

28 September 2011

Ian Ginbey  
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51 Eastcheap  
London  
EC3M 1JP

Our Ref: APP/LI765/A/10/2126522  
Your Ref:

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY CALA HOMES (SOUTH) LTD  
AT LAND AT BARTON FARM, ANDOVER ROAD, WINCHESTER, HAMPSHIRE,  
SO22 6AX  
APPLICATION: REF 09/02412/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christina Downes BSc DipTP MRTPI, who held a public local inquiry between 8 – 28 February 2011 into your client's appeal for non-determination of an application by Winchester City Council for 2,000 dwellings, a local centre including a new primary school, retail food store up to 2,000m<sup>2</sup>, community building, health centre, 60 bedroom nursing home, district energy centre, car parking and supporting/ancillary uses within Use Classes A1, A2, A3, A4, A5, D1, D2, B1(a), formal and informal recreation open space, car parking, park and ride facility for up to 200 cars, land for allotments, landscaping, drainage measures including four foul water pumping stations, new road infrastructure including the diversion of Andover Road North and formation of new Andover Road, formation of new public rights of way across the site and provision of on and off site infrastructure at land at Barton Farm, Andover Road, Winchester, Hampshire, SO22 6AX in accordance with application number 09/02412/OUT, dated 20 November 2009.
2. On 19 April 2010, the appeal was recovered for the Secretary of State's own determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990.

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

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. In reaching this position the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the documents referred to at IR7, and the Inspector's comments at IR7 and IR425. Like the Inspector (IR425) the Secretary of State is satisfied that the evidence in the Environmental Impact Assessment is fully adequate for a reasoned assessment of the likely environmental impacts of the development and how they may be mitigated. He is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

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

5. Following the close of the Inquiry, the Secretary of State received representations from Alicia Lundy (31 March 2011), Bill Morrison (8 May 2011), from A.L.L.Skinner (undated) and from Clyde and Co (9 June 2011). The Secretary of State also took account of the following representations received by the Planning Inspectorate too late for consideration by the Inspector: Abdul Kayum (27 February 2011); Christopher Turner on behalf of both the Winchester Business Improvement District and the Chamber of Commerce (28 February 2011); Councillor Ian Tait (2 March 2011); Francis Porter of the Highway's Agency (10 March 2011); Professor Elizabeth Stuart (21 March 2011).
6. The Secretary of State has taken account of all of these representations in his consideration of the appeal before him. However, he is satisfied that they do not raise matters which would require him to refer back to parties prior to reaching his decision. Copies of the representations are not attached to this letter but may be obtained on written request to the address or the email address at the foot of the first page of this letter.

### **Policy considerations**

7. In deciding the application, 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.
8. In this case, the development plan comprises the Regional Strategy which is the South East Plan (2009) (SEP) and the saved policies of the Winchester

District Local Plan Review (2006) (LP). The Secretary of State considers that policies relevant to this appeal include those listed by the Inspector at IR20-24, LP policies W.1 and CE.5 and those further policies set out in section 5 of evidence document CD/4.1. He observes that the Council's Core Strategy is at an early stage (IR18), and that the Inspector gives it very little weight (IR341). Whilst he is aware that the Council has continued to progress the emerging CS since the inquiry, the Secretary of State does not consider that it has yet reached a stage where it attracts greater weight.

9. The Secretary of State has made it clear, following the judgment of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council* [2010] EWHC 2886 (Admin), that it is the Government's intention to revoke Regional Strategies, and the provisions of the Localism Bill which is now before Parliament reflect this intention. This gave rise to a subsequent decision of the Court on 7 February 2011 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin) which held that the Government's intention to legislate to revoke Regional Strategies was capable of being a material consideration. Although, the Secretary of State has taken this matter into account in determining this case and he gives it limited weight at this stage of the parliamentary process.
10. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*; PPS1 Supplement: *Planning and Climate Change*; *The Planning System: General Principles*; PPS3: *Housing* (June 2010); PPS4: *Planning for Sustainable Economic Growth*; PPS5: *Planning for the Historic Environment*; PPS7: *Sustainable Development in Rural Areas*; PPS9: *Biological and Geological Conservation*; PPS10: *Planning for Sustainable Waste Management*; PPS12: *Local Spatial Planning*; Planning Policy Guidance (PPG) 13: *Transport*; PPG17: *Planning for Open Space, Sport and Recreation*; PPS22: *Renewable Energy*; PPG24: *Planning and Noise*; PPS25: *Development and Flood Risk*; Circular 11/95: *The Use of Conditions in Planning Permission*; Circular 05/05: *Planning Obligations*; the 2010 Community Infrastructure Levy (CIL) Regulations; and the Written Ministerial Statement issued by the Rt Hon Greg Clark MP on 23 March 2011, which emphasises that the Secretary of State will attach significant weight to the need to secure economic growth and employment.
11. The Government published a consultation draft National Planning Policy Framework on 25 July 2011. Whilst the Secretary of State has had regard to this document in his determination of this case, as it is for consultation and is subject to change, he has given it little weight.

### **Main issues**

12. The Secretary of State considers that the main issues in this case are the proposal's relationship to the development plan and those issues set out by the Inspector at IR309.

