

by **C J Ball** DArch DCons RIBA IHBC

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

Date: 31 May 2016

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TOWN AND COUNTRY PLANNING ACT 1990

**Proposed development on  
Land south of Rowtree Road and West of Windingbrook Lane, Northampton**

Appeals by Bovis Homes Ltd

Northampton Borough Council

Inquiry opened on 1 December 2015

File Refs: APP/V2825/W/15/3028151 & APP/V2825/W/15/3028155

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## **ACRONYMS and ABBREVIATIONS USED IN THE REPORT**

APS	Agreed position statement
AQMA	Air Quality Management Area
Ax	Appendix
BHL	Bovis Homes Ltd, the appellant
BS	British Standard
CA	Conservation Area
CAAMP	Conservation Area Appraisal and Management Plan
CD	Core Document
CEMP	Construction Environmental Management Plan
CIL	Community Infrastructure Levy
CPC	Collingtree Parish Council
CPRA	Collingtree Park Residents Association
ECMS	Ecological Construction Method Statement
EIA	Environmental Impact Assessment
EHO	Environmental Health Officer
EHPC	East Hunsbury Parish Council
EiP	Examination in Public
ES	Environmental Statement
Framework	National Planning Policy Framework
FRA	Flood Risk Assessment
GPA3	Good Practice Advice Planning Note 3: The setting of heritage assets
HCRA	Hunsbury and Collingtree Residents Alliance
HE	Historic England (formerly English Heritage)
JCS	The West Northamptonshire Joint Core Strategy Local Plan 2014
JSPC	The West Northamptonshire Joint Strategic Planning Committee
LEAP	Local Equipped Area for Play
LEMP	Landscaping and Ecology Management Plan
LOAEL	Lowest Observable Adverse Effect Level
NEAP	Neighbourhood Equipped Area for Play
NBC	Northampton Borough Council
NCC	Northamptonshire County Council
NOEL	No Observed Effect Level
NPSE	Noise Policy Statement for England
NRDA	Northampton Related Development Area
NSSUE	Northampton South Sustainable Urban Extension
PCPA	Planning and Compulsory Purchases Act 2004
PIM	Pre-inquiry meeting
PLBCA	Planning (Listed Buildings and Conservation Areas) Act 1990
PPG	National Planning Policy Guidance
PROW	Public Right of Way
SOAEL	Significant Observed Adverse Effect Level
SOCG	Statement of Common Ground
SPD	Supplementary Planning Document
SSCLG	Secretary of State for Communities and Local Government
SUDS	Sustainable Urban Drainage Scheme
TCPA	Town and Country Planning Act 1990
WBAG	Wootton Brook Action Group
WHO	World Health Organisation

## **Land south of Rowtree Road and west of Windingbrook Lane, Northampton**

The appeals are made by Bovis Homes Ltd Central Region against the decisions of Northampton Borough Council.

### **Appeal A: APP/V2825/W/15/3028151**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The application Ref N/2013/1035, dated 2 October 2013, was refused by notice dated 2 February 2015.
- The development proposed is for the Northampton South Sustainable Urban Extension to be comprised of up to 1,000 dwellings, a mixed use local centre, a site for a primary school, green infrastructure including formal and informal open space, reconfiguration and extension of Collingtree Park Golf Course, demolition of all existing buildings and structures within the site, new vehicular accesses off Windingbrook Lane and Rowtree Road, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements).

**Summary of Recommendation: The appeal be allowed and planning permission granted subject to conditions.**

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### **Appeal B: APP/V2825/W/15/3028155**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref N/2013/1063, dated 16 October 2013, was refused by notice dated 2 February 2015.
- The development proposed is 380 dwellings served by a new access from Windingbrook Lane and the reconfiguration of part of the Collingtree Park Golf Course, including a new temporary hole 17, demolition of all existing buildings and structures within the site, green infrastructure including formal and informal open space, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements).

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

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### **Procedural matters**

1. The appeals were recovered by the Secretary of State for Communities and Local Government to determine himself because they involve proposals for residential development of over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities (*IN1*).
2. I held a pre-inquiry meeting (PIM) on 23 September 2015 and a PIM Note was circulated to all parties on 25 September (*IN2*). A Supplementary PIM Note, clarifying the matters at issue, was circulated on 28 October (*IN3*).
3. The inquiry sat for 9 days between 1 and 18 December. I made pre-inquiry unaccompanied visits to the area on 22 September and 30 November. During the inquiry, on 8 December I made an accompanied visit to the site and its immediate surroundings, following an itinerary agreed by the parties (*SV1*). Later that day, and on 9 December, I made unaccompanied visits to the wider surroundings, including Collingtree village, the roads adjacent to 2 local schools and key points on the highway network (*SV2*).

4. On 18 December, having heard all the evidence, I adjourned the inquiry to 4 January 2016 to allow signature of the s106 Agreements by all the necessary parties, with the intention of closing the inquiry in writing. Electronic versions of the executed Agreements were received on 4 January and hard copies on 18 January (*PA8, PA9*). I closed the inquiry in writing on 18 January (*IN5*).
5. At the inquiry an application for costs was made by Bovis Homes Ltd (BHL) against Northampton Borough Council (NBC). That application is the subject of a separate Report.
6. The appeals relate to land allocated in the recently adopted West Northamptonshire Joint Core Strategy (JCS) as a Sustainable Urban Extension (SUE) to Northampton. The planning applications were both refused against officer advice for 5 similar reasons. Following submission of the appeals the Council reviewed its reasons for refusal of both applications and decided in each case to withdraw reason 1, (an objection in principle), to delete objections on air quality grounds and to clarify policy and heritage references.
7. Subsequently, following further technical information submitted by the appellant, the Council withdrew in each case reasons for refusal 2 and 3 relating to highways matters. The inquiry therefore concentrated on the matters raised by the remaining reasons for refusal 4 and 5, which relate to noise and heritage assets. Nonetheless, because of local objectors' concerns about highways, air quality and flooding, I asked the appellant to call witnesses to explain how these matters had been so recently resolved with the Council and to answer questions raised by local objectors. NBC circulated its Air Quality Assessment (*CDH.3*).
8. A number of objections relate to the allocation of the site, and the manner in which it was allocated, in the JCS. In opening the inquiry I made it clear that that was not something I could address and that such objections were a matter for the Local Plan process. I explained that the inquiry was not an opportunity to re-run the local plan allocation arguments and that evidence given to the inquiry on those matters would not be relevant to the issues before me. Nonetheless several speakers, including MPs and local councillors, raised these objections. While I have reported them, I have not taken them into account in coming to my conclusions. Cllr Larratt particularly insisted that I bring his objections in this regard to the attention of the Secretary of State. His statement is at *CBC/2*.
9. The parties submitted a vast array of core documents to the inquiry, seemingly every document associated with the applications. This is an unnecessary burden on the decision maker and indicates a fundamental misunderstanding of the purpose of core documents at a s78 inquiry. Some of the core documents, for example consultee responses, had already been submitted with the appeal documentation. Many others are superfluous for the purposes of the inquiry and its defined issues, for example it is not necessary for the Secretary of State to see every version of a series of revised application plans. In fact only a limited number of key core documents were referred to in written and oral evidence. So, while all the documents will be forwarded to the Secretary of State, indexed by the full Core Document List (*IN4*), I have listed only those core documents referred to at the inquiry or in this report.
10. After the inquiry had been closed judgement was issued by the Court of Appeal in the case of *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG/Richborough Estates Partnership LLP v Cheshire East BC & SSCLG [2016] Civ 168*. Since both

parties had referred in evidence to the impending judgement I invited them to submit comments on the implications it might have for their cases presented at the inquiry. I have taken these comments into account (*NBC/8,BHL/17*).

11. The reporting of the parties' cases is based on summarised evidence given at the inquiry, both oral and written, and edited closing submissions. References in italic brackets, (*CDA.1*), are to the documents listed at the end of this report.

### **The site and surroundings**

12. The allocated Northampton South SUE site lies between the existing southern urban edge of Northampton and the M1 motorway. The Appeal A site, which is wholly within Northampton Borough, is about 4.5 km south of the town centre and about 2.5 km from junction 15 of the M1. It is bordered by Rowtree Road and the residential suburb of East Hunsbury to the north; Windingbrook Lane and the residential areas of Collingtree Park and Collingtree village to the east; the M1, largely on embankment, to the south; and agricultural land to the west. The West Coast Main Line Railway is located in a cutting just beyond the western boundary of Site A. Rowtree Road connects with the Towcester Road and the A45 Trunk Road. The A45 is a strategic highway link of regional significance serving the town of Northampton, and linking the M1 with the A14 Trunk Road (*CDA.6*). The M1 between Junctions 15 and 16 and adjacent to the site is designated as an Air Quality Management Area (AQMA).
13. The site, of about 96 Ha, consists primarily of agricultural land but includes part of Collingtree Golf Course. Public footpaths cross the site and a bridleway, connecting Windingbrook Lane with Collingtree forms part of its eastern boundary. The Wootton Brook flows through the northern part of the site in a westerly direction, with the site generally sloping down to the flood plain of this watercourse from a high point in the south west corner. The majority of the site lies within Flood Zone 1 (above the 1 in 1000 year flood extent), with a narrow corridor alongside Wootton Brook lying within Flood Zone 2 (between the 1 in 100 and 1 in 1000 year flood extents) and Flood Zone 3 (below the 1 in 100 year flood extent). Wootton Brook and its associated water bodies are designated as a County Wildlife Site. Most of the site is also designated as part of the Nene Valley Nature Improvement Area which aims to create more and better connected habitats over large areas for wildlife.
14. The Appeal B site occupies the south east corner of the overall site, bordered by the residential suburb of Collingtree Park, Collingtree village and the M1, at this point in a cutting (*CDD.17*). This more level site, of about 27 Ha, includes part of the golf course and agricultural land to its south. A public footpath between Collingtree village and Milton Malsor crosses the southern part of the site. The centre of the village is designated as the Collingtree Conservation Area and includes 10 listed buildings, notably the grade II\* listed St Columba's Church.

### **The proposals**

15. **Appeal A** relates to an application for outline planning permission with all matters except access reserved for future consideration. Details of the scale and appearance of the buildings, landscaping and site layout would be the subject of a subsequent reserved matters application. The proposal is for a mixed use development of up to 1,000 new houses, including about 150 affordable homes, with a community hall, local centre and site for a new primary school. There

would be a number of open spaces, including the reconfigured golf course. Highway access would be by a T junction on Windingbrook Lane and a new roundabout on Rowtree Road.

16. The outline application was accompanied by a Parameters Plan (*CDB.2*), intended to illustrate the policy requirements and constraints of the site, and an illustrative Master Plan (*CDA.6*), indicating how the site might be developed in the light of the Parameter Plan. Neither plan is part of the application and I have considered them on the basis that they have been submitted as an illustration of the appellant's approach rather than a fixed site layout design.
17. **Appeal B** concerns an application for full planning permission, originally for 380 houses, on the eastern part of the allocated land. During the course of the application, minor modifications to the scheme resulted in the number of dwellings proposed being reduced to 378 (*SOCG1,CDD.17*). Highway access would be by a T junction on Windingbrook Lane. The Appeal B scheme does not include the community hall, local centre or school site and is seen as Phase 1 of the overall development. Should the Appeal A proposal not be approved, the Appeal B scheme is put forward as a stand-alone development.

### **Environmental impact assessment**

18. The proposals are EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. An Environmental Impact Assessment was carried out by the appellant and an Environmental Statement (ES) submitted (*CDA.18*). The ES has assessed the main environmental effects of the development and, with respect to this and the other requirements of Schedule 4 of the EIA Regulations, the ES is considered to be adequate. There is some concern about the overall adequacy of mitigation works in Phase 1 if the rest of the development does not go ahead. I consider that, as a stand-alone scheme the subject of a full application, this could be addressed by reference to the submitted plans and, if necessary, the imposition of appropriate conditions.
19. I heard further evidence on environmental matters at the inquiry and I have taken all the environmental information into account. I am satisfied that the requirements of the EIA Regulations have been met and that sufficient information has been provided to enable a proper assessment of the environmental impact of the proposals.

### **Planning policy background**

20. It has long been recognised that Northampton Borough is unable to physically accommodate its own housing needs. The Council, in cooperation with its neighbouring authorities, designated the Northampton Related Development Area (NRDA) to address those needs. The NRDA consists of Northampton Borough and land within the neighbouring districts either committed to or allocated for development related to the growth of Northampton (*CDG.4 Fig4*). The West Northamptonshire Joint Strategic Planning Committee (JSPC) was set up to act as the local planning authority for the NRDA, with members from all the constituent authorities.
21. Despite objections by Northampton councillors *en bloc* to the inclusion of the Northampton South SUE, the West Northamptonshire Joint Core Strategy Local

Plan (Part 1) was adopted by the JSPC in December 2014 after being found sound following Examination in Public (*SOCG1, CDG.5*). Thus the local development plan for Northampton Borough now consists of the West Northamptonshire Joint Core Strategy (December 2014) (JCS), the saved policies of the Northampton Local Plan (June 1997) (NLP), and the Northamptonshire Minerals and Waste Local Plan (October 2014) (NMWLP). There was no meaningful reference to NLP or NMWLP policies in the reasons for refusal or in other objections at the inquiry.

22. The key consideration in these appeals is JCS policy N5: Northampton South SUE, which allocates the site for development. The extent of the allocated site, which more or less corresponds to the Appeal A site, is shown on Fig 5 and Inset 12 of the JCS (*CDG.4*). Policy N5 requires the development of the site to make provision for:

- (a) in the region of 1,000 dwellings;
- (b) a primary school;
- (c) a Local Centre, to include local retail facilities of an appropriate scale (including a small convenience store), health care services and community facilities;
- (d) an integrated transport network focussed on sustainable transport modes including public transport, walking and cycling with strong links to adjoining neighbourhoods, employment areas and the town centre;
- (e) structural greenspace and wildlife corridors as indicated on the policies map (Figure 5);
- (f) open space and leisure provision;
- (g) archaeological and ecological assessment of the site and required mitigation; and
- (h) flood risk management including surface water management and from all other sources.

Necessary infrastructure is required to be phased alongside the delivery of the development. Development proposals must be accompanied by a Masterplan.

23. Other JCS policies central to the appeals includes policy S10: Sustainable Development Principles, policy BN5: The Historic Environment and Landscape, and policy BN9: Planning for Pollution Control.

24. Other material considerations of specific relevance include the national planning policy objectives set out in the Framework; the accompanying Planning Policy Guidance (PPG); DEFRA's *Noise Policy Statement for England* (NPSE) (*CDK.1*); BS8233:2014 *Guidance on sound insulation and noise reduction for buildings* (*CDK.3*); Historic England's *Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets* (GPA3) (*CDI.2*); and the Collingtree Village Conservation Area Appraisal and Management Plan (CAAMP) (*CDI.4*).

25. In considering these appeals I am required by s66 and s72 of the PLBCA to have special regard to the desirability of preserving the setting of the listed church and to pay special attention to the desirability of preserving or enhancing the

character or appearance of the Collingtree Conservation Area. The s72 duty applies to development within a conservation area so, since the appeal site lies outside it, consideration of the impact on the setting of the conservation area is a matter for planning policy rather than statutory duty.

26. In this regard, the original heritage reason for refusal referred only to a failure to safeguard the setting of the village and the conservation area. The reference to the failure to preserve the setting of the grade II\* listed church was added after the appeals were submitted, following comments from HE (*CDI.7*). This could be seen as the late introduction of an additional reason for refusal. However, my duty under the PLBCA requires me to consider the impact of the proposal on the setting of the listed church in any event and, since the appellant was able to present relevant evidence, I do not consider that his or any other party's interests were prejudiced by that alteration to the reason for refusal.

### **Agreed matters**

27. The main parties submitted a statement of common ground and, following my request at the PIM, subsequently put in an addendum statement, 3 specific expert witness statements and a set of 3 agreed position statements.
28. **The primary statement of common ground (SO CG1)** sets out the details of the applications, including pre-decision changes, and the reasons for refusal, outlining the subsequent changes. A schedule of documentation is included. The statement describes the sites and their surroundings and summarises the relevant planning policy.
29. Matters not in dispute include the allocation of the site as a SUE in the JCS; the reasons for refusal; the 28 January committee note regarding the weight to be given to the JCS; no objection in principle to development of the sites; the inability of the Council to demonstrate a 5-year supply of housing land; the suitability of the location for residential development; no design objections; no objection to the reconfiguration of the golf course; no landscape objections; no objections from the Highways Authorities; no objection on flooding or drainage grounds, subject to appropriate conditions; no objection on ecology grounds; and no objection on air quality grounds. Matters in dispute at this stage included the impact on the highway network; the impact of additional traffic on residential amenity; the effectiveness of noise mitigation measures; and the impact on heritage assets.
30. **The addendum statement of common ground (SO CG2)** updates the position following the Council's further review of the reasons for refusal. Matters not in dispute now include housing land supply; local facilities; the provisions to be made for primary and secondary education; medical provision; and the withdrawal of all highways-related objections. The statement confirms the identified main issues relating to sustainable development, noise, heritage assets and compliance with the development plan, as set out in the supplementary PIM Note. It makes reference to agreed planning obligations and to the impending adoption of the Council's CIL Charging Schedule. The addendum statement includes suggested conditions for both appeals.
31. **The Noise statement of common ground (SO CG3)** identifies the matters not in dispute as: acceptable traffic noise levels at construction stage and from the development itself; the measured noise data presented in the ES as broadly

- representative of the noise climate on and around the appeal sites; the site being broadly suitable for residential development, provided that the site layout is appropriately designed and includes the requisite mitigation measures; policy N5 of the JCS allocates the site shown on Figure 5 (Inset 12) of the JCS for 'in the region of 1000 dwellings' and Inset 12 identifies a strip of "Indicative Structural Green Space" which runs along the border of the allocated site with the M1 Motorway; planning permission should not be refused on the grounds of noise emanating from road traffic on the M1 motorway if the developments satisfy the requirements of JCS policies S10 and BN9 and Framework 109 and 123, having regard to the guidance in BS 8233: 2014; and an acceptable internal noise environment can be provided in all dwellings using a range of design solutions including, where appropriate, mechanical ventilation.
32. The updated noise reason for refusal says that the noise mitigation measures proposed fail to demonstrate that a satisfactory residential environment could be created for the future residents of the proposed development. The remaining matter in dispute is that of noise levels in external amenity areas of residential dwellings close to the motorway. NBC's position is that all reasonable steps should be made to avoid garden and external amenity areas experiencing noise levels exceeding 55dBA and to keep any exceedances to a minimum. NBC considers that the appellant has not taken all reasonable steps to achieve that.
33. **The Heritage statement of common ground (SOCG4)** identifies the relevant heritage assets as the Collingtree Village Conservation Area and the grade II\* listed Church of St Columba. Both assets are outside the appeal sites so it is agreed that it is only their settings under consideration. The statement sets out the relevant legislation, policy and guidance. The heritage matters in dispute relate to whether there would be any harm to the significance of the conservation area or the listed church as heritage assets and the acceptability of any identified harm measured against the requirements of JCS policy BN5, the requirements of the Framework and the provisions of s.66 of the PLBCA. The parties agree that, to the extent that the significance of either asset would be harmed, in terms of Framework 132-134, that would constitute less than substantial harm, to be weighed against the public benefits of the scheme.
34. **The Highways and Transport statement of common ground (SOCG5)** first gives a brief summary of transport matters, describing the withdrawal of highways reasons for refusal. It gives details of the transport assessment work, summarises the transport assessment methodology and sets out the transport strategy promoted to manage the transport impact from the development of the allocated site. It indicates the extent of liaison between the parties and confirms agreement to the appropriate planning obligations and conditions. The statement confirms that the Council's overall conclusion is that the residual cumulative transport impact of the development would not be severe and that there are no transport-related matters in dispute.
35. **The Highways agreed position statement (APS1)** between the appellant and Northamptonshire County Council (NCC) as local highway authority summarises the transport assessment process undertaken, and the output upon which NCC and the appellant have reached agreement such that, subject to the necessary works of mitigation, there are no areas of disagreement on highways matters.



36. **The Bus Service Strategy agreed position statement (APS2)** between the appellant and Stagecoach Group plc confirms the agreement, subject to initial funding, to provide a viable, long term bus service to the development. The opportunity for sustainable transport would be fully taken up, it would provide an attractive transport option for the development as well as improving the existing service for local residents and there would be the potential for a higher level of modal shift to bus than the scheme allows for. This would contribute to solving the existing traffic issues in south Northampton.
37. **The Flood Risk and Drainage agreed position statement (APS3)** between the appellant and the Environment Agency (EA) summarises the principal stages of work and consultation undertaken as part of the Flood Risk Assessment and the matters upon which the EA and the appellant have reached agreement, such that there are no areas of disagreement in respect of flood risk considerations. The proposed housing, school and local centre would be located in Flood Zone 1, away from the narrow corridor of land in Flood Zone 2 and 3 along Wootton Brook. The highway crossing to Rowtree Road lies within the flood plain and the proposals there would include appropriate mitigation and compensation work. There would also be betterment of the existing flood risk conditions, providing increased protection for local residents with improvement work, including new swales, directing water flows away from existing residential properties at Collingtree. It is agreed that surface water drainage from the development can be controlled by appropriate conditions.

### **Planning obligations**

38. For each appeal proposal the parties submitted an Agreement under s106 of the Act as a planning obligation (*PA8, PA9*). The obligations are primarily intended to ensure the satisfactory mitigation of the impact of the proposals on local infrastructure. They are accompanied by a statement setting out compliance with the Community Infrastructure Levy (CIL) Regulations and national and local planning policy (*PA1*).

### **The case for Bovis Homes Ltd**

*The appellant's evidence is set out primarily in opening submissions (BHL/OS), main proofs of evidence (BHL/2, BHL/3 BHL/4, BHL/5) and closing submissions (BHL/CS)*

#### ***Introduction***

39. The inquiry concerns two planning applications which accord with both the general strategy and specific policy (policy N5) of the recently adopted development plan (JCS). The Appellant engaged with specialist statutory and non-statutory consultees, a suite of specialist technical experts, the local community and the Council's officers over a protracted period as part of an iterative process to ensure that the proposed developments were exactly in accordance with the development plan. Indeed, the Council's planning officers unequivocally recommended approval (*CDF.1*). The way in which this land has come forward provides a textbook example of the way the planning system is intended to operate - except that at the final stage something went badly wrong.
40. The Council tried to override the entire forward planning process upon which the modern planning system is based without having any coherent intellectual or evidential basis for so doing. When faced with the appeal it quite properly withdrew its major reasons, which could not be substantiated. The Council's

eventual resolved position has been to resist the proposed developments on the 'make weight' grounds of noise and heritage. The noise reason for refusal is simply not made out on the Council's own case. Furthermore, the heritage reason for refusal has been exposed as an overstated, outright attack on the principle of development and the allocation itself. Neither reason for refusal withstands scrutiny. However, if that is wrong, the benefits of the scheme far outweigh the harm the Council seek to identify, especially having regard to its accepted housing delivery problem. On any interpretation of statute, the Framework and the development plan, the proposed developments represent sustainable development. This is not a borderline case. The applications should never have been refused (*BHL/CS*).

***The appellant's approach***

41. The primary case: the development proposals accord with the development plan and thus consent should be granted without delay, per the first bullet point within Framework 14;
42. The secondary case: if conflict with the development plan is found, owing to the Council not having a 5 year supply of housing, the policies relied upon by the Council are out of date (per Framework 49) and thus consent should be granted via the second bullet point within Framework 14, owing to the benefits far outweighing the harm;
43. The tertiary case: if conflict with the development plan is found and the policies relied upon by the Council are not out of date, the benefits of the proposed developments are such that they are a material consideration which justify the grant of consent, notwithstanding any breach of the development plan, by virtue of s.38(6) of the Planning and Compulsory Purchase Act 2004.
44. Accordingly, all routes lead to the grant of planning permission, subject to conditions and s.106 obligations (*BHL/CS*).

***Whether the Council can demonstrate a 5 year supply of housing land and the consequent policy implications***

45. It is accepted that the Council can only demonstrate a housing supply of no more than 3.76 years (*SOCG2*), including the delivery of 250 dwellings from the appeal site. This is the Council's best case scenario: it is clear that the Council have a significant housing delivery problem. The appellant considers that the proposed developments conform with the development plan. In accordance with the appellant's primary case, consent should be granted without delay. In this context, the fact that the Council do not have a 5 year supply of housing only serves to reinforce the merits of granting planning permission.
46. If, however, it is considered that there is conflict with the development plan, the fact that the Council does not have a 5 year housing supply has policy implications which mean that consent should still be granted (the appellant's secondary case). Indeed, the policy of the Framework is to increase the supply of housing as a general objective. There is a mechanism within the policy for loosening housing restraint policies in circumstances where there has been a failure to identify a 5 year supply of deliverable housing land. This is because the policy recognises that severe adverse impacts arise to the public interest where an under provision of housing land persists. This is the situation that applies

here. Framework 49 states that where the Council are unable to demonstrate a 5 year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date. This is relevant in that the Council seek to rely on JCS policies S10, BN5 and BN9 in their reasons for refusal as a basis for refusing planning permission.

47. The appellant submits that policies S10, BN5 and BN9 are relevant policies for the supply of housing, having regard for the broad interpretation of this expression established through legal authorities, such as: *South Northamptonshire Council v SSCLG [2014] EWHC 573 (Admin)*; and *Wenman v SSCLG [2015] EWHC 925 (Admin) (BHL/14)*. From these authorities the following principles can be extracted:
- whether a policy is a relevant policy for the supply of housing is a matter of planning judgment;
  - the phrase 'relevant policies for the supply of housing' should be given a broad meaning;
  - those policies that address housing or **generally** restrict development **are** relevant policies for the supply of housing;
  - those policies that are intended to protect a **specific** area (e.g. a Green Gap), and in doing so they restrict development, **are not** relevant policies for the supply of housing.
48. Accordingly, as policies S10, BN5 and BN9 do not protect a specific area, but rather serve to restrict development generally, they are relevant policies for the supply of housing.
49. The next stage is to consider what implications the lack of a 5 year housing land supply has on these policies. In *Cotswold DC v SSCLG [2013] EWHC 3719 (Admin)*, Lewis J held that Framework 49 has the effect that, where the Council cannot demonstrate a 5 year housing land supply, policies relevant to the supply of housing should be considered out of date - but only to the extent that they restrict development. Thus the question of whether policies S10, BN5 and BN9 serve to restrict the proposed developments must be considered. On the Appellant's primary case the proposals conform with these policies so they do not restrict these developments – thus under these circumstances they can be afforded full weight. However, on the appellant's secondary case, the proposed developments would be in conflict with these policies and thus they would serve to restrict the developments. Consequently, under Framework 49 the policies are out of date.
50. Under these circumstances, the next stage would be to apply the second bullet point for decision taking in Framework 14, which applies where "*the development plan is absent, silent or **relevant policies are out-of-date***". In applying this policy, a planning balance must be undertaken to determine whether the proposed developments amount to sustainable development. A policy being out of date relates to the nuanced question of weight – in that it suggests that the policy (or rather the conflict with the policy) should be afforded less weight in the planning balance. This is consistent with the judgment in *Ivan Crane v SSCLG [2015] EWHC 425 (Admin) (BHL/14)* Policy S10 relates to general principles of sustainability, policy BN5 relates to the historic environment, and policy BN9

relates to pollution control, including reducing the adverse impacts of noise. If it is held that the proposed developments conflict with these policies, it follows that that conflict should be afforded less weight in the planning balance owing to the policies being out of date (*BHL/CS*).

51. Significant weight should also be attached to the fact that the proposed developments would significantly contribute to the Council's housing provision. Indeed, the Council has been unable to physically accommodate its own housing needs since 1992 (*SO CG1*). Furthermore, this housing delivery problem is compounded when one considers that the delivery of the SUEs is "critical" to overall delivery in the administrative area, as identified in the Inspector's report for the EiP (*CDG.5*).
52. Finally, in applying the planning balance under the second bullet point for decision taking within NPPF14, there is some uncertainty in the law as to how this should be applied. The appellant invites the Inspector to apply the two stage approach to this issue, as proposed by Lang J in *William Davis v SSCLG* [2013] EWHC 3058 (Admin)<sup>78</sup> and *Wenman*. This involves the Inspector first applying an unweighted planning balance, whereby the benefits and harm are considered on an even basis, and then only if the Proposed Developments are found to be sustainable under this first stage, the Inspector should proceed to apply the weighted planning balance, considering the harm in the context of whether it significantly and demonstrably outweighs the benefits (*BHL/14*).
53. The recent judgement in *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG/Richborough Estates Partnership LLP v Cheshire East BC & SSCLG* [2016] EWCA Civ 168 makes no difference to the appellant's primary case but does serve to bolster the secondary case, as it cannot be argued that the policies relied on by the Council are not out of date. The judgement makes clear that the concept of 'policies for the supply of housing' should be interpreted widely and extends to policies whose effect is to influence the supply of housing land by restricting locations where new housing may go. The policies relied on by the Council – S10, BN5 and BN9 – have the effect of preventing development on a strip of land alongside the motorway such that they constrain the supply of housing land and prevent an allocated site coming forward within its allocated timescale. It cannot be sensibly concluded that they are up to date or that they carry full weight (*BHL/17*).
54. In summary, therefore, on the appellant's primary case, the Council's inability to demonstrate a 5 year housing supply only serves to reinforce the sense in granting permission. On the appellant's secondary case, the Council's lack of a 5 year supply means that the policies cited in the reasons for refusal are out of date and thus any conflict found should be afforded less weight in the planning balance. Against this, significant weight should be attached to the fact that the proposed developments would contribute to tackling the Council's acknowledged housing delivery problems. Similarly, on the appellant's tertiary case this delivery problem is a material consideration that contributes to the grant of consent. Finally, in carrying out the planning balance under Framework 14, the Inspector is invited to adopt the two-stage approach favoured by Lang J in *William Davis*, in order to avoid any complications in light of the Court of Appeal's forthcoming determination of this matter (*BHL/CS*).

***Whether satisfactory living conditions would be created for the residents of the proposed development, with particular regard to noise levels***

55. Noise is only a concern in the Council's case in relation to a strip that runs along the border of the allocation with the M1 motorway (NBC/1/B Ax6). There is no identifiable harm in noise terms for the rest of the site – the overwhelming majority of it. Furthermore, it is agreed that within the strip identified by the Council, an acceptable internal acoustic environment can be provided for all dwellings (SOCG3). The Council's noise objection, therefore, solely relates to the external amenity areas of residential dwellings close to the motorway (SOCG3).
56. NPSE (CDK.1) sets out the long term vision of the government's noise policy, which is to:
- avoid significant adverse impacts on health and quality of life;
  - mitigate and minimise adverse impacts on health and quality of life; and
  - where possible, contribute to the improvements of health and quality of life.
57. The long term policy vision and aims are designed to enable decisions to be made regarding an acceptable balance between the requirement for new development to benefit local communities and the economy, whilst providing adequate protection to society. NPSE provides further guidance on defining the effects of noise using the following concepts:
- No Observed Effect Level (NOEL) - the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established;
  - Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected; and
  - Significant Observed Adverse Effect Level (SOAEL) - the level above which significant adverse effects on health and quality of life occur.
58. NPSE 2.24 states that *"the second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8). This does not mean that such adverse effects cannot occur."*
59. PPG (CDG.2) defines similar concepts and advises on mitigation measures that *"For noise sensitive developments mitigation measures can include avoiding noisy locations; designing the development to reduce the impact of noise from the local environment; including noise barriers; and, optimising the sound insulation provided by the building envelope. Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development."* and that *"the noise impact may be partially off-set if the residents of those dwellings have access to:..... a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance)."*

60. BS 8233:2014 (CDK.3) also provides advice in relation to design criteria for external noise. It states that: *“for traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB LAeq,T, with an upper guideline value of 55 dB LAeq,T which would be acceptable in noisier environments. However, it is also recognized that these guideline values are not achievable in all circumstances where development might be desirable”*. This is in line with the WHO guidelines for community noise for private amenity areas (CDK.4).
61. The parties agree that for this site LOAEL is in the region of 50-55 dB(A) and that SOAEL is in the region of 65-70 dB(A) (BHL/2/B Ax2). The appellant's noise survey (BHL/2/B Ax3) indicates that in the Appeal A site, daytime noise levels in part of the rear gardens of up to 4 properties closest to the motorway would fall in the range 65-70dB(A). The rest of the rear gardens would experience lower noise levels, in the range 50-65 dB(A). Moving away from the motorway and into Phase 1 (Appeal B), the self-screening effect of the development results in noise levels predominantly falling in the range of 50-55dB(A), with parts of some gardens (but not all) falling in the range 55-60dB(A).
62. The development proposals include the erection of a 3 m high noise barrier along the southern boundary with the M1 (BHL/2/B Ax 4) and this has been included in the assessment. These mitigation measures are 'reasonably practicable', having been developed against the context of preserving the overall character of the development in this area, and set against the scale and setting of plot layouts and building configurations overall. The measures proposed will reduce incident road traffic noise levels at gardens of properties closest to the M1 motorway, and ensure that parts of the gardens of all properties are protected from the highest noise levels. They are consistent with mitigation provided in other representative locations, for example the properties in Collingtree Court (BHL/9).
63. It is unlikely that these measures will mean that noise levels are below the LOAEL thresholds in all gardens. However, in full accordance with national policy this is considered acceptable since NPSE 2.24 states that *“this does not mean that such adverse effects cannot occur”*. Moreover, with the provision of an appropriate building envelope to protect the internal environment from excessive noise, the solutions available are consistent with both the technical guidance presented in BS8233:2014, and the discretionary guidance set out in the Framework. Occupants of these properties will be protected from 'unreasonable' impacts associated with noise through the provision of alternatives to opening windows for ventilation purposes (BHL/2/A).
64. Placing dwellings in Phase 2 and 3 close to the M1 motorway would be a practical design solution as these dwellings can act as noise barriers and reduce incident noise levels for dwellings away from the motorway (CDA.6). If this occurs, incident road traffic noise levels emanating from the M1 motorway may however exceed the SOAEL in gardens of dwellings in Phases 2 and 3 which overlook the M1 motorway. Appropriate mitigation measures can be incorporated into the masterplan as it develops for these areas. The requirement for further, more detailed assessment of these properties can be secured by a condition and would in any event be addressed through the consideration of reserved matters (BHL/2/A).

65. The Council's noise case is advanced on the basis that the Appellant has not taken all reasonable steps to avoid garden and external amenity areas experiencing noise levels exceeding 55dB<sub>L<sub>Aeq,16hrs</sub></sub>. (SOGC3) Significantly, the Council's case is not advanced on the basis that the harm in noise terms is of such a degree that it should be avoided or prevented within the strip beside the M1 (ie. SOAEL). Accordingly, the parties are agreed that the noise issue is focused on whether the Appellant has failed to take reasonably practicable steps to reduce external noise for a strip along the M1 motorway.
66. The issue is further narrowed in regard to BS 8233:2014 (CDK.3) which states (with emphasis added):... *In higher noise areas, such as city centres or urban areas adjoining the strategic transport network, a compromise between elevated noise levels and other factors, such as the convenience of living in these locations or making efficient use of land resources to ensure development needs can be met, might be warranted. In such a situation, development should be designed to achieve the lowest practicable levels in these external amenity spaces, but should not be prohibited.* The Council concedes that this guidance means that noise should be balanced against all other factors in order to assess whether the appellant had taken all reasonable steps to minimise the noise impact (BHL/CS).
67. This is critical to the Council's case that the proposed development is *"unacceptable on noise grounds, is contrary to policies of the development plan and the Framework, and should be refused"* (NBC/3/A). A balancing exercise must be conducted to weigh the harm in noise terms against other factors. In failing to do this it is clear that the Council acted incorrectly. Accordingly, the Council's noise objection is simply not made out. The fallacy of the Council's noise objection is further emphasised having regard for the late concession made in the proof of evidence that Appeal A should be granted consent if the Council's 'preferred approach' is not accepted, as any noise concerns could therefore be resolved through conditions and/or through the reserved matters stage (NBC/1/A).
68. The Council's approach to noise is also flawed in asserting that the appellant has failed to demonstrate that it is *"impossible"* to deliver the policy N5 allocation in a manner which accommodates the Council's noise concerns (NBC/3/A). However, there is no basis in law or policy for asserting that such an impossibility test needs to be met. The planning system is not designed to discover the optimal use of land, as this would be unworkable. Rather, it is concerned with whether the proposed use is acceptable in its own right.
69. It is also noteworthy that it is agreed that Collingtree Court provides a useful (albeit worst case) representation of noise levels on the appeal site at a similar distance from the live carriageway of the motorway. It is significant, therefore, that there are no recorded complaints about motorway noise from occupants of Collingtree Court, which implicitly suggests that noise would similarly not be an issue for the proposed development (BHL/9).
70. In summary, therefore, the Council's noise objection is highly confined in the context of the wider proposed development. It is also not made out, as because of the failure to conduct a planning balance to reach a concluded view on the matter. Against this the appellant's case is that any noise concerns in respect to Appeal A are simply a matter for the conditions and/or reserved matters stage

(which the Council all but concedes). Furthermore, in respect to Appeal B, the noise concerns have been minimised and reduced to a minimum, when weighed against the other factors that contribute to this compromise. Accordingly, the proposed developments comply with guidance and the development plan's expectations in policies S10 and BN9. If that is wrong, however, the appellant submits that any harm in noise terms is far outweighed by the benefits of the proposed developments – in accordance with the appellant's secondary case. Thus, noise is not a legitimate basis for resisting the proposed developments (*BHL/CS*).

***The effect of the proposed development on adjacent heritage assets***

71. The only heritage assets relevant to the appeals are Collingtree Village Conservation Area and the grade II\* listed Church of St Columba, Collingtree (*SOCG4*). Both assets are located outside the appeal site so it is only their settings under consideration (*BHL/3/B Ax4*).
72. The mainly modern urban setting of the Conservation Area makes little positive contribution to its significance, which derives primarily from individual historic structures and their coherent composition in the historic core of the village (*CDI.2, BHL/3/A*). There are some limited opportunities to view undeveloped land from within the Conservation Area, reflecting its origins as a small rural settlement, and these do make a positive, albeit limited contribution to its significance. It is also recognised that, despite the high level of change in the land surrounding the Conservation Area, Collingtree village as a whole has avoided coalescence with neighbouring settlements. This general perception of separation contributes to an understanding of the historic origins of the village and also makes a minor contribution to the significance of the Conservation Area (*BHL/3/A*).
73. The proposed development (as seen in the Appeal B site) would change part of the setting of the Conservation Area that is currently golf course and grass fields to an area of new settlement with houses, gardens, public open spaces and roads. The view west along the footpath from the edge of the Conservation Area at Barn Corner includes a short section of the line of coniferous trees 90m away that marks the eastern boundary of the Appeal Site. It is not possible to see beyond these trees into the Appeal Site from the Conservation Area. These trees would be retained and the boundary reinforced by a wider belt of screening planting with an acoustic fence in its centre. This combination of existing and additional proposed woodland screening along the Appeal Site boundary would substantially filter or even entirely block any view of new buildings beyond. There would be no material visual change in the setting of the Conservation Area when viewed from within the Conservation Area (*BHL/3/A*).
74. From the west the footpath would pass for 190m through new housing within the Appeal Site but, other than a glimpsed view of the top of the church tower, there is nothing to suggest an entrance to an historic village along this section of path. If the development was consented, the glimpsed view of the top of the church tower would still be available but above trees and houses rather than trees and fields. There would be no material change in informative views of the Conservation Area from outside its boundary (*BHL/3/A*).
75. The Council describes the field west of Barn Corner as the 'supporting pastoral hinterland' of the church and the 'western rural hinterland' of the Conservation



Area (*NBC/2/A*). Historically, the village and church would have been experienced in a rural agricultural setting but an understanding of 'setting' should be based on how an asset is experienced in the present day (*CDG.1 Ax 2, CDI.4*). In both cases, the expansion of the village that has already occurred and the other changes in land-use in the surrounding area have resulted in a situation where the land outside the village makes very little contribution to the significance of these assets. The church and Conservation Area are no longer experienced in their 'rural hinterland.'

76. The significance of the church, and the reason for its designation as a Grade II\* Listed Building, lies primarily in the architectural and artistic interest of its medieval fabric. The church also has historical interest as a focal point in the village for over 800 years. But it is not a 'landmark' church and the rare glimpsed views of the tower from outside the village make no substantive contribution to its significance. The positive contribution that setting makes to significance is therefore limited to the village of Collingtree (*BHL/3/A*).
77. There is one location where the church would be visible from within the proposed development. This is from the footpath across the field west of Barn Corner that enters Collingtree from the west (*BHL/8*). From the footpath there are glimpsed views of the top of the church tower between screening trees as the path approaches the village. This does not make them valued views. (The relevant views can be seen at *NBC/2/B Ax7 and NBC/2/C*). If the development was consented, the glimpsed views of the tower would still be available but above trees and houses rather than trees and fields. The very limited visibility of the church from outside the village makes no substantive contribution to its setting or significance. As a result the predicted change in the glimpsed views of the tower from the west would not affect the heritage significance of the church.
78. Accordingly, the heritage assets are not materially affected by the development proposals. It is agreed between the appellant and the Council that neither heritage asset would experience substantial harm and, to the extent that the significance of either asset would be harmed, this would constitute less than substantial harm (*SOCC4*). The Officer's Report recommending approval for the proposed developments indicated that the heritage assets would be conserved in accordance with the Framework (*CDF.1*).
79. The appellant makes the following 4 points in respect to the Council's heritage case:
80. Firstly, the Council's heritage objection amounts to an objection to the principle of development to the field west of Barn Corner. The Council have suggested that the advantages of providing 50 new dwellings within this field would be insufficient to counterbalance the harm caused by developing in the field (*NBC/3/A*). It is an objection to any scheme that involves development on the field. Similarly, if the Council's heritage argument is accepted, "a further 2ha, the area of the field west of Barn Corner, will be undeveloped" (*NBC/3/A*). Thus the Council's case is that this field cannot be developed at all, owing to the harm to the heritage assets.
81. This is contrary to JCS policy N5 (*CDG.4*). Indeed, paragraph 12.42 of the JCS, part of the explanatory text to this policy, makes clear that, "there are no designated or known non-designated cultural heritage sites that are likely to place constraints on the development of the site". Accordingly, the Council's

- suggestion that part of the allocated site should remain undeveloped, owing to the impact on heritage assets, contradicts the development plan. Furthermore, the Council has agreed that it is not opposed to the principle of development for either appeal (*SO CG1*). This agreement did not include a qualification excluding the field to the west of Barn Corner. Accordingly, for the Council to now suggest that this field should remain undeveloped is inconsistent with this agreement.
82. Secondly, it is submitted that the Council's heritage objection is based on an incorrect interpretation of the Framework. It is agreed that the harm identified by the Council should be seen in the context of Framework 134 and thus any harm should be weighed against the public benefits of the appeals (*SO CG4*). However, despite this agreement, the Council sought to suggest that where there was less than substantial harm to a heritage asset, permission should only be granted where the harm is *"impossible to avoid in the first instance"*. This clearly imposes an onerous burden on the Appellant that is not envisaged by the Framework. Having regard to *R (Pugh) v SSCLG [2015] EWHC 3 (Admin) (BHL/14)*, it is clear that whilst the decision maker is required to attach considerable importance and weight in the planning balance to any material harm he identifies in respect to the heritage assets, he is not required to satisfy himself that the harm is *"impossible to avoid"* to pass the test under Framework 134. If this were correct, the sequential approach imposed by the Framework would be pointless. Indeed, there would be no distinction between Framework 133 and 134. The fact, therefore, that the Council have adopted such an approach fundamentally undermines the heritage objection.
83. Thirdly, almost as an extension to this 'impossibility test', the Council have sought to argue that the appellant has failed to properly address how it may be possible to accommodate the dwellings 'lost' by not developing the field west of Barn Corner elsewhere (*NBC/3/A*). The Council's agreement to the viability report is a sufficient answer to this point (*SO CG1*). Similarly, in suggesting that 50 dwellings could be removed entirely and the development proposals can still satisfy the policy N5 allocation, owing to it only being "in the region of 1,000 dwellings", the Council have seemingly had no regard for the viability of the proposed developments. The affordable housing provision was already reduced to 15% (against the expectation of 35% in JCS policy H2) in light of the agreed findings of the viability reports (*SO CG1*). Reducing the proposed developments by 50 dwellings would, therefore, have a further knock-on effect on this strained viability. The Council has not addressed viability in the context of Framework 134 *"securing its optimum viable use"*. Much like the noise objection, therefore, it offends against the multi-disciplinary approach to make such sweeping changes to a scheme based solely on the concerns under a single discipline. It also offends against the balancing exercise that is mandated by Framework 134 itself.
84. Fourthly, the appellant submits that the Council has sought to manifestly exaggerate the harm to the heritage assets that it alleges. Indeed, it makes the staggering suggestion that the relationship between the Church and the field west of Barn Corner should be considered in the event that the intervening line of trees is removed (*NBC/2/A*). This derives from Historic England's Guidance GPA: 3 (*CDI.4*), which suggests that account must be taken of *"the possibility that setting may change as a result of the removal of impermanent landscape or townscape features"*. Accordingly, the Council suggests that the row of trees *"could in the future be removed and the relationship could be re-established"* and thus this is relevant as this would *"reinstate an even closer experiential*

*connection between the church and this part of the appeal site". However, there is no evidence whatsoever to suggest that this line of trees would be removed in the future. Indeed, it is entirely theoretical and is only being raised to bolster up the harm the Council seek to identify.*

85. The suggestion that the footpath in the field west of Barn Corner is a *"place from where the setting of the church can be, and is, enjoyed by many people"* (NBC/3/A) has not been substantiated. Similarly, the view expressed by Historic England (CDI.7) that the Conservation Area and the Church would be affected gave no justification or explanation for this position. Little, if any, weight should be attached to this view. Finally, whilst much was made of the ridge and furrow, this does not warrant much consideration, as the Council concedes: *"Even in the best of circumstances the ridge and furrow may only be a subtle part of the experience of the field, but it does not follow that it can be ignored or discounted."* (NBC/3/A). Accordingly, the emphasis on the ridge and furrow in the Council's case at the inquiry demonstrates a clear attempt to bolster up the harm to heritage assets by any means whatsoever.
86. In summary, therefore, the appellant's primary contention is that there is no material harm to any heritage assets, in accordance with paragraph 12.42 of the JCS. If this view is not accepted, however, it is agreed that the harm to the heritage assets only amounts to less than substantial harm. Accordingly, whilst significant weight and importance must be attached to this harm, it must be considered against the public benefits of the proposal, including securing its optimum viable use. On this basis, the appellant submits that the benefits associated with the development proposals far outweigh any such harm. Furthermore, the appellant makes the following points about the Council's heritage objection: (1) it amounts to disagreeing with the principle of development on the field west of Barn Corner, contrary to the JCS and the SOCG; (2) it relies on imposing a standard not envisaged by Framework 134 (i.e. the impossibility test); (3) there has been no regard for viability in advancing this objection; and (4) the Council have clearly sought to manifestly exaggerate the harm they allege, especially in relying on the removal of trees (BHL/CS).

### **Other matters**

87. Air quality, flooding and highways matters were not reasons for refusal at the Inquiry. However, some third parties have raised these issues and thus the Appellant addresses them briefly here. As a general observation, it should be noted that the Appellant's evidence demonstrates that the proposed developments are acceptable having regard to these topics, even examining them on a worst case scenario basis.
88. **Air Quality** The Council's EHO confirmed that there was no objection on air quality (SOCG1). An air quality assessment was conducted as part of the Environmental Statement (CDA.18.1.6). The receptor locations for this assessment were placed in locations where the impacts were likely to be greatest – e.g. in close proximity to the M1. The results of this assessment universally showed that air quality measurements were below the National Air Quality Strategy Objectives – meaning that the proposed developments are suitable without the need for mitigation against poor air quality. This was subsequently confirmed by independent expert advice commissioned by the Council (CDH.3).

89. **Flooding** It is accepted by the Council that the proposed housing, school and local centre are located in Flood Zone 1, being land at a low probability of flooding (less than 1 in 1,000 annual probability of river or sea flooding). The Environment Agency is satisfied that access, floodplain compensation and surface water drainage can be controlled by recommended conditions and there is no objection to the appeals from Anglian Water or the Canal and River Trust. Furthermore, in accordance with JCS Policies BN7 and N5, the proposed developments include the provision of a swale feature along the southern boundary of Collingtree Park – an area with a history of flooding. The proposals will, therefore, serve to provide betterment to the standard of flood protection to properties within Collingtree Park (*BHL/7/A, CDA.18.12 Ax F*). Indeed, this was recognised by the Inspector for the EiP (*CDG.5*) who said in his report (with emphasis added): *Subject to appropriate detailed design and layout, it [ie. the policy N5 allocation] should relate well to the existing housing nearby in visual and physical terms and **provide positive impacts overall**, as noted in the SA, including importantly in respect of local flood risks.*
90. **Highways** The impact of the proposed development on the A45 trunk road and associated junctions, including the local highway network, with the agreed mitigation measures, is acceptable (*CD18.1.5*). The evidence shows that the development proposals for this allocated Local Plan site are fully in compliance with national and local policy and guidance relating to transport. Furthermore, the proposed development has been assessed independently and robustly using data from a number of sources such that the traffic generated can be accommodated on the highway network with appropriate mitigation. It is concluded, on the basis of a robust technical assessment process, that there is no evidence to show that the residual cumulative impacts of development in this case would be severe (*BHL/1/A*).
91. The Council withdrew its transport-related reasons for refusal on 22 October 2015. There is no objection to the proposed developments from NCC Highways Authority or Highways England (formerly Highways Agency) (*SOCG1*). Furthermore, the Officer's Report, in recommending approval, acknowledged the obvious point that the highway concerns were considered by the Inspector at the EiP in allocating the site (*CDF.1*). Indeed, as the Council acknowledges, irrespective of the layout or distribution of houses across the appeals site, the overall level of highways impact would be broadly the same (*BHL/1/A*). Thus, any objection on highways grounds represents an objection to the development plan. In opening, the Inspector indicated that it is not a purpose of the inquiry to question the allocation of the appeals site. There is therefore no legitimate highways case for the Appellant to meet.
92. **Third parties** The inquiry heard from a number of local residents who have applied time, care and energy to their evidence and have presented it with economy and courtesy. However, the answer to the specific content of their evidence is found in two general propositions:
- i. the effect of their evidence, viewed as a whole, is to challenge the allocation of the appeal site on the basis that development of this land should be ruled out because of issues relating to traffic, flooding, air quality and so on. However, it is not the role or function of this inquiry to reconsider the allocation of the land for residential development in the development plan, and;

ii. the main parties have agreed that all of these matters are important and that they can and should be thoroughly addressed before development commences. They have also agreed – taking into account relevant consultation responses – that these matters are capable of being addressed by obligations and conditions.

***Whether, taken as a whole, the proposals comply with the local development plan and amount to sustainable development as defined in the Framework***

- 93. Compliance with the Development Plan** In *R v Rochdale Metropolitan BC [2000] WL 1151364*, it was held that in determining whether a proposal was in accordance with the development plan, one should have regard to the plan as a whole and the “*overall thrust of development plan policies*”. Indeed, owing to the numerous conflicting interests that development plans seek to reconcile, it would be untenable that a breach of any one policy would lead to the conclusion that the proposal was not in accordance with the plan. It is against this backdrop that the decision maker must consider whether the proposed developments accord with the development plan. On the appellant’s primary case there is no conflict with the plan. Indeed, the appeal site is allocated in JCS policy N5 and the proposals accord with this policy (*BHL/5/A table 6*). Furthermore, the merit of the Appellant’s case in this regard is strengthened having regard to the following points:
94. Firstly, for the reasons given above, the alleged conflicts with the development plan in respect to noise (JCS policies S10 and BN9) and heritage (JCS policy BN5) are misconceived. Accordingly, if the appellant’s case is accepted on noise and heritage, it follows that there is no conflict with the plan.
95. Secondly, in accordance with the decision in *R v Rochdale*, the Appellant contends that even if it is found that there is conflict with policies BN5, BN9 and S10, the proposed developments are still in accordance with the general thrust of the development plan, especially having regard to policy N5. Indeed, the Council’s reasons for refusal do not refer to policy N5.
96. Thirdly, policies BN9 and S10 provide for a flexible approach in respect to noise. Indeed, policy BN9 states that (with emphasis added) “**where possible** reduce pollution issues that are a barrier to achieving sustainable development”. Furthermore, policy S10 requires development to “*minimise pollution from noise*”. Neither of these policies seeks to impose an absolute standard. Rather, read together, they should be given a flexible interpretation, in accordance with the plan read as a whole. Indeed, the following is observed within the plan itself: “*Flexibility exists within the Plan and housing trajectory that allows for developments to be brought forward to mitigate the impact of delays on individual sites*” (*CDG.4*) Accordingly, the appellant submits that in the context of the Council having a significant delivery problem, these policies should be afforded greater flexibility so as to ensure the delivery of the policy N5 allocation without delay.
97. **Sustainability** If it is accepted that the proposed developments are in accordance with the development plan, then they are inherently sustainable and planning permission should be granted without delay. If, however, it is found that the proposed developments are not in accordance with the development plan, the planning balance must be considered under the second bullet point of

Framework14 to determine whether the proposed developments amount to sustainable development.

98. The issue of sustainable development is to be considered in the light of the Framework looked at as a whole. Framework 7 identifies three roles of sustainable development and Framework 8 requires all three to be pursued simultaneously, recognising implicitly that this will involve the reconciliation of internal conflicts between the three in the context of deciding on any given proposal.
99. Economic Role: The economic dimension of sustainable development should be entirely uncontroversial (*BHL/5/A*) but it is not. The Council have sought to downplay the significant economic benefits associated with the proposed developments (*BHL/4/A*). Some of these benefits are:
- i. the creation of up to 350 construction jobs;
  - ii. an increase in GVA associated with the proposed Developments, estimated to be around £59.8m per annum for Appeal A and £22.6m for Appeal B;
  - iii. the generation of convenience goods expenditure of £4.5m, comparison goods expenditure of £6.4m and the expenditure of leisure goods and services of £5.5m per annum.
100. The Council suggest that the proposed developments would fail to satisfy the Northampton Economic Regeneration Strategy, in that it would not contribute to technical personnel working in Northampton. (*BHL/4/B.3*) However, this cannot be maintained having regard to the s.106 agreements, which do provide significant financial contributions for an apprenticeship training scheme (*PA8, PA9*).
101. Social Role: The definition of the 'social role' of sustainable development could have been written with this proposal in mind. In the first place it refers to development "*...providing the supply of housing required to meet the needs of present and future generations ...*". Accordingly, the fact that the proposed developments will deliver housing (1,000 for Appeal A and, as an early first phase, 378 for Appeal B) in an administrative area with a long-running and significant housing delivery problem, below the 5 year minimum, means that significant weight should be attached to this factor. Furthermore, the provision of 15% affordable housing is also an agreed significant benefit of the development (*NBC/3/A*). Furthermore, the proposed developments would:
- i. widen the choice of high quality homes;
  - ii. encourage the development of healthy communities through incorporating formal and informal open spaces which are within easy walking distances of the new homes;
  - iii. provide a site for a 2 form entry primary school (in respect to Appeal A) and financial contributions;
  - iv. provide an accessible location with connections to pedestrian routes and the provision of pedestrian and cycle permeability through the site;
  - v. improvements to public transport facilities;

- vi. provide for an on-site medical facility (Class D1) (in respect to Appeal A) and contribute towards medical facilities at the Danes Camp Surgery.
102. Environmental Role: The proposed developments would provide the following environmental benefits:
- i. flood risk management measures would provide betterment to properties in Collingtree Park;
  - ii. the retention of existing woodland and ecological assets;
  - iii. the provision of new green infrastructure measures to enhance biodiversity;
  - iv. a net gain of 4.37 hectares of tree cover (per Appeal A).
103. The benefits of this proposal are profound in advancing the objectives of national policy to boost significantly the supply of housing. They have an equally important benefit to the local economy through direct and indirect employment generation. It must also be understood that the entire strategy of the plan is based on improving the local and strategic road network in order to realise the constrained economic potential of this sub-region. This can only be achieved by releasing funding from private sector developments with the critical mass to make significant financial contributions (*BHL/OS*).
104. Delay: significant weight should be attached to the fact that the benefits of the development proposals are real and immediately deliverable. Conversely, if consent is refused, it would take many years for another scheme to come forward at the appeal site – indeed it took the Appellant several years to advance the proposed developments through the planning process. This is relevant in that the timescale for the appeal site's delivery was an important aspect of its allocation. Indeed, the Inspector's report for the EiP specifically says that the policy N5 allocation should come forward "*in the first part of the plan period*" (*CDG.5*). Whilst the council maintains that the plan period began in December 2014, this is clearly inconsistent with the specified plan period in the development plan itself, which began in 2011 (*CDG.4*). Furthermore, the EiP Inspector rejected alternative sites to the SUE identified in policy N5 on the basis that it would introduce material delays to delivery (*CDG.5*); significant weight should therefore be attached to the fact that the grant of consent allows for the policy N5 allocation to come forward in its intended timescale, whereas a refusal would prevent this outcome. Accordingly, the appellant submits that even on its secondary case, the proposals undoubtedly represent sustainable development owing to the benefits identified far outweighing the harm that the Council allege.
105. This balancing exercise is also relevant to the appellant's tertiary case. Indeed, s.38(6) of the 2004 Act indicates that material considerations can overcome conflicts with the development plan. The Framework is a material consideration. Consequently, as the proposed developments represent sustainable development, applying the three roles of sustainability and the Framework as a whole, where policies S10, BN5 and BN9 are found to be not out of date this acts as a material consideration that overcomes any conflict that is found with the development plan. In summary, therefore, all routes lead to the conclusion that the proposed developments represent sustainable development (*BHL/CS*).

## **The Case for Northampton Borough Council**

*The Council's evidence is set out primarily in opening submissions (NBC/OS), main proofs of evidence (NBC/1, NBC/2, NBC/3) and closing submissions (NBC/CS)*

### **Introduction**

106. The Council was right not to accept the recommendations of its officers and to refuse planning permission for the proposed development for reasons to do with inadequate traffic noise mitigation and the impact on designated heritage assets. For the reasons set out below, both reasons for refusal were well founded, and remain so.

### **The Council's approach**

107. The "presumption in favour of sustainable development" is set out in Framework 14 and must be applied in determining development proposals. So far as relevant to the present case, Framework 14 states that for decision making the presumption means (i) approving development proposals that accord with the development plan without delay; and (ii) where the development plan is silent or absent or relevant development policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

108. The Council says that the proposal does not accord with the development plan so that (i) does not apply, and further that the second limb of paragraph 14 does not apply because relevant policies are not out of date.

109. However, before expanding on those matters, reference is made to the case law produced by the Appellant, dealing with the question whether Framework 14 is relevant only to proposals which the decision maker has already decided are sustainable. This issue is to be considered in early 2016 in the appeal relating to the Cheshire East case. For the avoidance of doubt, if the Court of Appeal decides that paragraph 14 is relevant only to proposals which the decision maker considers are inherently sustainable, the Council submits that the Proposed Development is not sustainable (because of its heritage and noise effects) and therefore Framework 14 does not fall to be considered. Nevertheless, to repeat, the Council has considered this case on the basis that Framework 14 is relevant, and sets out its submissions in that regard.

110. In this case, the proposed development conflicts with the development plan. Of course, the development plan is to be read as a whole. However, if the Council is right that because of its noise and heritage concerns the proposed development conflicts with the relevant policies for the protection of those interests (S10, BN5 and BN9), as well as the policy specifically relating to the allocation (N5), the Appellant cannot contend that the proposed development complies with the plan as a whole merely on the basis that there are some policies with which the proposed development does not conflict. That could no doubt be said for almost any proposal.

111. In those circumstances, limb (i) of Framework 14 does not apply. On the contrary, following section 38(6) of the Planning and Compulsory Purchase Act 2004, permission should be refused unless material considerations indicate otherwise. They do not.



112. As to limb (ii) of Framework 14, although there is not a 5 year supply of housing, the housing policies within the development plan which are pertinent to this inquiry are not out of date. It follows that (ii) does not apply. Furthermore, even were (ii) to apply, it would not indicate that permission should be granted. That is because the benefits of granting permission are in this case significantly and demonstrably outweighed by the adverse noise and heritage impacts of doing so.
113. The appellant contends that the Council is wrong to suggest that the housing policies pertinent to these appeals are not out of date. The recent judgement in *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG/Richborough Estates Partnership LLP v Cheshire East BC & SSCLG* [2016] EWCA Civ 168 does not support the appellant (*NBC/18*). The “broad interpretation” of Framework 49 takes the appellant nowhere. The policies argued by the Appellant to be out of date in this case are policies which would be routinely considered in any assessment of proposed development. Such policies do not fall within the scope of relevant policies for the supply of housing in Framework 49.
114. At the inquiry the appellant accepted that policy N5 was not out of date. However, it still maintained nevertheless that because of the lack of a five year supply of housing, this was a case where relevant policies for the supply of housing were out of date.
115. The appellant argues that policy S1 is out of date. That *is* a spatial policy, which provides among other things that new development in the rural areas will be limited. However, even if in the case of other applications it might be said to constrain the supply of housing, it cannot be said to do so here, because the Collingtree site is allocated in the local development plan. It follows that policy S1 and the other policies dealing with the distribution of housing are not “relevant” policies which are out of date.
116. The appellant also argues that policies S10 and BN9, which are relevant to the Council’s noise objection, and BN5, which is relevant to the heritage objection, are out of date. It is wholly unrealistic to argue that these policies are out of date. They are plainly not. They do not impose a material degree of restraint on either the location or amount of new housing development. They are all policies which raise issues that are always relevant to all applications. Policy S10 deals with sustainable development principles, and S10 (k) says that development should “minimise pollution from noise, air and run off.” BN9 asks that development proposals should demonstrate that they provide opportunities to minimise and where possible reduce pollution issues, including (e) “reducing the adverse impacts of noise.” Such an approach is up to date and of obvious importance and relevance. The same is true also of BN5, dealing with heritage. These considerations are relevant to any application, and it cannot be said that the policies relevant to these appeals are out of date (*NBC/CS,NBC/18*).
117. That is not to deny the relevance of the Council’s difficulties in delivering housing, as demonstrated by the lack of a 5 year supply. The delivery problem, and the need for housing, must clearly be placed in the balance, along with other considerations. However, that balance must be made against the background of the correct overall policy approach as set by the Framework (*NBC/CS*).

## Noise

118. The mitigation measures proposed by the appellant to address the noise emanating from the M1 motorway fail to demonstrate that a satisfactory residential environment would be created for the residents of the proposed development. It is common ground that the noise climate in gardens is a matter of importance. An appropriate level of noise in external amenity areas is one of the matters relevant when applying policies S10 (k) and BN9 (e) of the JCS, and the relevant guidance in Framework 109 and 123.
119. It is important to consider the issue of garden noise in the context of a proper understanding of the relevant policy. Framework 123 provides that planning policies and decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life, and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise. The guidance in the Framework is carried through from NPSE and into PPG. The guidance is applicable to the issue of the effect of noise from the M1 on the amenity areas within the proposed development.
120. "Significant adverse impact" has a specific meaning in the context of the noise guidance. Where there is a significant adverse impact, it should be avoided. However, it is not the case that any adverse effect below the level of "significant" is irrelevant, or can be discounted. Adverse impacts which are not great enough to be "significant" are to be kept to a minimum. So, in the language used in NPSE and PPG, where noise is above the threshold of adverse impact (LOAEL), it is to be mitigated and minimised.
121. That is the context for the guidance in BS 8233: 2014 (CDK.3). The guidance provides a desirable guideline of 50dBA, in gardens and external amenity areas, with an upper guideline of 55dBA in noisier areas. It is recognised that achievement of those levels may not be possible in some areas where development may be desirable, for example urban areas adjoining the strategic transport network. In such areas, the development should be designed to achieve the lowest practicable levels. In effect, all reasonable efforts should be made to minimise any exceedance of 55 dBA.
122. There is no other guidance on noise levels in external amenity areas. The Council placed the BS 8233 guidance in the context of national policy (NBC/1/A). It takes 50 dBA as the NOEL (No Observed Effect Level) and 55 dBA as the threshold for adverse impact-the LOAEL or Lowest Observed Adverse Effect Level. That is the level above which adverse effect should be minimised; the exceedance over 55 dBA should be kept to the lowest practicable level.
123. The appellant appears to have followed a different approach in formulating its proposals. The ES (CDA.18.1/7) says that it is considered that with careful layout design an outdoor noise level between 58-70 dBA can be achieved, which the appellant claims to be "below NBC's SOAEL outdoor noise criterion of 72dB."
124. Neither 70 dBA nor 72 dBA has any validity as a criterion for amenity areas or gardens (NBC/1/B Ax3). 72 dBA is the highest noise level at which a residential building can be constructed and the *internal* noise level controlled to an appropriate level using the insulation described in the Noise Insulation Regulations. 72 dBA is not in any guidance set out or capable of being derived as a threshold, external or otherwise, for gardens. Even if it were, the obligation

- would still be to do what is reasonable to keep exceedance of 55 dBA to a minimum, and that is what the appellant has not done.
125. A measure of the lack of appropriateness of 70 or 72 dBA can be found in the WHO guidance (*CDK.4*). This shows that there is evidence that long term exposure to 65-70 dBA causes heart problems (*NBC/1/A*). Accordingly, the only guidance about noise in external amenity areas is in BS 8233 (*CDK.3*), and there is nothing to justify a higher level than 55dBA as an acceptable level of noise. Thus, even if the Council's EHO had agreed that it was acceptable for noise in gardens to be up to 72dBA, such agreement would have no basis.
126. The appropriateness of the 50 and 55dBA guideline levels in BS 8233:2014 is also shown by the WHO guidelines, which state (*CDK.4, NBC/1/A*) that to prevent the majority of people being moderately annoyed, the outdoor sound level should not exceed 50dBA, and to prevent the majority of people from being *seriously* annoyed, the outdoor sound level should not exceed 55dBA. It is perhaps an indication of the appellant's approach to this matter that it paraphrased the WHO guidance as saying that "few" people would be seriously annoyed below 55 dBA (*BHL/2/A*). That is not what the guidance says. It says that to avoid the *majority* being seriously annoyed, levels must be kept below 55dBA. This shows the importance of making all reasonable efforts to avoid noise levels above 55dBA, and where that cannot be avoided, keeping exceedance to the lowest practicable level (*NBC/CS*).
127. The appeal sites are on land allocated for "in the region of" 1000 houses in policy N5. However, paragraph 12.41 of the JCS makes clear that due to the proximity of the site to the M1, junction 15 and the associated AQMAs, "mitigation measures will be required to address the issues of noise and air pollution". Thus, the JCS explicitly recognises that there is a noise issue from the M1 which will need to be appropriately addressed. Nothing in the JCS indicates any acceptance of unsatisfactory noise levels in external amenity areas. Furthermore, the policy map shows that in order to deal with the noise issue, there should be a structural landscaping strip on the site, parallel to the M1. Policy N5 refers to the boundary of the SUE as shown on the policies map at figure 5 (*CDG.5*). Figure 5 itself cross refers to inset map 12, which shows a substantial "indicative structural green space" parallel to the M1. While described as indicative it is clearly intended to be substantial, and as scaled off inset plan 12, is at least 90 m wide.
128. This approach in the JCS had the full support of the EIP Inspector. He stated that the masterplan would have to resolve detailed design issues regarding noise and air quality (*CDG.5*). He continued "*This includes through the disposition of structural green spaces across the site and the provision of a substantial landscape buffer to the M1 itself on the site's southern boundary.*" It is notable that although the appellant claimed it had provided the kind of structural green space indicated in the JCS, the green strip parallel to the M1 shown on the Appellant's proposals is in large part no more than 20m deep, and substantially less within the area covered by appeal B.
129. Much of the site is affected by high traffic noise levels (*NBC/1/C AxA FigA1-A5*) In the appeal B layout, between 64 and 75 of the 378 properties would experience garden noise levels greater than 55dBA, depending on the applicable speed limit (*NBC/1/C table 2.1*). That is between 16.9% and 19.8% of the

- houses in that application. A substantial number of those properties would suffer from noise levels over 60 dBA and up to 70 dBA. In relation to appeal A, the number of properties experiencing garden noise levels greater than 55dBA is between 129 and 144 properties (*NBC/1/C table 2.3*). Again, it can be seen that a substantial number of those properties will experience garden noise levels over 60 and up to 70 dBA (*NBC/1/C tables 2.1 and 2.3*). Overall, garden noise levels for a substantial number of dwellings in both appeals would exceed 55dBA.
130. Such exceedances could be avoided. The Council has shown that the extent to which gardens in the proposed development would experience noise levels over 55 dBA can be greatly reduced, and that it is reasonable to do so (*NBC/1/A-G*). It follows that the Appellant has not designed its proposals so as to achieve the “lowest practicable noise levels” over 55dBA.
131. The number of properties experiencing garden noise levels above 55dBA could be greatly reduced by leaving a wider structural green space parallel to the M1 within the appeal sites free from development (and ensuring the southern-most houses are oriented in a way that minimises noise transfer into the rest of the site). This is the Council’s “preferred approach” (*NBC/1/B Ax6*). A substantial landscape buffer of this kind was envisaged in the JCS and by the Inspector who conducted the EiP (*CDG4, CDG.5*). The width of the development-free strip would depend on the height of the bund provided along the boundary between the appeal sites and the M1, but it would be considerably greater than the margin proposed by the appellant. This approach has been successfully put into effect at a nearby site adjacent to the M1 at Milton Keynes (*NBC/1/B Ax7*).
132. Using that approach, the number of dwellings experiencing garden noise over 55 dBA would be much reduced: in relation to appeal B 12 dwellings when the speed limit is 70 or 60 mph, and none where the speed limit is 50 (*NBC/1/C table 2.3*). This compares with 64-75 dwellings having garden noise over 55dBA in the Appellant’s proposals. Further, no dwellings would have noise levels greater than 60 dBA, whereas in the appellant’s layout many dwellings will suffer from these greater noise levels. In relation to appeal A, adopting the “preferred approach”, the number of dwellings with garden noise greater than 55dBA would be reduced from 129-144 to 32 (*NBC/1/C*).
133. Even if the “preferred approach” is not adopted, it would still be possible to achieve somewhat lower garden noise levels than those shown on the appellant’s proposals, by changing the layouts to ensure that more efficient use is made of dwellings to shield gardens from the motorway noise (*NBC/1/D, NBC/1/E*).
134. However, the fact that improvements could be made does not assist the appellant in relation to appeal B, because it is a full application. Although appeal A is an outline scheme, so that the layout is a reserved matter, “tweaking” the appellant’s masterplan layout would make very little change to the overall number of dwellings experiencing garden noise levels over 55dBA (*NBC/1/D*).
135. Clearly, to exclude a structural green space parallel to the M1 in accordance with the “preferred approach” (and that of the JCS) would reduce the area available for residential development. The JCS does not say that every part of the site is necessarily suitable for built development; indeed, it clearly contemplates a substantial structural green space parallel to the M1.

136. The appellant has not shown that the form of the proposed development, one that has adverse effects in noise terms on the ground, is necessary in order to achieve sufficient housing development brought forward in accordance with policy N5 allocation. Thus the appellant has not satisfied the requirement of BS 8233 to achieve the lowest practicable level of garden noise, so the "preferred approach" should be adopted.
137. The general policy BN9 requires proposals to *demonstrate* that they provide opportunities to minimise and wherever possible reduce pollution issues, including (e) reducing the adverse impacts of noise. Similarly with the JCS guidance in relation to the policy N5 site, paragraph 12.41 states that mitigation measures will be required to address noise, and paragraph 12.43 provides that the masterplan should *demonstrate* how the land use elements respond to context and sustainable planning requirements. Responding to context and sustainable planning requirements must include dealing with the issue of noise.
138. In fact, however, the appellant has *not* shown that if the "preferred approach" is adopted, insufficient residential development would be possible. The allocation does not require delivery of precisely 1000 dwellings. The allocation is for "in the region of" 1000 dwellings. A development of fewer than 1000 dwellings could still satisfy the requirements of the policy. Also there is good reason to suppose that the shortfall in dwellings caused by the reduction in developable area in the southern part of the site could be made up elsewhere. The Council has pointed out (*NBC/3/A*) that the proposed development is at an average density of 33 dwellings per hectare. This is below the JCS policy requirement (H1) of a minimum of 35 dwellings per hectare (*CDG.4*). Whilst the Council has not refused planning permission on the grounds of this being an inefficient use of the available land, a higher density of development would clearly be more appropriate, and would accord with the requirements of the development plan. Furthermore, the Parameter Plan provides for some 15 ha of open space over and above that required by the adopted Developer Contributions SPD (*CDA.10*). A lower level of open space provision would be appropriate and not contravene any policy requirements.
139. Thus, there are good grounds for considering that any shortfall due to the exclusion of development on the structural green space parallel to the M1 can be made up elsewhere on the site. It should come as no surprise that this is possible, given that policy N5 itself contemplates a wide structural green space.
140. The appellant argues that because (as agreed) the viability of the appeal schemes is not sufficient to provide as much affordable housing as the development plan seeks, that must mean that the provision of any lower number of dwellings would be less viable. There is no evidence to show that if the "preferred approach" were adopted the number of dwellings would have to be reduced below the 1000 proposed and it cannot be assumed that an amended scheme would in fact be any less viable.
141. Overall, there is no evidence that exclusion of housing from the structural green space parallel to the M1 pursuant to the Council's "preferred approach" would prevent either 1000 dwellings or "in the region of" 1000 dwellings from being delivered on the allocation site. For completeness, the same is true if housing is also excluded from the field west of Barn Corner, in accordance with the Council's heritage concerns. The appellant produced no evidence to suggest

that the development would be prevented if *both* the Council's concerns were taken on board. In that regard it is to be kept in mind that the Field forms only a small part of the overall allocation, and in any event it overlaps substantially with the structural green space from which we say development should be excluded because of concerns about noise.

142. Given that adopting the "preferred approach" cannot be said to prevent the allocation being brought forward, both appeals A and B should be dismissed on the ground of noise. Reasonable attempts have not been made to minimise the extent to which garden noise levels will exceed 55dBA.
143. For clarity, the Council's case is that appeal A, as well as appeal B, should be dismissed if the Secretary of State accepts that the "preferred approach" should have been followed. Although appeal A is an outline application, the application is for up to 1000 dwellings and was accompanied by a Parameter Plan and Environmental Statement. If the Secretary of State accepts that the "preferred approach" should have been followed, he cannot properly allow appeal A unless he is satisfied that 1000 dwellings can be accommodated within the parameters assessed in the ES, ie within the remaining areas shown for housing on the Parameter Plan. This has not been demonstrated.
144. In any event, even if essentially the same footprint of development as that proposed by the appellant were kept, it would still be possible substantially to reduce the noise levels experienced in gardens. The proposed buildings themselves could be used to provide acoustic screening to the gardens. This approach is one the appellant itself has claimed to adopt (*CDA.18.1.7, NBC/1/D*) but it has not been carried through into the submitted layouts. The Council has called this the "fallback approach" (*NBC/1/A*).
145. If the Secretary of State does not accept that the "preferred approach" should be followed and concludes that the development footprint proposed by the appellant is acceptable, Appeal B should still be dismissed on noise grounds, because the approach of using dwellings to shield gardens has not been sufficiently followed, and it is a detailed application, so the layout cannot be amended. It should not be thought that the improvements which could be made by using dwellings to shield gardens to the full extent reasonably possible are too small to justify a refusal of planning permission on this ground. There are substantial areas of appeal B where improvements could be made (*NBC/1/D*), and even an area in the south east part of the site where garden noise levels could be reduced to such an extent as to fall below 55dBA.
146. However, Appeal A should not in those circumstances be dismissed on noise grounds, because it is an outline application and layout is a reserved matter. The Council does not dispute that a detailed layout can be devised by the appellant which follows the "fallback approach" and no one has suggested that following that approach would prevent development of 1000 dwellings within the residential areas shown on the Parameter Plan.
147. The appellant refers to the development at Collingtree Court as a "*precedent of permitting new residential development in close proximity to the M1 motorway in this area is ...already firmly established within NBC.*" (*BHL/2/A*). The Collingtree Court permissions were granted between 1987 and 1999 (*NBC/1/C AxB-K*). First, traffic on the M1 has increased greatly since then - from about 63,000 in 1987 to 167,161 in the design year (2026) of the proposed development so it

was less noisy. Secondly, even at that time, the EHO protested on a number of occasions that the development was unacceptable (*NBC/1/C AxH*). Thirdly, it appears that no formal noise assessment was ever carried out for any of the applications. No reliance can be placed on a lack of complaints by the occupiers. The existence of dwellings at Collingtree Court does not help the appellants

148. PPG 009 does not suggest that provision of an appropriate standard of noise amenity in outdoor areas lacks importance (*BHL/2/A*). Indeed, it expressly states that the benefit of gardens or balconies is reduced with increasing noise exposure. It does not suggest that even a quiet public amenity space is a substitute for an acceptable garden. In any event, even if in some circumstances provision of quiet public amenity spaces might partly compensate for noisy gardens, in this case the public amenity spaces in proximity to dwellings whose gardens are adversely affected by the motorway noise will suffer from the same defect.

149. Overall, the development proposed in both appeals fails to accord with the development plan:

- It does not comply with the requirement in Policy S10 of the JCS that development will minimise pollution from noise (this is one of the JCS's "*sustainable development principles*").
- It also fails to satisfy Policy BN9 of the JCS, which requires development proposals which are likely to result in exposure to sources of pollution to "*demonstrate that they provide opportunities to minimise and where possible reduce pollution issues that are a barrier to achieving sustainable development and healthy communities*" including expressly, "*reducing the adverse impacts of noise*".
- Finally, the proposed development does not accord with the site specific guidance in relation to the allocation. First, paragraph 12.41 of the supporting text to that policy states that, due to the proximity of the NSSUE site to the M1 itself, mitigation measures will be required to address the issue of noise pollution. As explained, the noise mitigation measures proposed by the Appellant are inadequate. Secondly, pursuant to paragraph 12.43, development proposals must be accompanied by a masterplan, which is required to "*demonstrate how the land use elements positively respond to context, design issues, connectivity and sustainable planning requirements*". By proposing residential development in areas of the appeal sites which are unsuitable for such development in noise terms, the submitted masterplan fails to meet this requirement.

150. In relation to the allocation, it is necessary to deal with the appellant's evidence that the proposal complies with all aspects of policy N5 (*BHL/5/A table 6.1*). Policy N5 has to be read along with and in the context of the explanatory text. In relation to the masterplan, policy N5 simply requires submission of a masterplan, and a development might be said literally to comply with this aspect of the policy if any masterplan is submitted. However, paragraph 12.43 sets out the requirements for the masterplan. If those requirements are not complied with, it is meaningless to suggest that the requirements of policy N5 have been met.

151. The Framework also weighs against granting planning permission on noise grounds: The proposals are contrary to Framework 109, which provides that the

planning system should prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. It also fails to accord with Framework 123, pursuant to which planning decisions should aim to avoid noise giving rise to significant adverse impacts on health and quality of life as a result of new development, and mitigate and reduce to a minimum other adverse impacts. For those reasons the proposals also fail to satisfy the requirements of Framework 58, 61 and 64 which require good design (*NBC/CS*).

### **Heritage**

152. The development proposed in both appeals A and B is unacceptable in heritage terms because of the harm which it would cause to the setting – and therefore to the significance – of two designated heritage assets: (i) the grade II\* listed church of St Columba and (ii) the Collingtree Village Conservation Area.
153. Development is proposed as part of both appeal schemes for the field west of Barn Corner. This field is an important component of the setting of both heritage assets. It reveals and makes a positive contribution to their significance. The development proposed for the Field would seriously harm the setting of both the Church and the Conservation Area. The Field is important as the closest and most evocative component of the pastoral hinterland to the Church and this part of the Conservation Area, and the last remnant of this hinterland to the west of Collingtree. The appellant has not recognised the contribution of this important element in the setting of the Church and the Conservation Area to their significance.
154. It is agreed that great weight must be given to the conservation of designated heritage assets by Framework 132. So far as the Church is concerned, s66 of the PLBCA applies, requiring special regard to be had to the desirability of preserving listed buildings or their settings. It is clear from the *Barnwell Manor* case that where a development causes harm to the setting of a listed building, that is a matter which is to be given considerable importance and weight, and there is a strong presumption against such a development (*BHL/3/B Ax2*). It is also clear from *Barnwell* that the duty applies with all the more force to assets of the highest significance. As a grade II\* listed building, the Church is, according to Framework 132, a heritage asset of the highest significance.
155. It is agreed that the Church has both architectural and historic interest. The CAAMP states that the tower has been a cultural and visual reference point in the village since the 15<sup>th</sup> century (*CDI.2, CDI.2*). The character and appearance of the Conservation Area are summarised in the CAAMP, which makes clear that the Church is the single most visually and architecturally dominant building in the Conservation Area.
156. The appellant says that much of the Conservation Area borders on recent residential development which makes at best a neutral contribution to the significance of the Conservation Area (*BHL/3/A*). In essence, the same can be said in relation to the setting of the Church. The recent development hardly makes a positive contribution to the setting of the Church.
157. It is common ground that historically the village and Church would have been experienced in a rural setting. The appellant says that the presence of modern residential development leaves few opportunities for visual connections between



the historic core of the village and its rural surroundings, and that where these connections are still available, they provide a reminder of the rural agricultural origins of the village, contributing to its historic interest (*BHL/3/A*). The Council agrees and strongly suggests that the remnants of the rural setting of the village and Church are highly valuable, and all the more so because there are so few such remnants (*NBC/2/A*).

158. This is a crucial difference between the parties. The appellant gives what remains of the rural setting of the Church and Conservation area a low value because *"an understanding of setting should be based on how an asset is experienced in the present day"* (*NBC/2/A*). This stance appears to be that the historic rural setting has largely disappeared, so that what is left does not matter. That is quite wrong, and contrary to the guidance. The HE guidance on setting GPA3 (*CDI.4*) deals with cumulative change. It makes the point that just because the significance of a heritage asset has been compromised in the past does not necessarily mean that it is acceptable now further to compromise it. Specifically, the guidance states that negative change can include severing the last link between an asset and its original setting. The Council's position is that the Field is all the more important because so little of the original rural setting of the Church and Conservation Area is left (*NBC/2/A*).
159. It is common ground, and incontrovertible, that the Field is part of the rural surroundings in which the village and Church are experienced. In those circumstances, the Field is clearly part of their setting (*CDG.1, CDI.4*). The reference is to experience, and not limited to views. Although there is inter-visibility between the Church and Conservation Area, the experience of the Field as part of the setting of both assets goes beyond views (*NBC/2/A*). The appellant has underestimated the significance of the Field in relation to the heritage assets.
160. There are clear historic links between the Field and the Church and Conservation Area. The Field, and the footpath across it, has been used for at least 235 years (and probably much longer) by the people living in the village, including the Rector, to earn their living (*NBC/2/B Ax2*). Indeed, the presence of pre-enclosure ridge and furrow provides a tangible reminder of the length of time over which villagers have farmed the Field. The CAAMP specifically refers to this characteristic of the Field, in the context of the historic development of the Conservation Area (*CDI.2*) and ridge and furrow is referred to expressly in policy BN5.
161. The current experience of the Field can be placed in the context of these historic links. At present, a person walking across the Field towards the village is able to see the Church tower from it as he or she approaches the village, and hear the bell. In so doing he or she is experiencing the feature which it is common ground has been a cultural and visual reference point of the village since the 15<sup>th</sup> century, and experiencing the traditional rural setting of the village and Church (*NBC/2/B, NBC/2/C*).
162. In these views, which show the feature which has been dominant in the village for hundreds of years, the Church can properly be described as a "landmark". The Appellant's own Built Heritage Assessment agrees (*CDA.18.1.10.1*). In seeing the Church tower, the walker is seeing the dominant feature of the village, a landmark that has been present for centuries. There are also valuable views west towards the Field from the edge of the Conservation Area. The CAAMP says

- that the houses at the west end of Barn Corner and the glimpse of a view out westward form “*very positive contributions*” to the setting of the Conservation Area (CDI.2).
163. While planting may to an extent interfere with inter-visibility between the Field and the Church and Conservation Area, some of the planting is deciduous, and winter views show that views are clearer when the leaves have fallen (NBC/2/C). Furthermore, planting outside the Conservation Area (including the cypress screen) is not protected, and could be removed at any time without notification or control. HE’s guidance specifically states that the impermanence of such planting should be taken into account as part of any assessment (CDI.4). In any event, even where views between the Field and the heritage assets are less clear, the Field can still be *experienced* as an important historic and traditional part of the rural setting, by walking within it.
164. Accordingly, the Field has real importance as part of the setting of the Church and Conservation Area. That importance is not diminished, but increased, by the fact that so little of the rural setting remains. Indeed, the Council considers that the relationship between the Field and the Church is unique. No other site relates the Church to its former rural surroundings in the way that the Field does (NBC/2/A).
165. The development would fundamentally change the character of the Field from rural to urban or suburban. It may be that the visitor will be able to see the Church tower from what was once the Field, but the rural setting in which the tower was once experienced will have gone. Any view is likely to be glimpses of the Church tower over the roofs or between the houses. Therefore, the experience of the Church and Conservation Area in conjunction with this unique surviving remnant of their rural setting will be wholly lost.
166. The extent of new screening proposed in order to reduce the degree of inter-visibility between the new housing and the heritage assets would not preserve the rural surroundings. It would simply hide the new development with a screen. GPA3 makes clear that screening should never be regarded as a substitute for well-designed developments and it can only, at best, help to mitigate impact (CDI.4).
167. Further, it cannot be said that the fact that there is to be no building on the small piece of land between the Field and the Conservation Area boundary justifies the proposed development. That piece of land is very small and just a fragment of what now remains of the rural setting of the village, and the Church tower cannot be seen from it. Further, from the village and the edge of the Conservation Area, the very close presence of urban development would be apparent, as a result either of views of buildings or of thick structural planting placed there to hide the buildings.
168. Overall, the impact of the development would be seriously damaging. The Appellant sought to rely on the statement in the JCS that there are no designated heritage assets that are “likely to place constraints on the development of the site” (CDG.4/12.42). However, there is no evidence of any detailed assessment of the impact of development on the policy N5 site during the formulation of the JCS, and no evidence that in that process CAAMP was taken into account. It is significant that on the closer consideration necessitated by the submission of the

applications, HE and the Council's conservation officer have both recognised the harm the proposed development would cause (*NBC/2/B Ax13 and 14*).

169. The appellant has failed to justify developing the Field and thus causing harm to the setting and significance of both the Church and the Conservation Area. The Council estimates that the Field would accommodate around 50 dwellings (*NBC/3/A*). The benefit of the provision of housing on the Field is strongly outweighed by the harm.
170. In any event, as with the Council's noise objection, there are good grounds for considering it likely that housing "lost" from the Field could be accommodated elsewhere within the allocation site, and no evidence from the appellant to show otherwise. It is very hard to think that 50 dwellings could not be accommodated elsewhere within an allocation of the size of policy N5. Further and in any event, even if that were not possible, and only 950 dwellings were able to be delivered on the allocation, that would still be "in the region of 1000", so that the objective of the allocation would have been delivered.
171. Given the serious harm identified, s66 of the PLCBA must count heavily against both appeals. The proposed development also fails to accord with the development plan: it is contrary to Policy BN5, which provides that heritage assets and their settings and landscapes will be conserved and enhanced; Further, paragraph 12.43 of the supporting text to N5 requires the submitted masterplan to demonstrate how the land use elements positively respond to context. In proposing development within a part of the appeal sites which is for heritage reasons unsuitable for development, the masterplan fails to satisfy that requirement.
172. The Framework also weighs against granting planning permission for either appeal, on heritage grounds:
- Whilst the harm caused to the setting of (i) the Church and (ii) the Conservation Area would be "*less than substantial*" for the purposes of Framework 132-134, Framework 129 refers to the need to "*avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal*". Framework 132 accords "*great weight*" to the conservation of heritage assets and requires "*clear and convincing justification*" for any harm to designated heritage assets, particularly ones of "*the highest significance*" such as the grade II\* listed Church. There is no justification for the harm caused in the present case.
  - The proposed development does not satisfy the requirement found in Framework 61 that planning decisions should address "*the integration of new development into the natural, built and historic environment*".
  - Overall, protecting and enhancing the historic environment is vital to the achievement of sustainable development (Framework 7 and 17) and the proposed development is unsustainable insofar as it causes unjustified harm to heritage assets.
173. Both appeal A and appeal B should, therefore, be dismissed on heritage grounds. Both appeal schemes propose development on the field to the west of Barn Corner which would cause unjustified and irreversible harm to designated heritage assets.

## Benefits and the balance

174. If the appellant is right that relevant housing policies are out of date, then the second part of Framework 14 applies and permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits. The Council's case is that the second part of Framework 14 does not apply. In those circumstances, the approach in s38(6) of PCPA applies. Following that approach, the proposed development conflicts with the development plan, and planning permission should be refused unless material considerations indicate otherwise. Whether the appellant's approach is adopted or that of the Council, the benefits of the proposed development have to be weighed against its adverse impacts.
175. The Council fully acknowledges the benefit of the provision of up to 1000 dwellings, of which up to 150 would be "affordable." There are also resulting and accompanying economic benefits. However, the following points are made in relation to the claimed economic benefits:
- The ES characterises the potential effects of the construction of the proposed development in terms of job creation and expenditure during its operational phase as temporary and of moderate beneficial significance (*A.1.18.4*).
  - The figure of £59.8m given by the appellant (*BHL/4/A*) as the contribution which the economically active residents of the proposed development would make to Northampton's economy assumed that all of those residents would work within Northampton, when in fact a significant proportion (in the appellant's estimate, around a quarter) would work elsewhere. There would also be an overlap between the figure given for household expenditure and that given for resident workforce GVA (*BHL/4/A*) but that was not quantified. The potential for a similarly unquantified overlap between resident workforce GVA and local centre GVA was also acknowledged (*BHL/4/A*).
  - It was agreed that the New Homes Bonus is not a material consideration in these appeals (*NBC/6*) and Council Tax is simply payment to the local authority for services rendered.
176. As regards the social benefits of the proposed development, the ES characterises those benefits as minor/moderate (*A.1.18.4*); they would primarily be there for new residents and would be necessary to make the development acceptable. As to the environmental benefits of the proposed development, those benefits would have to be provided in order to make the scheme acceptable; against those benefits should be weighed the disbenefit of developing open land.
177. Fundamentally, there is no evidence at all that an alternative proposal for the policy N5 site which respected the Council's concerns in relation to noise and heritage would fail to secure any of the benefits which the appellant contends would result from the proposed development. It was agreed that, to the extent that housing could be delivered on the policy N5 site pursuant to an alternative scheme which addressed the Council's noise and heritage concerns, the benefits contended for by the appellant would accrue. As the Council has explained, the Appellant has provided no evidence that 1,000 dwellings (let alone "in the region of 1000") could *not* be brought forward on the site in a way which avoided the noise and heritage impacts identified by the Council.

178. It has not therefore been shown that the benefits of the proposed development could not equally be secured by an alternative scheme which avoided the areas whose exclusion is necessary having regard to the noise and heritage concerns. The most that can be said is that the dismissal of these appeals would result in some delay (the appellant thought about 12 months) while new proposals are formulated. The Council contends that some delay while *acceptable* proposals are brought forward cannot possibly justify granting planning permission for proposals which are *unacceptable*, even where the Council does not have a 5 year housing land supply. In that regard, it is notable that if delivery of the policy N5 site is postponed by a year, the allocation's contribution during the coming five year period would be reduced by only 100 dwellings (*CDH.4*). Indeed, given that the total expected contribution of the site to the 5 year supply is only 250 dwellings, even a somewhat greater delay to the site's delivery would not justify granting permission for the proposed development on the ground that the need for the housing outweighs the scheme's adverse effects.
179. Having regard to the foregoing, the Council says that - properly analysed - the benefits of the proposed development do not (as a material consideration) indicate that planning permission should be granted, notwithstanding the conflict with the development plan identified by the Council. Furthermore, even if, contrary to the Council's case, the second part of Framework 14 applies and policies S10, BN5 and BN9 are found to be out of date, they are recently adopted policies which should still carry significant weight. The harm which would result from granting permission *would* significantly and demonstrably outweigh the benefits of doing so. For clarity, the Council says the same applies even if the Secretary of State were to accept as justified only one of the Council's two concerns. Even if he were persuaded by the Council's case only in relation to noise, or only in relation to heritage, permission should be refused. Each is sufficient to justify refusal, so that a scheme which avoids the harm and still delivers the allocation can come forward.

### **Overall conclusions**

180. A major housing scheme such as the proposed development should not be permitted to come forward unless it is clear that it has been designed in such a way that adverse noise impacts upon its residents have been minimised as far as is reasonably practicable. That requirement is not met here. Further, according appropriate weight to the conservation of the heritage assets relevant to the present case, the proposals put forward in these appeals are unacceptable.
181. Neither of the above points precludes development of the NSSUE being delivered by a more appropriate scheme that is acceptable in noise and heritage terms. The reasons for refusal do not relate to the principle of the allocation of the appeal sites. The specific proposals put forward by the appellant, however, fail to accord with the development plan, and material considerations do not indicate that planning permission should nevertheless be granted. Rather, it is plain that the adverse impacts of granting planning permission here would significantly and demonstrably outweigh the benefits of doing so (*NBC/CS*).

## Third party objections

### Members of Parliament

182. **Andrea Leadsom MP** – local residents do not want this development to go ahead and local elected representatives have made it clear they do not support the proposals, with particular concerns arising over air pollution, flood plain management and traffic flow. The local highway network is under pressure, particularly the arterial roads that link to the M1, and local residents are concerned about the impact thousands of new homes will have. Infrastructure improvements are unlikely to be adequate and local residents consider that the road networks in the area will be crippled if the development goes ahead.
183. There is also concern about the effect of increased traffic on air pollution, especially given the proximity of the site to the M1. Northampton already has a number of AQMAs in place and local residents are worried that the level of pollutants around Collingtree would increase exponentially with the proposed new houses and extra vehicles on the local roads.
184. Flooding is a key concern. Wootton Brook is prone to flooding and advice against further development around the Wootton Brook area has been known for years. Local residents know from first hand experience the devastation that is caused when significant flood events occur. This would only get worse with more housing on a flood plain area without significant investment in mitigation by the developers and EA.
185. Local councillors consider that Collingtree is not sustainable as an area for a SUE due to flooding, transport and infrastructure. There is a need for infrastructure to be in place at the same time as home building. They consider these views were ignored by an undemocratic JSPC. Local parish councils, residents groups and others have long voiced their objections to development at Collingtree. Pushing ahead with it runs counter to the wishes of local residents, and contradicts the Government's localism agenda. Local people should have the power to decide planning matters. *(MP/1/A, MP/1/B)*
186. **David Mackintosh MP** (former Leader of NBC) – the limited consideration of infrastructure in terms of roads, education and health are all key areas which are not properly considered by this proposal. NBC has confirmed its objections to the plans. Although residents are not fundamentally against development, they are concerned with the sustainability of the development. This is due to concerns about the current state of road congestion and how increased use would intensify the deterioration of the road without appropriate improvement and investment from this proposal. The increase in traffic would also contribute to increased levels of pollution, a significant problem of national concern.
187. The appellant has failed to take into account the effects of their proposal on the risk of flooding to the area. Wootton Brook is prone to flooding, classed by EA as 'flashy' and in need of further investigation. Before a proposal for development is accepted, it is essential that further investigations are carried out into flood prevention by utilising the most up-to-date models. Any development that incorporates flood mitigation measures will by definition affect the distribution of run-off which will in turn affect the profile of the water level. Flooding is a major concern for all residents following major floods over the past few years and needs to be carefully considered. *(MP/2/A, MP/2/B)*

### **Northamptonshire County Councillors**

188. **Cllr Andre Gonzalez de Savage** (presented by Cllr Nunn) – the 2 roundabouts on either side of the A45 are where key problems exist today and where the biggest problems can be expected in future. In their Transport Assessment, the developers claim that, at these 2 critical roundabouts, without their development the Hunsbury-side roundabout in 2021 would be just at theoretical capacity in the pm peak, and in 2026 just over capacity, but with in each case no problems at the Wootton side. To someone who lives in the area this makes no sense.
189. Today, in the morning peak, there is queuing along Rowtree Road past the Windingbrook Lane roundabout. In the evening peak, traffic leaving the A45 northbound queues on the exit slip road, causing queues across the road bridge, leading to queues on all 3 arms of the Wootton-side roundabout with the A45 southbound slip regularly queuing back through the Berry Lane roundabout onto the A45 main carriageway. There is clearly a problem today which is far in excess of the situation the developers claim will only happen in 2026. If this is so incorrect, how can local residents have any confidence in the rest of the Assessment or that mitigation measures would work. *(CBC/1)*

### **Northampton Borough Councillors**

190. **Cllr Philip Larratt** – NBC was right to refuse the applications for the original 5 reasons. Flooding issues should also have been grounds for refusal. NBC's reputation as a planning authority has been damaged by accepting unchallenged legal advice to drop key reasons because of fears that the applicant would claim costs if the inquiry found the Council's evidence to be unreasonable. The reasons should not have been withdrawn. NBC has sold out the local community.
191. There is a democratic deficit with regard to the site being included as a development site in the JCS. NBC's 45 democratically elected members have consistently resisted it. The development site has been imposed on Northampton, against the wishes of the local members, by the elected representatives of neighbouring District Councils on the JSPC. Northampton Borough has a population of 212,000, more than the combined population of the neighbouring Districts of 173,000. Where is the democracy in this when the minority dictates to the majority? It is the intransigence of the neighbouring Districts and their determination to oppose development in their 'green fields' that causes there to be an apparent shortfall in the 5-year land supply.
192. At the Planning meeting for these applications NBC members voted unanimously not to adopt the JCS in respect of this site, instead calling for development in the north of the town. This is democracy. It is also localism, something the Government says it strongly believes in. NBC was right to state this as a reason for refusal if democracy and localism mean anything.
193. The main objection to this development is the catastrophic impact it would have on the existing community through increased journey times and congestion. Many local residents find it more attractive to travel to work, retail and leisure facilities outside Northampton, using the M1. They rely on their cars and are focussed on car travel, as opposed to any form of public transport. Proximity to the motorway generates a high number of car movements but reliance on car travel does not appear to have been factored into the highway modelling and will

not deliver modal shift. There is no evidence to show whether modal shift has been achieved in recent developments. Local bus services are poor and residents are reluctant to use them.

194. The main problem is the A45 which is already operating above capacity. Widening to increase capacity is virtually impossible so congestion will increase as Northampton grows. This development will significantly add to the volume of traffic using the A45 and this is simply not sustainable. Strategies to limit access to the A45 will adversely affect the local roads leading to it. Rowtree Road is already heavily congested, with school traffic a particular problem. This development will make all that significantly worse. Modelling the highway impact cannot be relied on. Perhaps the applications should be regarded as premature, as a thorough study and understanding of the highway infrastructure is needed before considering large-scale development.
195. Flooding is clearly a risk as existing properties have been affected by flooding over the past few years. The Wootton Brook does not meet the appropriate standards of flood protection for the Upper Nene Catchment Area so no development should take place until those standards have been met. Air quality is also a major issue because of the proximity of the site to the M1 and the A45 and the additional traffic congestion this development would cause, adding to air pollution. There are doubts about the accuracy of the Council's monitoring of pollution levels and it cannot be concluded with confidence that the proposed development would not have a negative effect on air quality. These objections, which echo those of the local community, should be added to the noise and heritage objections put forward by the Council. (CBC/2)
196. **Cllr Brandon Eldred** – the proposal would have an unacceptable effect on local infrastructure. There are issues with traffic and facilities in the area. There are 2 primary schools with another on the way, but there are no spare spaces. Children already have to travel to other parts of the town to go to school. The scheme would include a primary school in years to come but it should be in place before development, to provide sufficient school places and to prevent traffic congestion, especially at the school on Rowtree Road. Dentists and Doctors are at full capacity, with delayed appointments. 1,000 houses would mean at least 3,000 people and perhaps 2,000 children needing school places. There are very few sporting facilities or pitches available. All these necessary facilities should be put in place first, before development takes place.

### **East Hunsbury Parish Council**

197. **Cllr Jonathan Nunn** – when Northampton was announced as a growth area some years ago it was with an assurance that adequate infrastructure would accompany, and even precede, development. The Collingtree SUE has been consistently opposed by NBC, local councillors and residents. They are not opposed to development but insist on the assurance made some years ago being honoured so that new development must deliver much needed infrastructure to avoid adverse effects on local communities and vital business areas. This development would have a negative impact so would not honour that assurance and is thus unsustainable.
198. Local residents are concerned about the increasing pressure on local amenities and services, with health and education already at full capacity. There would be an immediate impact on the local road network. This development would be



heavily reliant on car use and unlikely to deliver modal shift to other forms of transport. The likely 6 traffic movements a day per house would result in an additional 6,000 daily vehicle movements. This would be particularly significant for the A45 and its joining roads, already operating at full or above capacity. The capacity of the A45 cannot be increased and the town's future growth will bring even greater congestion. Businesses on the nearby Brackmills industrial estate, one of the country's premier commercial locations, are already facing difficulties caused by traffic congestion. The position is going to become increasingly severe. Adding to existing traffic movements could have devastating impacts for this crucial employment area.

199. Despite modern assessment methods, houses built within the last 10 years have been flooded. Modelling and risk assessment therefore have little credibility locally. Building in an area of such air quality problems, and with noise levels of 55-80 DbA should not be considered as being acceptable. The additional pressure this development would place on local roads and services would have a seriously negative impact on both residents and businesses. The mitigation measures, such as they are, would not adequately address them. Until adequate mitigation solutions can be identified, funded and delivered to allow these issues to be overcome, the proposed development should not be allowed. (EHPC/1)

#### **Collingtree Parish Council**

200. **Cllr Malcolm Brice** – the Parish Council questions whether any housing in the site proposed would provide a safe and healthy location for future parishioners and allow them to lead a pleasant life as free as possible from stress. The impacts may have been modelled but the results do not convincingly describe the true situation with sufficient accuracy. The traffic movement figures suggested are much less than the likely reality (CPC.7). It is difficult to see how any mitigation measure on Rowtree Road can actually help vehicles access the A45 when it is already jammed right into town. When the houses next to Wootton Brook were built there were supposed to be adequate flood mitigation measures in place. They have flooded 5 times in the past 16 years. There is little local trust in mitigation (CPC.1, CPC/6).
201. M1 junction 15 is the worst area of air pollution in Northampton. The Council's air quality assessment (CDH.3) may be flawed. In any event the figures are close to the legal limit which must indicate some element of risk to health. Worse, they do not include particulate pollution from diesel engines. The prevailing winds would blow pollution across the site, including the school. There are no reliable figures to show how polluted the air is or will be. Noise levels on the site are very high and the impact on future residents would be unacceptable. Houses with non-opening windows admit, but cannot solve the problem, particularly for those trying to enjoy a peaceful time in their gardens. Reference has been made to houses built some time ago in Collingtree Court. The dangers were made clear at the time but an unfathomable error in allowing those houses to be built then surely cannot justify a worse error being made now as both air pollution and noise have greatly increased. (CPC.2)
202. The appellants claim that the run off from the site will not make things worse and will provide some betterment by protecting existing houses. The new houses themselves would be placed where they are unlikely to flood. However, there are many springs on the land and it is impossible to know how they will be affected.

Flood water flows along Wootton Brook from the east – there will be no betterment there. Surface water from major development to the east can only flow into Wootton Brook, making conditions worse. There should be no development on flood plains so will this development be safe? It may worsen matters farther west, and it would be unwise to allow more development in an area that already floods with alarming regularity. No consent should be given to the proposal until EA has undertaken a current assessment of these new situations using properly substantiated data. (CPC/3)

203. There is a lack of suitable infrastructure. Local doctors and dentists are overloaded and the existing local hospital is unable to cope with the current population. The A45 cannot accept any more traffic as it is often blocked in both directions. Local roads are at capacity. Mitigation would consist of a bus service and encouragement to walk or cycle. That is not at all likely to happen. The first phase of housing would be built without any infrastructure. Children would have to go to existing schools, which are currently operating over capacity with no guarantee that they can expand. No shopping facilities would be provided in phase 1 yet there is meant to be affordable housing which suggests a need for easy access to local shops and other facilities. (CPC/4)

204. Collingtree Village is an ancient settlement with a distinguished history. It includes the 11<sup>th</sup> century Church of St Columba, built on the site of an earlier church, and remains a peaceful place to live with a good sense of community. Although there will be no vehicular access from the proposed development, there will be footpath access for many more people. This will swamp the atmosphere of this conservation village, which has no infrastructure to cope. This will affect the great sense of community. The provision of infrastructure should be insisted on before development takes place. If it goes ahead, there are many conditions that should be placed on the development to overcome what could be negative effects (CPC/5).

205. **Cllr Tony Stirk** – Collingtree Park is built on a flood plain. Houses there have flooded and, when it rains heavily and consistently, residents live in dread of flooding again. Everyone in the area is opposed to this proposal. The area has already been vastly overdeveloped. Most, like the proposal, are on higher ground so that all the surface water runs down to the Wootton Brook, which becomes a fast flowing river. This could worsen with the new development and overtop any flood defences. Everyone should have a duty of care not to make the situation any worse than it is. It is not clear that the proposed flood defences would be adequate. There should be an independent expert flooding risk assessment to take all this into account. The EA advises that what is needed is a water holding area upstream to alleviate the acknowledged dangers, but there are no funds available. (CPC/8)

### **Wootton Brook Action Group**

206. **Dr Christopher Leads** – WBAG is not against development per se but is concerned about the safety of the families and houses bordering the existing flood zone. WBAG understands the unpredictability of the water flow in the Brook and the difficulties in modelling it and fear that, despite the best efforts of the developers, the flood risk will increase (WBAG/2). As OFWAT say 'traditionally water has been moved away as quickly as possible, but to meet future challenges we now need slow water, managed at catchment level.' All the

surface water from the 3,500 or so houses to the north of the Brook empty directly into it - uncontrollable fast water. The new development, on the other side of the Brook, would incorporate a Sustainable Drainage System (SuDS). This would release surface water to the Brook equivalent to the current greenfield rate – this is slow water. The SuDS outfall must be in equilibrium with the Brook. Fast water drainage exceedances upstream or downstream can affect the ability of the Brook to accommodate the SuDS flow (*WBAG/3*). The necessary analysis depends on having a reliable model of the Brook (*WBAG/4*). That is the problem.

207. The EA describe Wootton Brook as 'flashy'. They are not satisfied with their present knowledge of it and know that further investigation is required. (*WBAG/5*) This places a question over the viability of the current model. Existing gauge measurements are unreliable at high flow and, with each update of the model, flood zone 2 extends further from the Brook. (*WBAG/6, WBAG/7*) This concerns local residents.
208. WBAG has considered what would happen if the design storm event came to pass. The record 24 hour rainfall figures associated with the recent 'Storm Desmond' were actually part of a weather system that spanned several days and this is likely to be what happens here. The fast surface water would feed rapidly into the Brook, outpacing and flood-locking the SuDS outfall; water would back up and the Brook would rapidly overtop its banks; water flowing down from the east would add to the chaos; each wave of rainfall would increase exceedances of capacity; and other areas, including safe routes, would progressively flood. Discharge control would be lost, increasing the flood risk elsewhere. WBAG consider this to be a feasible forecast and contends that a reassessment is required to create a viable starting point for the next 100 years, including validation of a more accurate model. Only then, from a reliable and trustworthy base, could a defensible attempt at a SuDS design be made. The best way of managing local flood risk is to refuse this scheme and start again with a scheme that is accurately modelled and properly sustainable (*WBAG/1, WBAG/20*).
209. **Rod Mason** (presented by Dr Leads) – the Traffic Assessment is very much at odds with local experience (*WBAG/9, WBAG/10*). Rowtree Road, the main route in and out of East Hunsbury, has a particular problem, with queues back from the A45 junction on most days substantially delaying the eastward flow of traffic (*WBAG/19, WBAG/19*). Traffic on the A45 is also very bad. Traffic management plans may be in place but they seem to be reactive, rather than anticipating future problems. Reliance is placed on a degree of modal shift, but this is a pipe dream. The driving forces for getting people out of cars are very weak, with little inducement to use the bus or cycle. Northampton is wedded to the car and will be for years to come (*WBAG/13*).
210. The southern side of the town is at capacity in development terms. The best way to meet development need and alleviate traffic concentration in this area is to focus expansion to the north of the town. Local residents consider that the additional morning traffic from the SUE will unequivocally increase the traffic problems in the south, regardless of the mitigation matters proposed. Increased congestion would not meet sustainable development criteria (*WBAG/21*).

## **Collingtree Park Residents Association**

211. **Nigel Mapletoft** – there is no doubt that the site suffers from both noise pollution and air pollution. The levels of both have been understated by the developer. CPRA readings show that predicted noise levels are up to 6 dB too low. Correction indicates that every single house on the site would suffer noise that exceeds the NOEL of 55 dB; at night the noise over the whole site would be more than double the 45 dB NOEL agreed with NBC; at least 40 houses would suffer noise that exceeds the agreed SOAEL of 72 dB; and noise in the school playground would be 75% louder than the 55 dB limit recommended by the WHO and agreed with NBC. The proposed mitigation measures would be ineffective; much of the motorway is on a 5 metre embankment (*BHL/9 Fig1*) so the 3 metre high acoustic barrier would not reduce the noise at all; and sealed windows will mean pumping in polluted air and extreme overheating. Noise actually breaks all the limits agreed with NBC (*CPRA/4, CPRA6*).
212. The site is located beside 2 AQMAs which together have over 178,000 vehicle movements per day, producing high levels of nitrogen dioxide and particulate matter. There is a serious error with the source data used to create the developer's air pollution model. As a consequence the model is fundamentally flawed and air pollution predictions are far too low (*CPRA/1, CPRA/2*). The M1 carries twice as much traffic as the A45, yet the developer states that nitrogen dioxide pollution is 20% lower on the M1. That cannot be true. The reason for this is the location of the diffusion tube monitors. Used in the model as roadside monitors, defined as within 5 metres of the motorway, they are in fact up to 60 metres away. When this source data error is properly adjusted, it is evident that nitrogen dioxide and particulate matter pollution beside the M1 severely exceeds the UK and EU's legal limits. CPRA's predictions are far more accurate (*CPRA/5*).
213. The proposed noise mitigation would be ineffective and air pollution mitigation non-existent. Pollution levels are so high that they would lead to debilitating illnesses and premature deaths for future residents of the site. That is a price that no-one should be willing to accept for any building site (*CPRA/7*).
214. **Murray Croft** – the proposed development breaches National Planning Policy Framework Core Principles in 5 different factors and numerous other Framework clauses. This shows that the area is not sustainable, not urban and not an extension (*CPRA/3*). The Collingtree Park Golf Course was designed to be of international standard. It will be severely compromised by the proposed development. The loss of existing recreational facilities contravenes Framework 74 because no equivalent or better replacement is proposed.
215. Democratically the views of residents, local councillors and the strategic objections by NBC and NCC were ignored and swept aside by the other council members of the JSPC. Subsequently, the entire NBC council voted against the allocation of the land for development. This means the process has been unsafe, lacks democratic legitimacy and totally undermines the involvement of both local residents and local politicians and as such is wholly against the letter and spirit of Localism. The current proposals are 'developer-led', not genuinely 'Plan-led', in accordance with Framework 17 first Core Principle. Over the years the appellant's proposals have been consistently opposed by the two affected Parish Councils, the relevant local Borough and County Councillors and the Constituency Member

of Parliament. A decision to allow this development would be a sham and against all sense of fair and reasonable justice.

216. One of the core objectives is for developments in Northampton to support the town centre's economy. This must be the worst area of Northampton to achieve that due to it being on the very edge of the borough and close to a motorway junction. The majority of existing residents have chosen this location because they have cars and want to use them to access work via the M1 or the A45. This is a view supported by Northamptonshire County Council who maintain that growth is better located to the north of the town where infrastructure can cope more easily. Traffic congestion on the A45 and the junction with the M1 has been having a significant impact on a lot of businesses at the Brackmills Industrial Estate. Future growth could be at severe risk if planning permission is granted for this development. Overall the development offers a complete lack of economic benefit to Northampton and potentially an economic loss, in conflict with Framework 17 third Core Principle.
217. With no school during phase 1 and only a primary school during phase 2, the appellant's plan clearly mocks Framework 72 which states that : 'The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities.' Local primary and secondary schools are all at or above capacity. With Phase 1 (378 houses) taking potentially 5-7 years to build, during this period all primary and secondary school students will need to be bused or transported by parents to alternative schools in the greater area. That will potentially amount to over 800 extra car journeys per day, increasing congestion on Rowtree Road. An application for housing on this site was rejected as long ago as 1991. How can it be acceptable now? (CPRA/8).

### **Hunsbury and Collingtree Residents Alliance**

218. **Robert Boulter** - the inquiry has lost focus on the main issue of how sustainable is the proposed development by concentrating on each individual aspect and not the sum of its parts. The issues of the lack of sufficient sustainability include air and noise pollution, heritage safeguarding and flooding (covered by others), traffic congestion and financial viability.
219. The appellant's modelling of future traffic patterns indicates that the scheme will not increase current congestion even before modal shift is taken into account. This conclusion is particularly difficult to believe and this view is reinforced when NCC state that 'traffic volumes on the county's roads (are) due to grow by another 23% in the next ten years'. The results of the 3 different traffic modelling exercises are not fact and should not be taken as such. If the results are checked, without bias, against the existing situation, it is not credible to say there will be no increase in traffic. The traffic growth management scheme for the A45 is not a plan to help traffic exiting on to it from East Hunsbury via Rowtree Road. Its sole purpose is to help to ensure the safety of the A45 and to keep it flowing. This requires traffic accessing the A45 from Rowtree Road and Wooldale Road to be held back. That can only increase congestion on both roads. The management scheme therefore has no benefit for the local roads feeding the A45 at peak times. As regards modal shift, the bus service, despite planned improvements, will remain inadequate as it is only a half hourly service at best and the improved facilities for cycling are totally inadequate (HCRA/1).

220. The appellant argues that the viability of the development is at risk. This is evidenced by the affordable housing provision being reduced to 15%. He says if the number of houses is reduced for noise or heritage reasons, the limited public amenities would be further eroded. The attractiveness of the site to potential occupiers is also reduced by the noise and cost of running ventilation systems on warm days, the cost of maintenance of the SUDS after the first 5 years and residents will also be liable for the ongoing funding of attempts to improve modal shift to the required target of 20%. Calling the proposed development a Sustainable Urban Extension is wrong. The development is very substantially dependent on employment and on the facilities off the site and none of these can be accessed without accessing or crossing Rowtree Road. This includes everybody cycling, walking, on public transport or in cars. This development has only progressed this far by a substantial compromising to the clear aspirations of the Framework. This land should not have been allocated for development due to these multiple issues. The need for building 1000 houses should not be allowed to outweigh the adverse considerations outlined above (*HCRA/3*).
221. **Rod Sellers** – the Appeal Site has always been considered problematical for large scale development and therefore not truly sustainable. This SUE has the most development constraints of all the SUEs in the Core Strategy. This has been reflected in Northampton planning policies since the mid 1960's which left the site undeveloped because of the inherent issues of flood risk, air and noise, land instability and as a strategic landscape gap (*HCRA/2*).
222. Collingtree Village and Parish has not stood still - the number of houses has doubled in the last 20 years largely through infill – but it still has the atmosphere and feel of a Village community, which successive planning policies have tried to maintain. If the proposed development goes ahead Phase 1 alone will dominate Collingtree with more than double the number of houses and an added population of at least a thousand on its doorstep. The fact that vehicular access from any new development to Collingtree Village is not physically possible or desirable underlines yet another constraint on the site.
223. The problems of developing this site are a matter of historical fact whereas the mitigation proposals depend on the forecasts of computer modelling. The data inputs used for this modelling are highly suspect. There are development schemes that might adapt to the constraints of the site and work with the grain of its landscape character but the current applications do not (*HCRA/4*).

### **Written representations**

224. **The Sargeant family**, owners of part of the site, support the proposal and confirm they will enter into the necessary planning obligations so as to ensure the delivery of the SUE (*WRS/1*).
225. **Historic England** HE objects to the proposals, reaffirming its advice that Collingtree should be maintained as a separate settlement through the masterplanning process and the provision of green infrastructure. HE considers that the significance of Collingtree Conservation Area and the grade II\* listed Church of St Columba would be affected by harm through development within their settings. That should be assessed in line with Framework 132-134 and the statutory duties. The harm would have to be weighed against any public benefits of the proposed development (*CDI/7, WRO/1*).

226. **The 174 local objections** in writing closely reflect the submissions made at the inquiry. They relate primarily to the allocation of the site, access to the A45, the impact on traffic flows and highway congestion, employment and travel, the effect on schools and health facilities, the lack of recreation facilities, flooding, the loss of countryside and agricultural land, noise pollution, air quality, the effect on Collingtree village and an overall lack of sustainability (*WRO/2*).

### **Obligations and Conditions**

227. The parties submitted 2 Planning Agreements, in each case as 2 counterpart documents, setting out planning obligations under s106 of the TCPA (*PA/8, PA/9*). The Agreements were accompanied by a Compliance Statement (*PA1*) which confirms compliance with CIL Regulation 122(2) 'the 3 tests' and with CIL Regulation 123(3) 'the pooling restriction'. The statement provides justification for the provision of the obligations in relation to national planning policy and guidance, the policies of the local development plan and the Council's supplementary guidance. Specific provisions are made within each Agreement (*PA8.19 and PA9.19*) should the Council's CIL Charging Schedule come into force before the decision is issued. An agreed note (*PA7*) confirms the parties' intentions in this event, clarifies potential 'duplications' and reports the Council's resolution that CIL will take effect from 1 April 2016.

228. **The Appeal A Agreement** (*PA8*) commits the parties, if planning permission is granted, to providing affordable housing units, in small clusters, as part of the development; to contributing up to £97,000 to an Apprenticeship Training Scheme; to making a financial contribution of £621,000 towards the expansion of existing healthcare facilities; to providing and marketing a range of Local Centre units; to providing and laying out open space, playing pitch and play areas and contributing £1,500,000 towards their future management; to implementing a Sustainable Urban Drainage System (SuDS) Management Plan; to providing a community hall in accordance with an agreed specification and contributing £327,000 towards its future management; to making transport contributions of £907,147 towards A45 and M1 junction 15 improvements, £568,500 towards sustainable transport provisions and £160,000 towards local highway improvements; to reserving a site for, and making a financial contribution of £5,400,000 towards, the provision of a primary school; to making a financial contribution of £1,368,000 towards secondary school transport costs; to implementing a Travel Plan; to contributing up to £1,350,000 to secure the provision of a bus service; and to providing bus shelters within the development and £195,000 towards their future maintenance. The Agreement allows for the reassessment of viability at various stages, specifically in relation to the provision of affordable housing.

229. **The Appeal B Agreement** (*PA9*) contains similar provisions relating to phase 1 of the development, adjusted for partial payment of the contributions. It excludes the Local Centre, the school and the community hall, which are not part of this phase, and the viability reassessment, which would come into effect after the completion of phase 1.

230. The parties submitted a list of agreed suggested conditions for each appeal. I give here a brief outline of the suggested conditions. Figures in brackets (23) refer to the numbered lists set out in *SOCG2*.

231. **Appeal A conditions: outline application** (1-3) normal outline commencement conditions; (4) development not to exceed 1,000 houses; (5) not materially depart from plans and policy requirements; (6) submit Masterplan and design code; (7) submit phasing plan; (8) submit sustainability strategy; (9) submit materials; (10) submit surface details of roads and paths; (11) submit CEMP; (12) construction working times; (13) engineering and construction details of 2 accesses; (14) location engineering and construction details, walking and cycling measures; (15) highway improvements; (16) traffic surveys to trigger improvements/payments; (17) submit residential Travel Plan; (18) diversion or closure of PROW; (19,20) tree works and protection of trees; (21) surface water drainage as SUDS; (22,23) flood plain compensation and works to Wootton Brook; (24) foul sewage infrastructure; (25) railway fence; (26) archaeological work; (27,28) mitigation strategy to minimise harm to bats and otters; (29) submit ECMS to protect ecological resources; (30) submit LEMP for long term management of open spaces; (31) non-residential noise assessment and provisions for control; (32) non-residential delivery arrangements; (33) Residential noise assessment; (34) submit details of acoustic barrier; (35) identify land for community food production; (36) investigate and remediate contamination; (37) lifetime homes standard; (38,39) controls on use of commercial premises; (40) storage and collection of refuse; (41,42) hard and soft landscaping; (43) meet objectives of Secured by Design; (44) details of LEAPs and NEAPs; (45) not commence phases 2 and 3 without s106 deed of adherence.
232. **Appeal B conditions: full application** (1) time limit; (2) compliance with submitted plans; (3) sustainability strategy for achieving level 3 Code for Sustainable Homes; (4) Submit CEMP; (5) working hours; (6) engineering and construction details of access; (7) location engineering and construction details walking and cycling measures; (8) highway improvements; (9) traffic surveys to trigger works/payments; (10) submit residential Travel Plan; (11) diversion or closure of PROW; (12,13) tree works and protection of trees; (14) surface water drainage as SUDS; (15) works to Wootton Brook; (16) foul sewage infrastructure; (17) archaeological work; (18,19) mitigation strategy to minimise harm to bats and otters; (20) submit ECMS to protect ecological resources; (21) submit LEMP for long term management of open spaces; (22) residential noise assessment; (23) details of acoustic barrier; (24) investigate and remediate contamination; (25) lifetime homes; (26) storage and collection of refuse; (27) hard and soft landscaping; (28) details of LEAPs and NEAPs; (29) provision of bus stops and shelters.



### **Inspector's conclusions**

*The following conclusions are based on the oral and written evidence given to the inquiry and on my inspections of the site and its surroundings. The numbers in square brackets [44] refer to paragraphs in the preceding sections of the report from which these conclusions are drawn.*

233. The main considerations in these appeals fall under 4 broad headings:

- Whether the Council can demonstrate a 5 year supply of housing land and the consequent policy implications;
- Whether satisfactory living conditions would be created for the residents of the proposed development, with particular regard to noise levels;
- The effect of the proposed development on adjacent heritage assets; and
- Whether, taken as a whole, the proposals accord with the local development plan and amount to sustainable development as defined in the Framework

234. There are also additional matters raised by local objectors relating to highways, flooding and air quality to be taken into consideration.

#### ***Whether the Council can demonstrate a 5 year supply of housing land and the consequent policy implications***

235. The Council acknowledges that it cannot currently demonstrate a 5-year supply of housing land [29,30]. While action is being taken to address that shortfall [20], at present there is no more than 3.76 years supply, including an anticipated 250 houses from the Appeal A site [45]. Framework 49 makes it clear that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites. As Framework 14 explains, where relevant policies are out of date, this means granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

236. The most relevant policy for the supply of housing in this case is JCS policy N5 which allocates the site as the Northampton South SUE to include up to 1,000 dwellings [22]. The 8 SUEs at Northampton designated in the JCS represent the most sustainable and sequentially preferable locations for new development beyond the existing urban area. Not all are within the NBC boundary, although the Northampton South SUE is, but they are all contiguous with the urban area of Northampton and are intended to serve the town's housing needs. While other policies (such as policy S1, intended to control the distribution of development) may be relevant to the supply of housing in other locations and are out of date, they are not relevant to this particular proposal where housing land is already allocated [115]. As a key policy of the recently adopted JCS, policy N5 carries very significant weight [29]. This site is seen as making an early contribution to housing delivery [51,104,117]. The proposed development would be entirely consistent with policy N5. Not surprisingly the appellant accepts that this policy is not out of date [114].

237. The appellant argues that JCS policies S10, BN5 and BN9 (cited in the reasons for refusal) are relevant policies for the supply of housing so that, since the

Council cannot demonstrate a 5-year supply of deliverable housing sites, they are all out of date [47-49]. Policy S10 requires all development to conform to the principles of sustainable development; policy BN5 is intended to protect the historic environment from harmful development; and policy BN9 requires all proposals to minimise the effects of, among other things, noise pollution [23,50,116].

238. The appellant relies on the findings that the phrase 'relevant policies for the supply of housing' should be given a broad meaning and that those policies that address housing or generally restrict development are relevant policies for the supply of housing [47,48]. He appears to argue that, if the proposal is found to conflict with policies S10, BN5 and BN9, then that would serve to restrict the development of the land alongside the motorway so they are relevant policies that are out of date [49].
239. This seems to me to be a misunderstanding of Framework policy. JCS policy N5 allocates the site for the development of about 1,000 houses. The allocated site clearly includes an undeveloped wide strip beside the motorway to ensure that the requirements of policies S10, BN5 and BN9 can be met. They are all policies intended to control the quality of development and its impact on its surroundings. They may shape the way the development is laid out but they do not restrict the overall supply of housing land or constrain its location. Compliance with these policies would not affect the delivery of the allocated number of houses. All development proposals are required to comply with these policies [116] and the extent of any conflict is a matter to be weighed in the planning balance. In my judgement they cannot be seen as policies relevant to the supply of housing, and they are not out of date. Indeed, since these recently adopted policies are entirely consistent with the Framework's over-arching pursuit of sustainable development and specific policy on the conservation of the historic environment and the control of noise pollution, they carry the full weight of the up-to-date local development plan.

***Whether satisfactory living conditions would be created for the residents of the proposed development, with particular regard to noise levels***

240. The allocated site lies immediately alongside the M1 motorway [12,14]. The JCS recognises that the site is affected by motorway traffic noise and that mitigation measures will be required to address the problem of noise and air pollution [31,127]. The JCS EiP Inspector noted that these issues would have to be resolved at design stage, including through the provision of 'a substantial landscape buffer' beside the M1 [31,128]. JCS Inset Map 12 shows an 'indicative structural green space' of a nominal 100 metres width, parallel to the M1 on the southern edge of the site [127]. The clear intention was to ensure mitigation of the noise impact on dwellings by distance and landscape provision. This method is well established, albeit under an earlier noise control regime [131].
241. The parties agree that the proposed development should comply with the Government's noise policy statement (NPSE), PPG guidelines and the design criteria set out in BS 8233:2014 [56-60,119-124]. The parties also agree that an acceptable internal noise environment could be provided for all dwellings by a variety of design solutions secured by condition [31,231,232]. The objections centre on the noise levels in private gardens and amenity areas [32,55,118].

242. NPSE's overriding aim is to avoid significant adverse effects on health and quality of life and to mitigate and minimise adverse impacts [56,120]. To that end it sets a series of noise levels [57]:
- No Observed Effect Level (NOEL) - the level below which no effect can be detected. Below this level no detectable effect on health and quality of life due to noise can be established;
  - Lowest Observable Adverse Effect Level (LOAEL) - the level above which adverse effects on health and quality of life can be detected; and
  - Significant Observed Adverse Effect Level (SOAEL) - the level above which significant adverse effects on health and quality of life occur.
243. BS 8233:2014 recommends a desirable noise level for external amenity space as not exceeding 50 dBL<sub>Aeq,T</sub>, with an upper guideline limit of 55 dBL<sub>Aeq,T</sub> in noisier environments. The Council accepts that this site lies in a noisy environment and adopts 55 dBL<sub>Aeq,T</sub> as the LOAEL [60,122]. The BS recognises that these guideline values may not be achievable in all circumstances where development might be desirable, such as urban areas adjoining the strategic transport network, and advises that, in such locations, the design should achieve the lowest practicable levels [121]. This accords with NPSE which requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development. This does not mean that such adverse effects cannot occur [58]. The appellant considers the SOAEL to be about 70 dBL<sub>Aeq,T</sub> [61,124].
244. WHO guidelines indicate that to prevent the majority of people from being seriously annoyed, the outdoor sound level should not exceed 55dBA [126]. This is the adopted LOAEL, thus the critical consideration in assessing the impact of noise on the health and quality of life of future occupiers of the development is the extent to which the LOAEL would be exceeded.
245. The noise surveys and projections show, not unexpectedly, that the parts of the site closest to the motorway would be affected by high levels of traffic noise. The appellant's noise survey shows that a 50 metre wide strip beside the motorway is subject to noise levels within the 65-70 dBA range, that 60-65 dBA levels extend over 200 metres into the site and that the 55-60 dBA contour band extends up to 500 metres into the site. The northern half of the site falls within the 50-55 dBA band [61].
246. The Council's assessment shows that, even allowing for a 3 metre high noise barrier at the motorway edge and the 'self-screening' layout, up to 144 dwellings would experience garden noise above the LOAEL, approximately half of them within the Appeal B site. Up to 91 would be within the 55-60 dBA band, 46 within the 60-65 dBA band and 7 within the 65-70 dBA band, that is extending right up to the SOAEL acceptable limit [129].
247. The appellant acknowledges that, while exact numbers may not be agreed, a substantial number of the garden areas close to the motorway would be above the 55 dBA upper guideline limit of desirable noise levels for external space, and above the level where people could become seriously annoyed by noise pollution [61]. A significant number, closest to the motorway, would be well above that

- level. Here I note the WHO advice that long term exposure to noise levels above 65 dBA causes heart problems [125].
248. It is recognised that, to make the best use of the site as housing land, some exceedance of 55  $\text{dBL}_{\text{Aeq},16\text{hr}}$  is likely to be necessary. Both NPSE and BS 8233:2014 allow for this eventuality, but expect the adverse effects of noise to be minimised and layouts designed to achieve the lowest practicable noise levels. While the site adjoins the strategic road network, it is open agricultural land, not a tight urban site giving rise to circumstances where development would be difficult without exceeding LOAEL.
249. As the Council points out, the indicative (Appeal A) and proposed (Appeal B) layouts are at an inappropriately low density of development, and open space provision is higher than necessary [138-139]. There is a clear probability that there is room on the site to distance the houses from the motorway as envisaged in JCS policy N5 without any reduction in number. As the EiP Report makes clear, such considerations as a substantial landscape buffer to the motorway can be fully and appropriately taken into account whilst allowing development to proceed [127]. It cannot easily be argued that such a layout is not achievable and indeed the appellant does not, relying instead on promoting the acceptability of the submitted proposals [68].
250. In that regard the appellant appears to have interpreted the flexibility within NPSE and the BS as an indication that an outdoor noise level for gardens falling within the 55-70 dBA range is generally acceptable [61,123]. This seems to me a misinterpretation of the guidance which, in my judgement, to avoid excluding otherwise developable land simply allows some exceedance of the 55 dBA desirable limit in circumstances where a compliant layout is not achievable. In such circumstances, it is clearly the responsibility of the designer to design a layout that achieves the lowest practicable noise levels above that limit.
251. In my view this has not been done. The layouts show a significant number of houses located in the areas close to the motorway where noise levels are at their highest. Self-screening would have a limited effect. Any adjustment to the Appeal A scheme to increase self-screening would be unlikely to reduce garden noise to acceptable levels [66]. For much of the Appeal A site the motorway is on embankment, higher than the proposed noise barrier, so it serves little purpose. In any event, such barriers are not particularly effective in reducing low-frequency noise, a significant part of the traffic noise range. For these reasons I consider that a noise barrier as proposed would not be particularly effective in screening the site [62,211]. The levels of noise in the nearest gardens in both outline and detailed layouts would be within a range that is unacceptable unless it can be demonstrated that locating houses in this position is necessary to the development of the site. That has not been demonstrated.
252. The appellant refers to the development at nearby Collingtree Court, situated next to the motorway. In my view, for the reasons explained by the Council, the outdated and unsatisfactory arrangements at Collingtree Court do not provide an acceptable example for this proposal [69,147]. PPG requires development to be designed to reduce the impact of noise. While it allows garden noise impact to be partially offset if there is access to quiet public space, much of the open space accessible to the affected dwellings would be subject to the same motorway noise

impact and could hardly be considered tranquil [59,148]. There is no justification for unacceptably high garden noise levels on this site.

253. I consider that it would be entirely possible to design a layout of 1,000 houses in accordance with JCS policy N5 with far fewer gardens above the LOAEL of 55 dBA and none at all in the dangerous 65-70 dBA band [130]. In my judgement, in the schemes as illustrated and designed, reasonable steps have not been taken to minimise the adverse impact of noise on the health and quality of life of future occupiers of the development. The proposals would not meet the requirement of JCS policy N5 to make provision for the structural greenspace in accordance with the inset map. They would conflict with policies S10 (k) and BN9 (e) of the JCS, and the relevant guidance in Framework 109 and 123, NPSE and BS 8233:2014 [118,149-151]. I consider that, with regard to noise levels, both layouts show that satisfactory living conditions would not be created for the residents of the proposed development.

***The effect of the proposed development on adjacent heritage assets***

254. As Framework 126 makes clear, heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. The parties agree that the adjacent heritage assets consist of the Collingtree Village Conservation Area and the Grade II\* listed St. Columba's Church at its heart. It is further agreed that, because the site lies outside the village, it is the settings of the church and conservation area that are under consideration here [33,71,152]. Since the church is grade II\* listed, it is of particular importance as a heritage asset and I give great weight to its conservation, including its setting.

255. The significance of the conservation area lies primarily in the medieval origins of the village and the coherent composition of individual historic structures in the core of the village, with the church at its centre [72,155]. The significance of the church itself derives from the architectural and cultural interest of its medieval fabric and its historic interest as the focal point of the village for over 800 years [76, 155].

256. It is common ground that historically the village and the church would have been experienced in a rural setting [156]. Most of that rural setting has been lost through development. The field to the west of Barn Corner (the field) at the edge of the conservation area is now one of the last vestiges of the rural surroundings of the village [77,156]. The southern part of the field shows the distinctive physical remains of pre-enclosure ridge and furrow, a tangible reminder of the long history of the village and its relationship to the countryside. It gives a distinctive sense of place. A public footpath across the field evinces an ancient approach route to the village from the west, entering at Barn Corner [77,160]. As effectively the last link between the heritage assets and their original rural setting, the field now has considerable historic interest and value [75,158].

257. The church can be seen and heard from the footpath across the field and acts as something of a local landmark in the approach to the village [76,162-164]. This visual and aural connection to the church, reflecting the original purpose of the tower, is important to experiencing the presence of the church in the local landscape. With views into and from the conservation area, I consider that the field lies within the setting of the church and the conservation area. The footpath and ridge and furrow are historic features of the setting that contribute much to the special interest and significance of the historic church and village.

258. Both the illustrative and the detailed proposals show that the field would be fully developed. The public footpath would lie within a built-up area and the ridge and furrow would be lost. While views of the church would still be possible, they would be from within an urban area. In my view, the distinctive rural quality of the setting of the heritage assets would be lost, harming the significance of the listed church and the conservation area. The presence of the narrow undeveloped field between the village and the development would not be sufficient to overcome this [73,166]. The severance of one of the last links between the village and its original rural setting would be particularly harmful. The setting of the listed church would not be preserved. The proposal would not sustain or enhance the heritage and landscape features which contribute to the character and setting of the conservation area, in conflict with JCS policy BN5.
259. In terms of Framework 134, and as acknowledged by the parties, I consider that this would amount to less than substantial harm to the significance of the heritage assets [86,172]. That harm has to be weighed against the public benefits of the proposal, including securing its optimum viable use.

### ***Other matters***

260. Local objectors raise additional concerns to be taken into consideration:

#### *Highways*

261. Understandably, local residents are worried about the impact of vehicle movements from 1,000 new houses on the local highway network [182,186,189, 193-194,198,200,209,216,219,226]. I saw for myself the current congestion at rush hours and at school drop off/pick up times [3]. On the face of it, the introduction of many more vehicles could worsen the current situation.
262. This was recognised at Local Plan stage after full consideration, when it was noted that the delivery of a suitably integrated transport network to serve the site would rely on a number of necessary measures, including off-site highways improvements and sustainable transport facilities [91]. It is acknowledged that highways infrastructure work must be funded by developer contributions [103] and that 'upfront' provision could compromise the viability of development. Accordingly, for the development of the Northampton South SUE, JCS policy N5 requires an integrated transport network focussed on sustainable transport modes including public transport, walking and cycling; necessary infrastructure is required to be phased alongside the delivery of the development [22].
263. The appellant carried out extensive transport assessment work. Details of the strategy to manage the transport impact of the development were agreed with the relevant highway authorities [34-36,90] and include substantial financial contributions towards A45 and M1 junction 15 improvements, sustainable transport provisions, local highway improvements and the provision of a bus service [228,229]. Agreed conditions would require cycle paths and highway engineering work to be completed before occupation, with surveys triggering further highway improvement work in phases as found necessary [231,232]. Following clarification of these matters NBC withdrew its initial objections [7].
264. I recognise that local people who experience the current conditions every day are sceptical that the improvements would be sufficient and argue that larger scale improvements are necessary [194,198,210,216,219]. On a settlement-wide

scale that may be so but no one development can be expected to do more than mitigate the impact of its own traffic generation, with the necessary works making a contribution to the overall solution. Some local people are also cynical about the likelihood of modal change to more sustainable means of travel [193,209]. Habits die hard and no one can be forced to use the bus, cycle or walk but in time such means of travel may become more attractive and social attitudes may change, not least due to the impact of climate change. The commercial bus service operator, Stagecoach, considers there to be the potential for a higher level of modal shift to bus than the scheme allows for. This, with full implementation of the Travel Plan, would contribute to solving the existing traffic issues in south Northampton [36]. The opportunities for more sustainable means of travel would be there, provided by the development, giving people a real choice about how they travel.

265. Overall, the traffic assessment is robust and shows that the highway improvements and sustainable travel measures, within an integrated transport network, would cost-effectively limit the significant impacts of the development. I agree that the residual cumulative impact would not be severe so the proposals would accord with Framework 32.

#### *Flooding*

266. The Wootton Brook crosses the northern part of the site, flowing generally from east to west. It has a recent history of flooding. The EA has outlined flood risk zones 2 and 3 associated with the brook, shown diagrammatically on the JCS policy N5 inset map. Local residents are naturally concerned about the impact of the new development on flood risk and the safety of the families in houses bordering the existing flood zone [184,187,195,199,202,2054,206-208].
267. Apart from the access bridge off Rowtree Lane, none of the new building work would be within the flood plain [89,184,202]. All the buildings would be sited on higher ground, which drains to the brook [37]. A critical element of the proposed development is the design of surface water disposal to replicate the current greenfield rate through a sustainable drainage system (SuDS). Properly managed, that would ensure that the rate of surface water run-off joining the brook from the site would remain unchanged. The extent of the works has been agreed with EA [37]. The incorporation of a SuDS and its management would be secured by condition and planning obligation [228,231].
268. I note that current flood risk modelling of the brook is considered somewhat incomplete and unreliable. I heard from WBAG an eloquent description of how local surface water run-off acts on the brook and the possible consequences of a design storm event [206]. As explained, flooding in these circumstances could occur largely through the unsuitability of current drainage systems in the surrounding area, and it may be that flood relief work up or downstream to deal with this is necessary [207-208].
269. However, that is a wider scale off-site problem and, while it clearly needs attention, the responsibility for solving it cannot fairly be attached to the developer of this site. His obligation is to not make matters worse. Crucially, a SuDS which replicates existing run-off would have no additional impact on the likelihood of flood events. In fact, as part of the landscaping, the proposal includes flood relief work adjoining Collingwood Park, reducing flood risk there, so taken overall the situation would be improved [89].

### *Air Quality*

270. The site is located immediately beside the M1 motorway, designated an AQMA because of high levels of air pollution from road traffic. Local residents are particularly concerned about air quality and whether satisfactory living conditions can be provided for future residents on the site [183,195,201,211-213]. They suspect that, because of the position of the monitors, there are errors with the source data. They consider that pollution levels on the site are underestimated and that, unmitigated, they would in fact be so high as to pose danger to the future occupiers of houses near the M1 [213].
271. The main air pollutants of concern related to road traffic are nitrogen dioxide (NO<sub>2</sub>) and fine particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). The appellant does rely on the Council's data, but this is used to verify his own models and predictions, made in line with industry best practice. The independently verified data, based on a worst case scenario, is considered to be reasonably accurate. The air quality assessment found that predicted concentrations of all 3 pollutants at the site would be below national air quality objectives so that the effect of road traffic emissions on future residents is considered to be negligible [88].
272. The appellant's air quality assessment was independently reviewed and was found to be robust and thorough. While the effects of the VW scandal mean that there must be some considerable doubt about the accuracy of predicted NO<sub>2</sub> and PM levels, analysis of national and local data shows that levels of pollutants in the area are generally showing some reduction over the longer term. Continuing improvements in vehicle emissions and NBC measures to improve air quality through reduced traffic movement are likely to ensure that this remains the case. The review concluded that there could be no objection to the scheme on air quality grounds. The review findings led the Council to withdraw its original objections [29,88]. The structural landscape buffer beside the motorway, shown on the JCS policy N5 inset map, is intended to address air quality issues as well as noise. Distance and trees can both reduce pollution levels and I consider that, provided an effective landscape buffer is in place, air pollution would be unlikely to be a particular danger.

### *Local infrastructure*

273. Local objectors are worried that the additional population from an extra 1,000 houses would place intolerable burdens on local schools, medical and sports facilities [186,196,198,203,217,226]. The appellant is committed to alleviating the impact of the development by providing a Local Centre on the site which would include a large community hall with meeting rooms, potentially housing a nursery school; a substantial convenience retail store; and commercial floorspace which could accommodate further retail uses, food and drink uses, business uses and a dental practice. A major contribution would be made to the expansion of the GP surgery at Danes Hill to meet the needs of the development. A new Primary School would be provided on the site and a significant contribution made towards the cost of travel to local Secondary Schools [30,228]. The scheme would include playing fields and a range of local playing areas.
274. These facilities are intended to meet the needs of the new residents but they would also be open to use by existing residents of the surrounding area. That would be a local benefit. While the financial contributions would be made at the start of the development, the Local Centre would be built as part of the second



phase. Bearing in mind its cost, and the viability of the scheme overall, I do not think this is unreasonable.

*Local participation in the planning process*

275. Most of the local objectors put forward succinct, well-researched and well-argued cases relating to the principal and secondary issues in the appeal, making a positive contribution to the inquiry. I have taken their objections fully into account in the planning balance.
276. Some objections relate to the allocation of the site, and the manner in which it was allocated, in the JCS [8]. At the inquiry it became apparent that NBC councillors (who all objected to the allocation of the site for development) were unwilling to accept the majority decision of the JSPC to allocate it [185,191,192,215]. Despite my pointing out that the inquiry was not an opportunity to re-run the Local Plan allocation arguments, they and others continued to object in the face of the recent adoption of the JCS, the up-to-date local development plan which allocates the site for development as the NSSUE [8]. They complained that the decision to allocate the site was not democratically arrived at and argued that to ignore the wishes of local people opposed to the development of the site would undermine the Government's commitment to localism. That coloured the evidence they gave to the inquiry.
277. The Government's Localism Act of 2011 aimed to shift power away from central government and towards local people, including reform to make the planning system more democratic and more effective and to ensure that decisions about housing are taken locally. The Act led to the abolition of Regional Strategies, replaced by the duty to cooperate with neighbouring authorities. It introduced a new right for communities to draw up a neighbourhood plan, in line with national policy and the strategic vision for the wider area set by the local authority. In this way local people can exercise influence over decisions that would make a big difference to their lives, and neighbourhoods would have far more ability to determine the shape of the places in which their inhabitants live.
278. Framework 17 sets out the core principle that planning should be plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. These plans should be based on joint working and cooperation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. The changes to the planning system that give communities more say over the scale, location and timing of developments in their areas carry with them the responsibility to ensure that local plans are prepared expeditiously to make provision for the future needs of their areas.
279. Thus localism means the opportunity for local people to take part in the preparation of local and neighbourhood plans and to influence development through putting a local neighbourhood policy framework in place, so ensuring local support for decisions that are consistent with the national and local strategic guidance. Localism does not mean that local people should have the 'final say' in individual planning applications; there is nothing in the Localism Act or elsewhere to support that interpretation. I heard nothing to indicate that the proper approach, a neighbourhood plan for the area, had ever been contemplated.

280. The JSPC was set up in accordance with Framework 178-181 as a cooperating multi-district body of representative elected members to address Northampton's pressing housing delivery problem. It clearly had some difficult decisions to make. Despite the objections of NBC councillors, the majority of JSPC members voted to include the NSSUE as an allocated site. That progressed via EiP to adoption. The key decisions were made by a majority vote of representative elected members. While the minority may be unhappy, the acceptance of majority decisions is the essence of democracy. Decisions are made by elected representatives and not on the basis of population density [191,192], and I see no democratic deficit in the allocation process; in fact this seems to me to have been an exemplary illustration of the local planning process in action, providing a realistic and practical framework for vital planning decisions.

***Whether, taken as a whole, the proposals comply with the local development plan and amount to sustainable development as defined in the Framework***

281. In accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In these cases the relevant policies carry the full weight of the up-to-date local development plan. Framework 49 states that housing applications should be considered in the context of sustainable development, with Framework 14 confirming that there is a presumption in favour of sustainable development<sup>1</sup>.

282. **Appeal A.** In Appeal A the application is for outline planning permission with all matters except access reserved. The application is supported by an illustrative plan giving an indication of the appellant's overall approach to the development of the site, but this is not a final layout proposal [16]. Layout is a reserved matter. The application is effectively an application for development in principle, with an illustration of one possible approach to development. A finalised layout is more a matter for a subsequent application for approval of reserved matters.

283. All the advantages and constraints of development were considered at Local Plan stage, with the conclusion that this is a suitably located and well contained site that is physically capable of delivering about 1,000 dwellings and, subject to appropriate detailed design and layout, should relate well to its surroundings and provide positive impacts overall. The allocation of the site in the Local Plan as a SUE effectively amounts to an 'in principle' mandate for development, as the Council acknowledged in withdrawing reason for refusal 1 [6]. It settles the location, use and amount of development.

284. Since the application is simply for approval in principle, that in a sense is the end of this matter. Nonetheless I have considered the illustrative layout on its merits as the Council considers that, as a layout, it fails to comply with development plan policies. I agree. I have found that the illustrative layout would not meet the requirement of JCS policy N5 to make satisfactory provision for structural greenspace in terms of resolving design issues; it would conflict with JCS policies S10 and BN9 with regard to external noise levels; it would not

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<sup>1</sup> Though I note that Footnote 9 indicates that the presumption does not apply where Framework policies indicate that development should be restricted by virtue of the effect on, amongst other things, heritage assets.

preserve the setting of the listed church; and it would not sustain or enhance the heritage and landscape features which contribute to the character and setting of the conservation area, in conflict with JCS policy BN5.

285. The illustrative layout is thus unacceptable but it is just that – illustrative. It is not part of the application and it is not binding. While policy N5 requires that a masterplan accompanies development proposals, no application stage is specified. Since the policy N5 inset map shows the principal development constraints, a masterplan could be considered less relevant to an outline ‘in principle’ application. Indeed the Council accepts, through an agreed condition, that an appropriately detailed masterplan should be submitted prior to submission of any reserved matters application, to be adhered to by all phases of development. This seems a realistic and straightforward approach, and would provide the overall control over land use elements required by policy N5 [95].
286. While my findings should guide the preparation of an acceptable masterplan within the compass of the submitted ES, the failure of the illustrative layout to comply with specific development plan policies is beside the point. The proposal complies in principle with JCS policy N5, a key allocation policy of the local development plan [95,181]. That carries great weight. The details of the implications of compliance with the policy requirements are for the reserved matters stage. Taken as a whole, with the 2 road access arrangements agreed (and subject to engineering and construction conditions) the ‘in principle’ outline application is acceptable.
287. A Sustainability Assessment of the allocated site was carried out at Local Plan stage and was found to be sound. Framework 7 explains that there are three dimensions to sustainable development: economic, social and environmental. The development would provide 300 new construction jobs and make a major contribution to the economic growth of Northampton, fulfilling the economic role of sustainable development. It would provide up to 1,000 new houses, including 15% affordable homes and supporting infrastructure, a major benefit in an area with a long-running and significant housing delivery problem. It would increase the availability and widen the choice of homes, boosting significantly the supply of housing, so meeting the social role of sustainable development. There would be additional flood risk management of Wootton Brook, providing improved conditions for existing residents, and the provision of new green infrastructure, with opportunities to increase biodiversity. While there would be a loss of open countryside, on balance the environmental role of sustainable development would be satisfied. The Council agrees that these benefits would arise from the development of the site, whatever the detailed scheme, in accordance with policy N5 [99-103,175,176]. I consider that the Appeal A scheme would represent sustainable development.
288. **Appeal B.** In Appeal B the application is for full planning permission for the development of part of the overall site, on land to the south of the golf course and next to Collingtree village. This area is referred to as ‘Village 1’. Detailed plans show a layout of 378 houses served by a network of roads, with access off Windingbrook Lane. The layout includes a substantial swale between the houses and the realigned 1<sup>st</sup> hole of the golf course, as part of the overall flood management measures.

289. The existing footpath from Milton Malsor to Collingtree crosses the southernmost field of the site and would be incorporated into the layout. This field lies within the setting of the listed church and the conservation area. The footpath and the ridge and furrow to the south of the path are historic features of the setting that contribute much to the special interest and significance of the historic church and village. The footpath would be urbanised and the ridge and furrow lost. The setting of the listed church would not be preserved and the character and setting of the conservation area would not be sustained, in conflict with JCS policy BN5. Since this would amount to less than substantial harm to the significance of the heritage assets, in accordance with Framework 134 that harm has to be weighed against the public benefits of the proposal.
290. In that planning balance, bearing in mind the grade II\* listing of the church, I give great importance and weight to the conservation of the heritage assets. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. The early provision of 378 new houses, some 15% of them affordable, would be a major public benefit in an area where there is a long-established housing deficit, providing a range of homes, creating jobs and contributing to growth. Against that, I have found that the proposed layout would not achieve the lowest practicable garden noise levels at the houses closest to the motorway in order to minimise the adverse impact of noise on the health and quality of life of future occupiers of the development, in conflict with policies S10 and BN9 of the JCS. Nor would the layout make provision for sufficient structural greenspace beside the M1, as required by JCS policy N5.
291. The part of the field containing the footpath and ridge and furrow substantially coincides with the extent of structural greenspace beside the motorway, as indicated on the policy N5 inset map. There is thus good reason to exclude it from the developable area of the site. Furthermore, air quality predictions may turn out to be wrong; should that be the case, the setting back of houses from the motorway would help reduce the potential effects of air pollution.
292. The appellant argues that a reduction in the size of the site, leading to fewer houses, would prejudice the viability of its development. I am not convinced by this argument. Village 1 is promoted as reflecting the character of Collingtree, but the layout shows an extremely high proportion of detached houses fronting estate roads, resulting in a very low density of development. This would reflect recent development rather than the intrinsic historic character of Collingtree, which is more closely built up. While I understand the market attraction of detached housing, Framework 58 makes it clear that new development should respond to local character and history and reflect the identity of local surroundings. In this particular part of the overall site, a layout more sympathetic to the character of Collingtree would likely be at a higher density, so that housing numbers would not necessarily be reduced.
293. The appellant also argues that, if Appeal B is dismissed, that could seriously delay the development of a site relied on by the Council for the early delivery of housing [104,180]. I accept that bringing to fruition a new detailed planning application might be a lengthy process. However, if Appeal A is allowed, with its fully applicable range of obligations and conditions, following agreement of a masterplan all that would be required is a reserved matters application for the first phase of development. That is likely to be much less time consuming, such

that the delivery of a substantial number of houses, envisaged within the first part of the plan period, would not be significantly delayed.

294. A balance has to be struck between meeting the need for new housing and the harm it would cause. In this case, while the early delivery of new housing would be a major public benefit, I consider that that benefit would be clearly outweighed by the harm the development would cause to important heritage assets and by the failure to properly mitigate the impact of noise on the living conditions of future occupiers. The same public benefits could be gained from a more acceptable scheme. There is no clear and convincing justification for this harm. I consider that, taken as a whole, there are no material considerations sufficient to outweigh the conflict with the local development plan.
295. As Framework 56 makes clear, the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development. As the first phase of the overall development of the site, the Appeal B scheme would set the standard for the rest of the planned development, so it is important that that standard is high. The scheme would contribute to building a strong, responsive and competitive economy, supporting growth and the provision of infrastructure, thus fulfilling the economic role of sustainable development. However, as proposed it would not create a high quality built environment which would support the health and wellbeing of the local community, and nor it would it protect the historic environment from irreversible harm, so it would not perform the social and environmental roles of sustainable development. Since all 3 roles are mutually dependent, the Appeal B scheme as a whole cannot be considered to be sustainable development.

### ***Obligations and Conditions***

296. The 2 s106 Agreements, as planning obligations, were provided in each case as 2 counterpart documents [227]. An obligation made under s106 is a public law document which has to be entered on the planning and local land charges register and may be copied to interested parties. It therefore needs to be clear that all relevant parties have entered into it. In this case the front page of each document lists all the parties to the Agreement and they have all signed one or other of the documents. I consider it to be clear from the documents that all the necessary parties are committed to the obligations. The counterpart Agreements have been correctly executed and are legally valid so the planning obligations can be properly taken into account.
297. The planning obligations are all related to requirements of national planning policy and guidance, policy requirements of the local development plan and the Council's supplementary guidance. They are all necessary to make the development acceptable in planning terms. They are all directly related to the development, are fairly and reasonably related in scale and kind to it, and are in place to mitigate the effects of the development. The s106 Agreements therefore comply with Regulation 122 of the CIL Regulations 2010. Furthermore, taking account of the Council's Compliance Statement, the Agreements also comply with Regulation 123 of the CIL Regulations.
298. The Council's CIL Charging Schedule is expected to be in place from 1 April 2016 [227]. The 2 s106 Agreements have been drafted to cover a pre- and post-CIL situation.

299. The suggested conditions were discussed in a discrete session at the inquiry. The conditions allow for the overall development to be carried out in phases. With some exceptions, identified below, for the reasons given by the Council the agreed conditions in both cases are considered to be necessary and reasonable and to meet the tests for conditions set out in PPG.
300. For Appeal A [231], the 'Code for Sustainable Homes' has been withdrawn; the equivalent of Code level 3 is achievable by necessary compliance with Part L of the Building Regulations so reference to the Code in condition 8 is unnecessary. The approval of external surface materials is more a matter for the reserved matters stage so condition 9 is unnecessary. Condition 25 relates to a safety fence on the golf course beside the railway line. The appellant objects to this condition on the basis of distance from the line and safe orientation of the holes. While the 5<sup>th</sup> hole would drive away from the line, the 4<sup>th</sup> hole would drive towards it, with the line about 50 metres beyond the green. An overshoot could reach the line. For safety reasons I consider, in those circumstances, that the condition is necessary.
301. The 'Lifetime Homes Design Guide' has also been withdrawn; Part M of the Building Regulations includes an optional requirement M4(2) for accessible and adaptable dwellings that is broadly equivalent to the Lifetime Homes standard. Condition 37 has therefore been amended to require compliance with Part M4(2). The submission of landscaping details is more appropriate at reserved matters stage so conditions 41 and 42 are unnecessary. 'Secured By Design' too has been withdrawn; the new Part Q of the Building Regulations requires similar security arrangements so condition 43 is unnecessary. Provision for the installation and maintenance of bus shelters is made in the s106 Agreement so condition 45 is unnecessary.
302. For Appeal B [232], the equivalent of Code level 3 is achieved by necessary compliance with Part L of the Building Regulations so in a detailed permission condition 3 is unnecessary. Condition 25 has been amended to require compliance with Building Regulations optional requirement Part M4(2). Provision for the installation and maintenance of bus shelters is made in the s106 Agreement so condition 29 is unnecessary.
303. A range of conditions precedent is proposed for each permission. In each case, the requirements of the conditions, including the timing of compliance, are fundamental to the acceptability of the development. They would ensure delivery of high quality design; minimise the impact of the construction period on local residents; and mitigate the environmental impact of the development. Without such conditions it would be necessary to refuse permission.
304. The agreed conditions have been amended where necessary in the interests of clarity and precision. The conditions are set out in schedules attached to this report at Annex A and Annex B.

## **Overall conclusions**

### **Appeal A**

305. The Appeal A site is allocated in the JCS as a sustainable urban extension of some 1,000 houses and associated infrastructure. It represents part of the planned expansion of the town and is a key element in the provision of new

housing to meet a pressing need. The Local Plan process, including EiP procedures, examined all the constraints and concluded that the allocation was sound. The EiP Inspector considered that, subject to appropriate detailed design and layout, development of the site would provide positive impacts overall. This is a clear indication of the 'in principle' acceptability of development.

306. The outline planning application was accompanied by detailed plans of the 2 road accesses. It is important to note that, while an illustrative layout was also submitted, the site layout (with scale and appearance and landscaping) was reserved for future consideration. The illustrative plan was not part of the application and simply showed one way of developing the site. There was no effective objection to the detailed design of the access arrangements. While I have found some aspects of the illustrative layout to be unacceptable, that can be addressed by condition. Development would follow in phases through the approval of reserved matters, resulting in the delivery of up to 1,000 new houses. That would be a major planning benefit. This proposal, at outline stage, complies with the development plan and meets sustainable development principles.

### **Appeal B**

307. The detailed scheme for part of the site, whether seen as the first phase or a stand-alone development, would result in harm to the historic environment and, through the shortfall in noise mitigation measures, applicable to the whole site, would not provide acceptable living conditions for future residents. These are critical faults. For these reasons this proposal would conflict with the development plan and would not preserve significant heritage assets. I consider that, while the delivery of 378 houses, including 15% affordable homes, would be a major public benefit, on balance there are no material considerations sufficient to outweigh that conflict and justify the grant of permission.

### **Recommendations**

308. **Appeal A: APP/V2825/W/15/3028151**

309. I recommend that Appeal A should be allowed subject to the conditions set out in Annex A.

310. **Appeal B: APP/V2825/W/15/3028155**

311. I recommend that Appeal B should be dismissed. If the Secretary of State is minded to disagree with my recommendation, Annex B lists the conditions that I consider should be attached to any permission granted.

*Colin Ball*

Inspector

## APPEARANCES

### FOR THE APPELLANT:

Anthony Crean QC, assisted by Killian Garvey of Counsel.	Instructed by Barton Willmore LLP.
They called:	
Ronald Henry BEng CEng MICE MIEI	Partner, Peter Brett Associates LLP.
Graham Harker BSc(Hons) CEng MIMechE MIES MIAQM ACGI	Peter Brett Associates LLP.
Paul Jenkin BEng(Hons) MSc CEng CWEM FCIWEM	Partner, Peter Brett Associates LLP.
David Walker BSc PhD CEnv CSci FIEMA IAQM	Director, Peter Brett Associates LLP.
Stephen Carter BSc PhD MCIfA FSAScot	Senior Consultant, Headland Archaeology (UK) Ltd.
James Donagh BA(Hons) MCD MIED	Director, Barton Willmore LLP.
Mark Sitch BSc(Hons) DipTP MRTPI	Senior Partner, Barton Willmore LLP.

### FOR THE LOCAL PLANNING AUTHORITY:

Timothy Corner QC, assisted by Heather Sargent of Counsel	Instructed by LGSS Law Ltd.
They called:	
Ignus Froneman BArchStud ACIFA IHBC	Director, Heritage Collective.
Michael Brownstone BEng(Hons) MIOA	Director, Resound Acoustics Ltd.
Gary Stephens BA(Hons) MA PgcUD MRTPI	Planning Director, Marrons Planning.

### INTERESTED PERSONS:

Andrea Leadsom MP	MP for South Northamptonshire.
David Mackintosh MP	MP for Northampton South.
Cllr Andre Gonzalez De Savage	Northampton County Council
Cllr Philip Larratt	Northampton Borough Council.
Cllr Brandon Eldred	Northampton Borough Council.
Cllr Jonathan Nunn	East Hunsbury Parish Council.
Cllr Malcolm Brice	Chairman, Collingtree Parish Council.
Cllr Tony Stirk	Local resident and Parish Councillor.
Roger Mason	Wootton Brook Action Group.
Dr Christopher Leads	Wootton Brook Action Group.
Nigel Mapletoft	Collingtree Park Residents Association.
Murray Croft	Collingtree Park Residents Association.
Robert Boulter	Hunsbury and Collingtree Residents Alliance.
Rod Sellers	Hunsbury and Collingtree Residents Alliance.



## DOCUMENTS

### INQUIRY DOCUMENTS

IN1	Recovery letter.
IN2	Note of the PIM.
IN3	Supplementary PIM note.
SOCG1	Primary statement of common ground.
SOCG2	Addendum to primary statement of common ground/ Agreed conditions.
SOCG3	Noise statement of common ground.
SOCG4	Heritage statement of common ground.
SOCG5	Highways and transport statement of common ground.
APS1	Highways agreed position statement – Northamptonshire CC/BHL.
APS2	Bus service strategy agreed position statement – Stagecoach Group/BHL.
APS3	Flood risk and drainage agreed position statement – EA/BHL.
PA1	Planning Obligations statement.
PA2	Draft s106 Agreement Appeal A.
PA3	Draft s106 Agreement Appeal B.
PA4	Summary of changes to draft s106 Agreements.
PA5	Final draft s106 Agreement Appeal A, with tracked changes.
PA6	Final draft s106 Agreement Appeal B, with tracked changes.
PA7	Agreed note: s106 and CIL contributions.
PA8	Copy of executed s106 Agreement Appeal A.
PA9	Copy of executed s106 Agreement Appeal B.
SV1	Agreed site visit itinerary: plan
SV2	Additional visit locations requested by local objectors.
IN4	Full Core Documents List
IN5	Letter of 18 January 2016 closing the inquiry.

### CORE DOCUMENTS

<b>CD A</b>	<b>Outline planning application documents and plans: Appeal A</b>
A.4	Location Plan BHL001-003 rev D
A.6	Illustrative Masterplan BHL001/038D
A.9	Planning Statement
A.10	Design and Access Statement
A.11	Community Engagement Report
A.12	Green Infrastructure Strategy EDP 1881_04b
A.13	Transport Assessment (Appendix Bound Separately)
A.15	Sustainability Statement 20815/026/ Rev2
A.16	Arboricultural Assessment EDP 1881_03a
A.18.1	<b>Environmental Statement (ES)</b>
	1. Introduction
	2. The Site and the Proposed Development
	3. Planning Policy Context
	4. Socio-Economic Effects
	5. Transport
	6. Air Quality
	7. Noise & Vibration
	8. Landscape and Visual Impact Assessment

- 9. Ecology
- 10. Cultural Heritage
- 11. Agriculture and Soil Resources
- 12. Water Resources
- 13. Ground Conditions
- 14. Utilities and Infrastructure
- 15. Conclusion
- ES Technical Appendix**
- A.18.2 ES Chapter 1 Technical Appendix:
  - 1.1 Location plan BHL 001-003 Rev D
  - 1.2 Site extent Plan BHL 001-045
  - 1.3 EIA Scoping Report April 2012
  - 1.4 NBC Scoping Opinion June 2012
- A.18.3 ES Chapter 2 Technical Appendix:
  - 2.1 Parameter Plan BHL 001-015 G
  - 2.2 Indicative phasing BHL 001-019 D
- A.18.5 ES Chapter 5 Technical Appendix:
  - 5.1 Transport assessment (see CD A.13)
  - 5.2 Framework Travel plan
  - 5.3 Figures 5.1-5.7
  - 5.4 Traffic flow tables
  - 5.5 Potential environmental effects
  - 5.6 Anticipated construction movements and potential effects
- A.18.6 ES Chapter 6 Technical Appendix:
  - 6.1 Model verification
  - 6.2 Traffic data
  - 6.3 Results table
  - 6.4 Figures 6.1 and 6.2
- A.18.7 ES Chapter 7 Technical Appendix:
  - 7.1 Glossary of acoustic technology
  - 7.2 PBA Technical note: Revised noise and vibration assessment methodology (EPS 28015'006/TN001 Rev 2)
  - 7.3 Meteorological records at Bedford Weather Station
  - 7.4 Results of measured statistical sound pressure level parameters at LT1 and LT2
  - 7.5 Results of measured statistical sound pressure level parameters for the noise survey at locations ST1, ST2 and ST3
  - 7.6 Summary of the results of measured statistical sound pressure level at Milton Motocross Park
  - 7.7 Average annual weekday traffic flow 18 hr data
  - 7.8 Steps for calculating noise model validation daytime correction
  - 7.9 Figures 7.1-7.10C
- A.18.10 ES Chapter 10 Technical Appendix:
  - 10.1 Built Heritage assessment
  - 10.2 Archaeological desk-based assessment
  - 10.3 Archaeological geophysical survey
  - 10.4 Archaeological evaluation
- A.18.12 ES Chapter 12 Technical Appendix:
  - 12.1 Flood Risk Assessment
- A.19 ES Non-technical summary

**Subsequent revisions to outline planning application**

## **CD B**

- B.2 Parameter plan BHL 001-015 Rev J
- B.3 Proposed Rowtree Road Compact Access 28015/002 rev F
- B.4 Proposed Windingbrook Lane priority junction 28015/001 rev F
- B.5 Post-consultation amendments to the Design and Access statement
- B.6 PBA Technical Note: summary of technical consultation process
- B.7 Transport Assessment Issue 2.1 (main text and figures only)
- B.8 Framework Travel Plan – Issue 2 20815.017 Rev 2
- B.9 Flood Risk assessment (Revision 4) 20815 Rev 4
- B.10 PBA Technical Note – Noise assessment addendum
- B.11 PBA Technical Notes – review of comments on Air Quality ES chapter
- B.12 S106 Agreement revised draft heads of terms
- B.13 Proposed Wootton Brook highway crossing and floodplain compensation

## **CD C Full planning application documents and plans: Appeal B**

- C.4 Location plan BHL 001-040 Rev B
- C.11 Planning statement
- C.12 Design and Access statement addendum
- C.13 Community engagement report
- C.14 Green Infrastructure Strategy
- C.15 Arboricultural Assessment
- C.16 PBA Technical Note : Land to the north-west of Collingtree Village and south of Collingtree Park (Turnberry Lane) Northampton
- C.17 Landscape and Visual Impact Assessment
- C.18 Site waste management plan
- C.20 Environmental statement and non-technical summary (CD A.18 & A.19)

## **CD D Subsequent revisions to full application**

### **D.8 Revised highways drawings**

- D.8.3 Proposed primary street swept path analysis 28015/007
- D.8.4 Proposed Windingbrook Lane priority junction 28015/001-F
- D.8.5 Proposed Windingbrook Lane priority junction swept path analysis 28015/008A

### **D.9 Revised landscape drawings**

- D.9.3 Phase 1 hard landscape layout plans 1-5
- D.10 Revised floor plans and elevations
- D.11 Design and Access statement addendum – post-submission consultation amendments
- D.12 Revised technical documents (CD B.6-B.11)
- D.13 S106 Agreement revised draft heads of terms
- D.14 Further revisions covering letter 2 October 2014
- D.17 Site layout 866-002 rev H
- D.18 Materials 866-003 rev C
- D.21 Further revisions covering letter 14 November 2014
- D.23 Proposed primary street vertical alignment 28015/003 rev D
- D.24 Boundary treatments and surface materials 866-004 rev D
- D.25 Open space planting and hard surface plans 1-6
- D.26 Phase 1 Residential planting plans 1-10
- D.27 Phase 1 Highway strategy general arrangement 28015/006- Rev G

**CD F NBC Planning Committee and Decisions**

- F.1 NBC Planning Committee Officers Report 28 January 2015
- F.2 Addendum to Agenda items 28 January 2015
- F.3 Minutes of NBC Planning Committee meeting 28 January 2015
- F.4 Decision notice 2 February 2015 – N/2013/1035 outline planning application
- F.5 Decision notice 2 February 2015 – N/2013/1063 full planning application
- F.6 NBC Planning Committee Officers Report 24 March 2015 – s106 Agreements
- F.7 Minutes of NBC Planning Committee meeting 24 March 2015

**CD G Planning policy**

- G.1 National Planning Policy Framework
- G.2 National Planning Practice Guidance
- G.3 Technical Guidance Note to the National Planning Policy Framework
- G.4 West Northamptonshire Joint Core Strategy adopted December 2014
- G.5 Report on the Examination into the West Northamptonshire Joint Core Strategy 2 October 2014
- G.6 NBC Full Council Report 19 January 2015
- G.7 Minutes of NBC Full Council meeting 19 January 2015
- G.8 Northampton Local Plan June 1997 Saved Policies
- G.9 Letter from GOEM 21 September 2007 – saving letter regarding saved policies of the Northampton Local Plan
- G.10 Saving Direction for the Northampton Local Plan
- G.11 Extracts from the Northamptonshire Minerals and Waste Development Framework Core Strategy 20 May 2010
- G.12 Extracts from the Northamptonshire Minerals and Waste Development Framework: Control and Management of Development DPD 30 June 2011
- G.13 Northamptonshire Minerals and Waste Local Plan adopted 1 October 2014
- G.14 Northamptonshire County Council Parking Standards SPG March 2003
- G.15 Northamptonshire County Council Planning Out Crime in Northamptonshire SPG December 2003
- G.16 NBC planning Obligations Strategy SPD February 2013
- G.17 NBC Affordable Housing Interim Statement February 2013
- G.18 NBC Five-Year Housing Land Supply Assessment April 2014
- G.19 Minutes of Northampton South SUE-Developer liaison meeting 16 September 2011

**CD H NBC related documents**

- H.1 Officers Report to NBC Planning committee 28 July 2015
- H.2 Minutes of NBC Planning committee meeting 28 July 2015
- H.3 Northampton South SUE (Collingtree) Northampton: Air Quality Assessment: Stage 1 Review, prepared by Isopleth for NBC
- H.4 Northampton related development area Five-Year Housing Land Supply Assessment April 2015
- H.5 Email Gallagher/Bovey 24 September 2015 regarding NBC's five-year housing land supply position
- H.6 Closing submissions of Timothy Corner QC to the Hardingstone, land at Brackmills inquiry
- H.7 Local Development Scheme for NBC September 2015
- H.8 East Midlands RSS Milton Keynes SRS Northampton 2 Policy March 2009

- H.9 Extracts from the West Northamptonshire Monitoring Report 2013/2014 (Housing Monitoring)  
**Community Infrastructure Levy and s106 Agreement**
- H.10 NBC Cabinet Report in respect of CIL 9 September 2015
- H.11 CIL: Background Document June 2014
- H.12 CIL: Draft Charging Schedule – consultation June 2014
- H.13 CIL: Instalment policy June 2014
- H.14 CIL: Draft Reg 123 List Northampton June 2014
- H.15 Northampton Longer Term Growth Options Study March 2007
- H.16 WNJCS Infrastructure Delivery Plan Update 2014
- H.17 CIL Planning Obligations Position Statement January 2015
- H.18 Northamptonshire Planning Obligations Framework and Guidance Documents March 2011

**CD I Heritage related documents**

- I.2 Collingtree Village Conservation Area Appraisal and Management Plan
- I.3 Collingtree Conservation Area illustrated leaflet
- I.4 HE Good Practice Advice Planning Note 3: The setting of Heritage Assets
- I.5 HE scoping response
- I.6 Email NBC/HE requesting opinion 6 July 2015
- I.7 HE reply to NBC 24 July 2015
- I.8 Email HE/Headland Archaeology confirming no further contribution to appeals 29 July 2015

**CD J Highways related documents**

- J.3 NGMS – Memorandum of Understanding 26 March 2012
- J.4 The Northamptonshire Local Transport Plan 3, March 2012
- J.6 NGMS – Memorandum of Understanding (revised) July 2012
- J.8 Northamptonshire Highways Development Management Strategy – Fit for Purpose December 2013
- J.9 Guidance on Transport Assessment 2007
- J.14 Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development DoT 2013
- J.17 Guidance on Transport Assessment DoT/DCLG 2007
- J.21 Letter Glanville/PBA 8 July 2015
- J.22 Letter and associated appendices PBA/Ianville 29 July 2015
- J.23 Email Glanville/PBA 24 September 2015
- J.24 NMMS update – pre-submission Joint Core Strategy Land Use Option Testing Modelling Results (Arup) February 2011
- J.25 Highways England – The Highways Agency and the Local Plans Process: A protocol for local authorities, developers and the Highways Agency June 2014
- J.26 Highways England – The Strategic Road Network: Planning for the Future September 2015
- J.27 Northampton Town Transport Strategy
- J.28 Northamptonshire Bus strategy 2013
- J.29 Northamptonshire Smarter Choices Strategy 2013

**CD K Noise related documents**

- K.1 Noise policy Statement for England, DEFRA 2010
- K.2 Planning Practice Guidance: Noise 2014

- K.3 BS 8233:2014 Guidance on sound insulation and noise reduction for buildings BSI 2014
- K.4 WHO Guidelines for Community Noise WHO 1999
- K.5 Noise Insulation Regulations 1975 (as amended 1988) SI 2000
- K.6 The effectiveness and acceptability of measures for insulating dwellings against traffic noise BRE 1985
- K.7 Planning Policy Guidance 24: Planning and Noise

### **APPELLANT'S DOCUMENTS**

- BHL/OS Mr Crean's opening submissions.
- BHL/1/A Mr Henry's proof of evidence.
- BHL/1/B Appendices 1-2 to Mr Henry's proof of evidence.
- BHL/2/A Dr Walker's proof of evidence.
- BHL/2/B Appendices 1-8 to Dr Walker's proof of evidence.
- BHL/3/A Dr Carter's proof of evidence.
- BHL/3/B Appendices 1-4 to Dr Carter's proof of evidence.
- BHL/4/A Mr Donagh's proof of evidence.
- BHL/4/B Appendices 1-4 to Mr Donagh's proof of evidence.
- BHL/4/C Mr Donagh's rebuttal proof of evidence.
- BHL/5/A Mr Sitch's proof of evidence.
- BHL/5/B Appendices 1-9 to Mr Sitch's proof of evidence.
- BHL/6/A Mr Harker's proof of evidence.
- BHL/7/A Mr Jenkin's proof of evidence.
- BHL/7/B Appendices 1-5 to Mr Jenkin's proof of evidence.
- BHL/8 Agreed location of field west of Barn Corner on Local Plan Inset Map 12.
- BHL/9 Dr Walker's Technical Note of 9 December 2015.
- BHL/10 Extract from Secretary of State's decision APP/H2835/A/08/2093066.
- BHL/11 Extract from s106 Agreement relating to Owners' covenants.
- BHL/12 [2012] UKSC 13: Tesco Stores Ltd v Dundee City Council.
- BHL/13 [2015] EWCA Civ 1243: Jones v Mordue/Secretary of State.
- BHL/14 Other Authorities relied on by the appellant.
- BHL/15 A3 versions of Appeal A parameter plan (CD B.2) and illustrative master plan (CD A.6).
- BHL/16 A3 versions of Appeal B site layout (CD D.17) and open space planting and hard surface plan (CD D.25).
- BHL/CS Mr Crean's closing submissions.
- BHL/17 Appellant's comments on the judgement in *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG/Richborough Estates Partnership LLP v Cheshire East BC & SSCLG [2016] Civ 168*.

### **COUNCIL'S DOCUMENTS**

- NBC/OS Mr Corner's opening statement.
- NBC/1/A Mr Brownstone's proof of evidence.
- NBC/1/B Appendices 1-7 to Mr Brownstone's proof of evidence.
- NBC/1/C Mr Brownstone's rebuttal proof of evidence.
- NBC/1/D Mr Brownstone's letter of 25 November 2015 and enclosures.
- NBC/1/E Mr Brownstone's letter of 27 November 2015 and enclosures.
- NBC/1/F Mr Brownstone's letter of 10 December 2015
- NBC/2/A Mr Froneman's proof of evidence.
- NBC/2/B Appendices 1-14 to Mr Froneman's proof of evidence.

NBC/2/C	Supplemental document to Mr Froneman's appendices: parts 1-4
NBC/3/A	Mr Stephens' proof of evidence.
NBC/3/B	Appendices 1-2 to Mr Stephens' proof of evidence.
NBC/4	Ms Bovey's letter of 27 November 2015 to PINS with attachments.
NBC/5	Housing Standards Update.
NBC/6	Extract from PPG on local finance considerations.
NBC/7	Bundle of correspondence Council/Network Rail regarding fencing.
NBC/CS	Mr Corner's closing statement.
NBC/8	Council's comments on the judgement in <i>Suffolk Coastal DC v Hopkins Homes Ltd &amp; SSCLG/Richborough Estates Partnership LLP v Cheshire East BC &amp; SSCLG [2016] Civ 168</i> .

### **THIRD PARTY DOCUMENTS**

#### Members of Parliament

MP/1/A	Andrea Leadsom's letter of 28 October 2015.
MP/1/B	Andrea Leadsom's letter of 11 November 2015.
MP/2/A	David Mackintosh's letter of 15 September 2015.
MP/2/B	David Mackintosh's letter of 2 November 2015.

#### County Councillors

CBC/1	Cllr Gonzalez De Savage' statement.
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#### Borough Councillors

CBC/2	Cllr Larratt's statement.
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#### East Hunsbury Parish Council

EHPC/1	Cllr Nunn's statement.
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#### Collingtree Parish Council

CPC/1	Parish Council observations on the planning applications.
CPC/2	Air Quality; Noise.
CPC/3	Flooding.
CPC/4	Lack of suitable infrastructure.
CPC/5	Effect on heritage and community.
CPC/6	Cllr Brice's statement
CPC/7	Extract from PBA Transport Assessment: summaries of trip movements.
CPC/8	Cllr Stirk's statement and photographs.

#### Wootton Brook Action Group

WBAG/1	Sustainability and the 'Egan Wheel'.
WBAG/2	Overview on flooding.
WBAG/3	Flooding: an increased flood risk and Wootton Brook.
WBAG/4	Review of EA model of Wootton Brook Aug 13 edition and evaluation of Northampton South SUE as a suitable location for development.
WBAG/5	Review of Nene tributaries Pre-feasibility Studies: Wootton Brook.

WBAG/6	Wootton Brook Model Report v3.
WBAG/7	Managing Flood Risk: River Nene Catchment flood management plan.
WBAG/8	EA License.
WBAG/9	Traffic; an alternative case v4
WBAG/10	Summary of traffic case rev 1.
WBAG/11	ONS – Home ownership and renting in England and Wales.
WBAG/12	ONS – Families and Households 2013.
WBAG/13	ONS Transport, social trends 41.
WBAG/14	AA – motoring costs 2014 - diesel cars.
WBAG/15	AA – motoring costs 2014 - petrol cars.
WBAG/16	Qualifications and experience of Roger Mason.
WBAG/17	Qualifications and experience of Dr Christopher Leads.
WBAG/18	Dr Leads' chart of traffic capacity on Rowtree Road.
WBAG/19	Dr Leads' chart of traffic flows on Rowtree Road.
WBAG/20	Dr Leads' statement on flooding.
WBAG/21	Mr Mason's statement on traffic.
WBAG/22	Dr Leads' questions for Mr Jenkin.

#### Collingtree Park Residents Association

CPRA/1	Evaluation of NBC data.
CPRA/2	NSSUE air pollution.
CPRA/3	Breaches of NPPF.
CPRA/4	NSSUE noise pollution.
CPRA/5	Rebuttal – air pollution.
CPRA/6	Rebuttal – noise pollution
CPRA/7	Mr Mapletoft's statement.
CPRA/8	Mr Croft's statement.

#### Hunsbury and Collingtree Residents Alliance

HCRA/1	Traffic issues + appendix.
HCRA/2	Sustainability
HCRA/3	Mr Boulter's statement.
HCRA/4	Mr Sellers' statement.

#### **WRITTEN SUBMISSIONS**

WRS/1	Letter of support from the Sargeant family (appeal site landowners).
WRO/1	Letter of objection from Historic England.
WRO/2	Bundle of 174 letters of objection from local residents.



## Annex A

Schedule of conditions to be attached to the grant of outline planning permission for the development of the Northampton South Sustainable Urban Extension to be comprised of up to 1,000 dwellings, a mixed use local centre, a site for a primary school, green infrastructure including formal and informal open space, reconfiguration and extension of Collingtree Park Golf Course, demolition of all existing buildings and structures within the site, new vehicular accesses off Windingbrook Lane and Rowtree Road, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) in accordance with application Ref N/2013/1035, dated 2 October 2013:

- 1) Prior to the submission of any reserved matters application, a Masterplan and Design Code covering the whole of the site shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall be formulated having regard to the submitted Design and Access Statement and respond to the recommendations of Building for Life 12, and shall include the following details:
  - A phasing plan for the development, including an affordable housing phasing plan.
  - The proposed movement network delineating the primary, secondary and tertiary streets and pedestrian and cycleway connections, setting out the approach to estate design, treatment of non-vehicular routes and car and cycle parking.
  - The proposed layout, use and function of all open space within the development.
  - The approach to and design principles applied to car parking (on street and off-street).
  - Phased layout principles to include urban structure, form and layout of the built environment, building heights, densities, legibility, means of enclosure, key gateways, landmark buildings and key groups.
  - The design approach for areas within the public realm including landscaping and hard surface treatments, lighting, street trees, boundary treatments, street furniture and play equipment.
  - Servicing, including utilities, design for the storage and collection of waste and recyclable materials.
  - External materials, to include a palette of wall and roof finishes, windows, doors, porches, heads, cills, chimneys, eaves and verges and rainwater goods.
  - The design principles that will be applied to the development to encourage security and community safety.
  - The specific design principles that will be applied to the Local Centre.
  - The design principles for the incorporation of a Sustainable Urban Drainage System (SUDS) throughout the development.Thereafter, any reserved matters application for any phase of development shall comply with the principles established within the approved Design Code.
- 2) Prior to the submission of any reserved matters application, a detailed phasing plan for the development that identifies stages at which each element of the proposed development (including the local centre, community hall, open space, sports provision, play equipment, primary

- school, housing, highway infrastructure and SUDs) shall be commenced, completed and made available for occupation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.
- 3) For each phase of the development details of the layout and scale of the buildings, their appearance and landscaping, and the means of access other than that approved, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development of that phase shall be carried out as approved.
  - 4) Application for approval of the first phase reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. All other applications for the approval of reserved matters shall be made to the local planning authority within 10 years from the date of this permission
  - 5) Each phase of the development hereby permitted shall begin not later than 2 years from the date of approval of that phase's reserved matters.
  - 6) The number of residential units to be constructed on the site shall not exceed 1,000.
  - 7) The development and all reserved matters applications submitted pursuant to this permission shall not materially depart from the following plans and parameters:
    - Proposed Windingbrook Lane Priority Junction (28015/001F)
    - Proposed Rowtree Road Compact Roundabout (28015/002F)
    - Up to 2.03 hectares for the provision of a primary school
    - A minimum of 29.43 hectares of strategic open space
    - A local centre comprising of 450 sq m of convenience retail floorspace (Use Class A1), 360 sq m of flexible commercial floorspace to accommodate uses within use Classes A1(shops), A2 (financial & professional services), A3 (restaurants/cafes), A4 (Drinking Establishments), A5 (Hot Food Takeaways) B1 (Business) and D1 (non-residential institutions) and 725 sq m for a community facility incorporating meeting rooms (Class D1).
  - 8) Contemporaneously with the submission of reserved matters applications for each phase of development, a Sustainability Strategy indicating compliance with Part L of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved Sustainability Strategy.
  - 9) Concurrently with the submission of reserved matters applications for each phase of development, full details of the proposed surface treatment of all roads, access and parking areas, footpaths, cycleways and private drives including their gradients within that phase shall be submitted to and approved in writing by the Local Planning Authority and shall be provided in full prior to that development phase being first brought into use.
  - 10) Development shall not commence on any phase of development until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority relating to that phase. The CEMP shall include the following: -

- a) the management of traffic and routing during construction: to address site access, routes within site kept free from obstruction, wheel washing, travel plan for construction workers, loading and unloading, vehicle parking and turning areas, a scheme for prevention of surface water discharges onto the highway;
- b) The location of access points for site traffic for that phase of development;
- c) detailed measures for the control of dust during the construction phase of development;
- d) the location and size of compounds;
- e) the location and form of temporary buildings, adverts and hoardings;
- f) details for the safe storage of any fuels, oils and lubricants;
- g) construction of exclusion zones to prevent soil compaction for large scale planting areas, public and school playing fields, and remediation of any soil compaction;
- h) a scheme for the handling and storage of topsoil;
- i) details of the methods of protection of trees, hedgerows and water features in accordance with Condition 20;
- j) a scheme for the protection of areas of ecological interest and for the mitigation of any possible harm to such areas;
- k) details of any temporary lighting;
- l) procedures for maintaining good public relations including complaint management, public consultation and liaison;
- m) measures for the control of noise emanating from the site during the construction period;
- n) Construction Plant Directional signage (on and off site);
- o) provision for all site operatives, visitors and construction vehicles, loading and unloading of plant and materials;
- p) waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from construction works including confirmation of any material exports, routing and deposition sites.

The approved CEMP and measures contained therein shall be adhered to throughout the construction period.

- 11) No construction work (including use of machinery and/or plant maintenance) shall be carried out on the site outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays or at any time on Sundays, Bank Holidays or other statutory holidays. No construction traffic shall enter or leave the site before 0700 Mondays to Saturday or at any time on Sundays, Bank Holidays or other statutory holidays.
- 12) Prior to the commencement of development, engineering and construction details of the two access junctions to the site as shown indicatively upon approved drawings 28015/001 Rev F (Windingbrook Lane) and 28015/002 Rev F (Rowtree Road) shall be submitted to and approved in writing by the Local Planning Authority. The Windingbrook Lane junction shall be provided prior to the commencement of any other works on site and in accordance with the approved details. The Rowtree Road junction shall be provided at the start of Phase 2 in accordance with the approved details.
- 13) No dwelling shall be occupied until details of the precise location and engineering and construction details of the following walking and cycling measures have been submitted to and approved in writing by the Local

Planning Authority and the works have been carried out in accordance with the approved details:

- 2no. pedestrian / cycle connections to existing bridleway KG2
- Provision of on-road advisory cycle lane on Hilldrop Road (to be delivered at the start of Phase 2) and Penvale Road
- Upgrade of existing footway in the southern verge of Mereway between the junction with Penvale Road and the A451 Queen Eleanor Roundabout
- 2no. controlled pedestrian crossings on Rowtree Road (the second of which is to be delivered at the start of Phase 2).

- 14) No dwelling shall be occupied until engineering and construction details of the following highway improvements have been submitted to and approved in writing by the Local Planning Authority and the works have been carried out in accordance with the approved details:
  - Improvement to Rowtree Road / London Road / Wooldale Road roundabout (TA Figure 15.2)
  - Improvement to Rowtree Road/Butts Road Roundabout (TA Figure 15.3) (to be delivered prior to the occupation of 379 dwellings on site)
  - Improvements to Rowtree Road/Penvale Road junction (TA Figure 15.4) (to be delivered prior to the occupation of 379 dwellings on site)
  - Improvements to A45/Queen Eleanor Interchange (TA Figure 15.6)
  - Improvements to Towcester Road/Mereway/Tesco/Danes Camp Way roundabout (TA Figure 15.7)
- 15) Three peak hour part classified junction turning and queue count surveys shall be undertaken at the Berry Lane / Wooldale Road junction:
  - The first one being undertaken in the last neutral month before works commence to the Rowtree Road / London Road / Wooldale Road Roundabout;
  - The second one being undertaken in the first neutral month after works are completed to the Rowtree Road / London Road / Wooldale Road Roundabout;
  - The third one being undertaken in a neutral month one year afterwards. Should both the latter two surveys demonstrate that the conditions at the Berry Lane / Wooldale Road junction have not improved, the improvements shown on Figure 15.5 of the Transport Assessment shall be implemented.
- 16) Prior to the first occupation of any dwelling a full Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The measures contained in the agreed Residential Travel Plan shall be carried out in accordance with the approved details.
- 17) Prior to the commencement of any works affecting any existing public right of way, full details of any enhancement, improvement, diversion or closure shall be submitted for approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and in accordance with a timetable to be agreed in writing with the Local Planning Authority.
- 18) No development shall take place in each phase of development until an Arboricultural Method Statement, in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations", including details and proposed timing of all proposed tree works to any tree or hedge on, or, if consent obtained, adjacent to, the site and replacement tree planting, has been submitted to and approved in writing by the Local

Planning Authority. Thereafter, the development of each phase of development shall be carried out in accordance with the approved details.

- 19) No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of the proposed type, and a plan of the proposed position of, measures for the protection of trees and hedges that are to be retained on the site, in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations", have been submitted to, and approved in writing by, the Local Planning Authority. The measures identified, including tree protection barriers, shall be implemented in accordance with these details and shall remain in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition and the ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made (including addition/removal of topsoil/subsoil) without prior written consent of the Local Planning Authority.
- 20) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 0.5% (1 in 200) probability critical storm with climate change allowance will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall comply with the parameters set out in the agreed FRA (Peter Brett Associates, 28015/012 Rev4, February 2014) and shall also include:
- Full calculations and detailed drawings with levels to Ordnance Datum, including flow control structures.
  - Designing for exceedance and consideration of overland flows.
  - Accommodation of the existing spring on site.
  - Details of how the scheme shall be maintained and managed after completion to support the Section 106 Agreement
- 21) Prior to the submission of any reserved matters application for that part of the golf course within the flood plain, a scheme for flood plain compensation must be submitted to, and approved in writing by, the local planning authority. The scheme shall also include:
- Flood plain compensation on a level for level, volume for volume basis up to the 0.5% (1 in 200) probability flood with climate change.
  - Additional storage as set out in section 9 of the agreed FRA, (Peter Brett Associates, 28015/012 Rev4, February 2014).
  - Evidence that flood risk is not increased elsewhere as a result of the re-profiling of ground levels.
- The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.
- 22) No development approved by this planning permission shall take place until such time as a scheme for works to Wootton Brook has been submitted to,

and approved in writing by, the local planning authority. The scheme shall comply with the parameters set out in the agreed Flood Risk Assessment, (Peter Brett Associates, 28015/012 Rev4, February 2014) and shall also include:

- Full detailed design of the Wootton Brook Crossing and any associated mitigation.
- Details of localised channel improvements to improve conveyance.
- Details of the long term management and maintenance of the Wootton Brook and associated flood plain.
- Evidence that flood risk is not increased elsewhere as a result of the crossing or other works to the Wootton Brook.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

- 23) No building works which comprise 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 has been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works have been carried out in accordance with the approved scheme.
- 24) Prior to the commencement of development details of a suitable fence adjacent to the boundary with the railway, to prevent golf balls from entering railway land, shall be submitted to and approved in writing by the Local Planning Authority. The fence shall be erected before the proposed new golf holes 4 and 5 adjacent to the railway line are brought into use
- 25) No development shall take place until a phased programme of further archaeological work (in accordance with the details outlined in the ES accompanying the application) shall be submitted to and approved in writing by the Local Planning Authority. The further archaeological work shall be undertaken prior to the commencement of any infrastructure phase, landscaping phase or development parcel (as identified in the phasing plan to be agreed under Condition 7) where such further archaeological work is required.
- 26) Prior to the commencement of the demolition of buildings on site a Mitigation Strategy detailing the measures to be put in place to ensure that the risk of harm to bats during demolition is minimised shall be submitted to and approved in writing by the Local Planning Authority; demolition shall be implemented in accordance with the approved details. The Mitigation Strategy shall include details of replacement bat boxes to be sited on retained features to provide alternative roosting opportunities and details of an appropriate Natural England European Protected Species Derogation Licence to undertake the Mitigation Strategy.
- 27) Prior to the commencement of development a Mitigation Strategy detailing the measures to be put in place to ensure that the risk of harm to otters during construction work is minimised shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved details.

- 28) Prior to the submission of any reserved matters application an Ecological Construction Method Statement (ECMS) setting out in detail the measures to be implemented to protect ecological resources (as specified in paragraph 9.6.37 of the approved Environmental Statement) shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved Statement.
- 29) Prior to the submission of any reserved matters application a Landscaping and Ecological Management Plan (LEMP) setting out in detail the long-term management measures to be implemented (as specified in paragraph 9.6.40 of the approved Environmental Statement) shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved Plan.
- 30) Before any non-residential development commences as part of the overall development a Noise Assessment shall be submitted for approval in writing to the Local Planning Authority specifying the sources of internal and external noise and the provisions to be made for its control. The approved scheme shall be implemented prior to the occupation of the non-residential unit in accordance with the approved details.
- 31) Before any non-residential development commences as part of the overall development a scheme shall be submitted for approval in writing by the Local Planning Authority which specifies the arrangements to be made for deliveries to the premises concerned. The scheme shall be carried out in accordance with the approved details.
- 32) Concurrently with the Reserved Matters submission for each phase, a Noise Assessment of the exposure of proposed residential premises, with particular reference to bedrooms, based on the final building and estate layout, due to transportation noise shall be submitted for approval in writing to the Local Planning Authority. In particular the assessment shall identify the dwellings where the LAeq, night 55 dB noise level is exceeded at bedroom window height. The assessment shall take into account the likely growth of traffic over the next 15 years. Where any bedroom is exposed to noise levels in excess of LAeq night 55 dB, the submitted Noise Assessment shall include a scheme to protect those rooms. This will include provision for additional ventilation and / or heat control that will allow the occupant to keep the windows closed, independent of weather conditions.
- 33) Prior to the first occupation of the development, full details (including the precise alignment and the construction materials) of any acoustic barrier proposed shall be submitted to and approved in writing by the Local Planning Authority and the barrier shall subsequently be installed in accordance with the approved details.
- 34) Prior to the commencement of Phase 2 of the development, an area of land measuring at least 1.01ha will be identified within the proposed Strategic Open Space for the provision of community food production. The nature of this provision will be agreed in prior consultation with the local resident population. Full details of the provision including timing of implementation shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed timing.

- 35) Prior to the commencement of development, an intrusive investigation in respect of possible contaminants and ground gas generation within the site shall be completed – the scope and methodology of which shall be submitted to and approved in writing by the Local Planning Authority. The results of any such investigation shall be used to produce a method statement for any remedial work, which, if required, shall be submitted to and approved in writing by the Local Planning Authority. All remedial works found to be required shall be fully implemented in accordance with the approved details and a validation report shall be submitted to and approved in writing by the Local Planning Authority within 2 weeks of the completion of the development hereby approved. In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported immediately in writing to the Local Planning Authority and subsequently investigated, remediated and validated in accordance with the full requirements of this condition.
- 36) The residential units hereby approved shall be designed to provide accessible and adaptable accommodation that meets the optional requirement M4(2) of Part M of the Building Regulations.
- 37) Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), the commercial premises hereby approved shall not be used for any purposes other than those in use classes A1, A2, A3, A4, A5, B1 and D1 of the aforementioned order.
- 38) Notwithstanding the provisions of Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), at no time shall the total gross retail floor area of the development hereby approved exceed 810 sq m and any individual unit exceed 500 sq m gross floor area.
- 39) Prior to the commencement of each phase, details of the provision for the storage and collection of refuse and materials for recycling shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 40) Locally Equipped and Neighbourhood Equipped Areas of Play shall be provided across the site in accordance with the indicative positions depicted upon the Parameter Plan (BHL001- 015 J); full details (including for their management and maintenance) shall be submitted contemporaneously with subsequent reserved matters applications and be approved in writing by the Local Planning Authority, development shall be implemented in accordance with the approved details.
- 41) No development shall commence on phases 2 and 3 (as defined by drawing number BHL0001/019/d – Indicative Phasing) until a 'Deed of Adherence' in the form set out in the Ninth Schedule to the Section 106 Agreement dated 22 December 2015 relating to this permission has been executed by all the landowners of the land comprising phases 2 and 3 to secure necessary on- and off-site contributions.



## Annex B

Schedule of conditions to be attached to a grant of planning permission for 378 dwellings served by a new access from Windingbrook Lane and the reconfiguration of part of the Collingtree Park Golf Course, including a new temporary hole 17, demolition of all existing buildings and structures within the site, green infrastructure including formal and informal open space, car parking, sustainable drainage systems (including flood risk betterment) and infrastructure (including highway improvements) in accordance with application Ref N/2013/1063, dated 16 October 2013:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DLA BHL001-040-B, DLA-866-003-C, DLA-866-004-D, DLA-866-006-B, DLA-866-007-B, PBA-28015/001-F, PBA-28015/003-D, PBA-28015/006-G, PBA-28015/007, PBA-28015/008-A, EDP-1881-55-E, EDP-1881-56-F, EDP-1881-57-E, EDP-1881-58-F, EDP-1881-75-F, EDP-1881-69-E, EDP-1881-59-E, EDP-1881-60-E, EDP-1881-61-E, EDP-1881-62-E, EDP-1881-63-E, EDP-1881-64-E, EDP-1881-65-E, EDP-1881-66-E, EDP-1881-67-E, EDP-1881-68-E, DLA-866-H-202-01, DLA-866-H-241-01, DLA-866-H-302-01, DLA-866-H-303-01, DLA-866-H-303-02, DLA-866-H-303-03, DLA-866-H-351-01, DLA-866-H-402-01, DLA-866-H-402-02, DLA-866-H-403-01, DLA-866-H-403-02, DLA-866-H-403-04, DLA-866-H-403-05, DLA-866-H-404-01, DLA-866-H-404-03, DLA-866-H-404-04, DLA-866-H-409-01, DLA-866-H-409-02, DLA-866-H-409-03, DLA-866-H-410-01, DLA-866-H-461-01, DLA-866-H-501-01, DLA-866-H-501-03, DLA-866-H-502-01, DLA-866-H-502-02, DLA-866-H-502-03, DLA-866-H-507-01, DLA-866-H-507-03, DLA-866-H-507-04, DLA-866-H-534-01, DLA-866-H-534-02, DLA-866-H-534-04, DLA-866-H-534-05, DLA-866-H-603-01, DLA-866-H-603-02, DLA-866-HGAR-01, DLA-866-H-GAR-02, DLA-866-H-GAR-03.
- 3) Development shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
  - a) the management of traffic and routing during construction: to address site access, routes within site kept free from obstruction, wheel washing, travel plan for construction workers, loading and unloading, vehicle parking and turning areas, a scheme for prevention of surface water discharges onto the highway;
  - b) The location of access points for site traffic;
  - c) detailed measures for the control of dust during the construction phase of development;
  - d) the location and size of compounds;
  - e) the location and form of temporary buildings, adverts and hoardings;
  - f) details for the safe storage of any fuels, oils and lubricants;
  - g) construction of exclusion zones to prevent soil compaction for large scale planting areas, public and school playing fields, and remediation of any soil compaction;
  - h) a scheme for the handling and storage of topsoil;

- i) details of the methods of protection of trees, hedgerows and water features in accordance with condition 19;
- j) a scheme for the protection of areas of ecological interest and for the mitigation of any possible harm to such areas;
- k) details of any temporary lighting;
- l) procedures for maintaining good public relations including complaint management, public consultation and liaison;
- m) measures for the control of noise emanating from the site during the construction period;
- n) Construction Plant Directional signage (on and off site);
- o) provision for all site operatives, visitors and construction vehicles, loading and unloading of plant and materials;
- p) waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from construction works including confirmation of any material exports, routing and deposition sites.

The approved CEMP and measures contained therein shall be adhered to throughout the construction period.

- 4) No construction work (including use of machinery and/or plant maintenance) shall be carried out on the site outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays or at any time on Sundays, Bank Holidays or other statutory holidays. No construction traffic shall enter or leave the site before 0700 Mondays to Saturday or at any time on Sundays, Bank Holidays or other statutory holidays.
- 5) Prior to the commencement of development, engineering and construction details of the access junction to the site as shown indicatively upon approved drawings 28015/001 Rev F (Windingbrook Lane) be submitted to and approved in writing by the Local Planning Authority. The approved junction shall be provided prior to the commencement of any other works on site and in accordance with the approved details..
- 6) No dwelling shall be occupied until details of the precise location and engineering and construction details of the following walking and cycling measures have been submitted to and approved in writing by the Local Planning Authority and the works have been carried out in accordance with the approved details:
  - 2no. pedestrian / cycle connections to existing bridleway KG2
  - Provision of on-road advisory cycle lane on Hilldrop Road (to be delivered at the start of Phase 2) and Penvale Road
  - Upgrade of existing footway in the southern verge of Mereway between the junction with Penvale Road and the A451 Queen Eleanor Roundabout
  - A controlled pedestrian crossing on Rowtree Road.
- 7) No dwelling shall be occupied until engineering and construction details of the following highway improvements have been submitted to and approved in writing by the Local Planning Authority and the works have been carried out in accordance with the approved details:
  - Improvement to Rowtree Road / London Road / Wooldale Road roundabout (TA Figure 15.2)
  - Improvements to A45/Queen Eleanor Interchange (TA Figure 15.6)
  - Improvements to Towcester Road/Mereway/Tesco/Danes Camp Way roundabout (TA Figure 15.7)

- 8) Three peak hour part classified junction turning and queue count surveys shall be undertaken at the Berry Lane / Wooldale Road junction:
  - The first one being undertaken in the last neutral month before works commence to the Rowtree Road / London Road / Wooldale Road Roundabout;
  - The second one being undertaken in the first neutral month after works are completed to the Rowtree Road / London Road / Wooldale Road Roundabout;
  - The third one being undertaken in a neutral month one year afterwards. Should both the latter two surveys demonstrate that the conditions at the Berry Lane / Wooldale Road junction have not improved, the improvements shown on Figure 15.5 of the Transport Assessment shall be implemented.
- 9) Prior to the first occupation of any dwelling a full Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The measures contained in the agreed Residential Travel Plan shall be carried out in accordance with the approved details.
- 10) Prior to the commencement of any works affecting any existing public right of way, full details of any enhancement, improvement, diversion or closure shall be submitted for approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and in accordance with a timetable to be agreed in writing with the Local Planning Authority.
- 11) No development shall take place in each phase of development until an Arboricultural Method Statement, in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations", including details and proposed timing of all proposed tree works to any tree or hedge on, or, if consent obtained, adjacent to, the site and replacement tree planting, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development of each phase of development shall be carried out in accordance with the approved details.
- 12) No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of the proposed type, and a plan of the proposed position of, measures for the protection of trees and hedges that are to be retained on the site, in accordance with BS 5837:2012 "Trees in Relation to Design, Demolition and Construction – Recommendations", have been submitted to, and approved in writing by, the Local Planning Authority. The measures identified, including tree protection barriers, shall be implemented in accordance with these details and shall remain in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition and the ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made (including addition/removal of topsoil/subsoil) without prior written consent of the Local Planning Authority.
- 13) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated

up to and including the 0.5% (1 in 200) probability critical storm with climate change allowance will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall comply with the parameters set out in the agreed FRA (Peter Brett Associates, 28015/012 Rev4, February 2014) and shall also include:

- Full calculations and detailed drawings with levels to Ordnance Datum, including flow control structures.
- Designing for exceedance and consideration of overland flows.
- Accommodation of the existing spring on site.
- Details of how the scheme shall be maintained and managed after completion to support the Section 106 Agreement

- 14) No development approved by this planning permission shall take place until such time as a scheme for works to Wootton Brook has been submitted to, and approved in writing by, the local planning authority. The scheme shall comply with the parameters set out in the agreed Flood Risk Assessment, (Peter Brett Associates, 28015/012 Rev4, February 2014) and shall also include:

- Full detailed design of the Wootton Brook Crossing and any associated mitigation.
- Details of localised channel improvements to improve conveyance.
- Details of the long term management and maintenance of the Wootton Brook and associated flood plain.
- Evidence that flood risk is not increased elsewhere as a result of the crossing or other works to the Wootton Brook.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

- 15) No building works which comprise 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 has been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the works have been carried out in accordance with the approved scheme.

- 16) No development shall take place within the application site until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

- 17) Prior to the commencement of the demolition of buildings on site a Mitigation Strategy detailing the measures to be put in place to ensure that the risk of harm to bats during demolition is minimised shall be submitted to and approved in writing by the Local Planning Authority; demolition shall be implemented in accordance with the approved details. The Mitigation Strategy shall include details of replacement bat boxes to be sited on retained features to provide alternative roosting opportunities and details of an appropriate Natural England European Protected Species Derogation Licence to undertake the Mitigation Strategy.

- 18) Prior to the commencement of development a Mitigation Strategy detailing the measures to be put in place to ensure that the risk of harm to otters during construction work is minimised shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved details.
- 19) Prior to the commencement of development an Ecological Construction Method Statement (ECMS) setting out in detail the measures to be implemented to protect ecological resources (as specified in paragraph 9.6.37 of the approved Environmental Statement) shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved Statement.
- 20) Prior to the commencement of development a Landscaping and Ecological Management Plan (LEMP) setting out in detail the long-term management measures to be implemented (as specified in paragraph 9.6.40 of the approved Environmental Statement) shall be submitted to and approved in writing by the Local Planning Authority; development shall be implemented in accordance with the approved Plan.
- 21) Prior to the commencement of development, a Noise Assessment of the exposure of proposed residential premises, with particular reference to bedrooms, due to transportation noise shall be submitted for approval in writing to the Local Planning Authority. In particular the assessment shall identify the dwellings where the LAeq, night 55 dB noise level is exceeded at bedroom window height. The assessment shall take into account the likely growth of traffic over the next 15 years. Where any bedroom is exposed to noise levels in excess of LAeq night 55 dB, the submitted Noise Assessment shall include a scheme to protect those rooms. This will include provision for additional ventilation and / or heat control that will allow the occupant to keep the windows closed, independent of the weather conditions, if they so wish.
- 22) Prior to the first occupation of the development, full details (including the precise alignment and the construction materials) of the 3m high acoustic barrier (as indicated upon the Parameter Plan (BHL001-015 J)) shall be submitted to and approved in writing by the Local Planning Authority and the barrier shall subsequently be installed in accordance with the approved details.
- 23) Prior to the commencement of development, an intrusive investigation in respect of possible contaminants and ground gas generation within the site shall be completed – the scope and methodology of which shall be submitted to and approved in writing by the Local Planning Authority. The results of any such investigation shall be used to produce a method statement for any remedial work, which, if required, shall be submitted to and approved in writing by the Local Planning Authority. All remedial works found to be required shall be fully implemented in accordance with the approved details and a validation report shall be submitted to and approved in writing by the Local Planning Authority within 2 weeks of the completion of the development hereby approved. In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported immediately in writing to the Local Planning Authority and subsequently investigated, remediated and validated in accordance with the full requirements of this condition.

- 24) The residential units hereby approved shall be designed to provide accessible and adaptable accommodation that meets the optional requirement M4(2) of Part M of the Building Regulations.
- 25) Prior to the commencement of each phase, details of the provision for the storage and collection of refuse and materials for recycling shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 26) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed scheme of hard and soft landscaping for the site. The scheme shall include indications of all existing trees and hedgerows on the land and details of any to be retained.
- 27) All planting, seeding or turving comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and which shall be maintained for a period of five years; such maintenance to include the replacement in the current or nearest planting season whichever is the sooner of shrubs that may die or are removed or become seriously damaged or diseased with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 28) Prior to the commencement of development full details of the Locally Equipped Areas of Play (LEAPs) and sports pitches shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be located on the site in accordance with the positions depicted on 'Fig 10 – Public open space' contained within the design and access statement Addendum (July 2014). Development shall be implemented in accordance with the approved details. The LEAPs and sports pitches shall be completed and made available for use prior to the occupation of 200 dwellings on the site and be managed and maintained in accordance with the details submitted to discharge condition 20.



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

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

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

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

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

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

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

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

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

### **SECTION 3: AWARDS OF COSTS**

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

### **SECTION 4: INSPECTION OF DOCUMENTS**

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