Whether there is a compelling justification for the release of the reserve housing site and whether it would be premature in advance of the emerging core strategy

*Housing Requirements*

13. The Secretary of State has taken account of the fact that the LP identifies the site as a “reserve” site for some 2,000 dwellings which may only be released for development if there is a “compelling justification” for additional housing in Winchester district (IR310). Having also had regard to the views of the Council as set out at IR97 and the Inspector’s remarks at IR347, the Secretary of State observes that the wording of policy MDA.2 is clearly intended to set a very high hurdle before this greenfield reserve site may be released. He agrees with the Inspector that, under MDA.2, countryside policies will apply unless a compelling justification has been established and that the relevant countryside policies in the LP would not support a development such as that proposed on the appeal site (IR23). The Secretary of State has given very careful consideration to the Inspector’s comments at IR311 – 318. He notes the Inspector’s analysis in relation to abolition of Regional Strategies (IR315 – 318). As set out at paragraphs 8 and 9 above, he has taken account of the SEP as a development plan document and he has attributed limited weight to the Government’s intention to revoke Regional Strategies. He agrees with the Inspector that, in relation to the SEP’s housing requirement, there is no evidence that the evidence base was either flawed or unsound or that it would justify lowering the level of housing provision in the South East region further (IR314). He also agrees with the Inspector (IR318) that PPS3 makes clear that local authorities must make provision for a continuous supply of housing for at least 15 years in order to meet the needs of their areas and that, if the need for housing is not to be addressed through the SEP, the alternative advanced by the Council needs to be credible and robust.
14. The Secretary of State sees no reason to disagree with the Inspector’s comments at IR319 – 322 on the Option 1 housing requirement figure. For the reasons given by the Inspector at IR321 - 322, the Secretary of State shares her view that, whilst there has been some local input in the derivation of the Option 1 figure, this should not be overstated (IR322). Like the Inspector, and for the reasons she gives, he also considers that the conclusion reached by the Panel of the SEP Examination in Public - that the Option 1 figure was not credible - carries significant weight in this appeal (IR323).
15. The Secretary of State sees no reason to disagree with the Inspector’s comments with regard to the alternative housing requirement scenarios put forward by the appellant (IR324 – 328). He agrees that, whilst there are difficulties with each of the appellant’s scenarios, the baseline Scenario A assumes modest job growth and, even when more growth is directed to the PUSH (Partnership of Urban South Hampshire) area, the annual requirement for the non-PUSH part of the district remains relatively close to the SEP requirement and well above the Option 1 figure. The Secretary of State agrees with the Inspector that, at present, the Council is relying on its Option 1 figure, and that this figure does not withstand scrutiny in terms of a credible evidence

base. Like the Inspector, he attributes very little weight to the Option 1 figure and concludes that the only robust housing requirement figure at the present time is that in the SEP (IR329).

16. The Secretary of State has had regard to the Inspector's comment at IR328 that there is no evidence at the present time that Winchester's housing requirement is likely to be materially lower than the SEP figure (IR328). The Secretary of State has already concluded that Winchester's current housing requirement is that set out in the SEP. However, the Secretary of State observes that the Council has stated it wishes to look afresh at its housing needs and to engage with the Government's intention to move away from top-down imposition and to allow local communities to take on a far greater role in identifying the level and location of the housing that is needed in their areas (IR127). Winchester City Council has acted by embarking on its "*Blueprint*" consultation process. The Secretary of State sees no reason to disagree with the Council's assertion that it is actively seeking to embrace the new agenda of locally-based decision making, that progress is being made and that the Council's timetable indicates that a submission CS reflecting the new approach will exist before the end of 2011 (IR128). Whilst it is not yet possible to predict either the level or location of Winchester's housing requirement which will be reflected in the submission CS following completion of the consultation exercise, he has taken account of the Council's stated intentions with regard to looking afresh at its housing needs and to the progress made by the Council in pursuing this strategy.

#### *Housing Land Supply*

17. Having set out his conclusions in respect of housing requirements above, the Secretary of State shares the Inspector's view, for the reasons she sets out (IR330 – 336), that the 4.2 years (2010-2015) housing land supply proffered by the Council for the non-PUSH part of the district is overly optimistic and that it is likely to be well below that level, albeit probably not as low as the 3.2 years suggested by the appellant (IR335).
18. The Secretary of State has had regard to the Council's comments (IR116) that some 92.5% of the 2,000 dwellings proposed would not be delivered until after 2014-15. He observes that, on this basis, the contribution which would be made by the appeal scheme to the current shortfall in Winchester's 5 year housing land supply would be 150 dwellings. He has had regard to the Council's position that short term need alone could not justify the appeal development and to the fact that the appellant considered that this factor should carry only limited weight (IR116 and paragraph 35 of WCC/11). The Secretary of State sees no reason to disagree with the stance taken by either party and he attributes limited weight to the scheme's contribution of 150 homes to Winchester's 5 year housing land supply.
19. Turning to the medium and long term supply, the Secretary of State has given careful consideration to the Inspector's analysis at IR337 – 342. He has had regard to the Inspector's remarks that the appeal proposal has an anticipated phased building programme of 10 years starting in 2013, and that on this timetable completion would not be until 2023 or year 13 of the 15 year housing trajectory (IR337). The Secretary of State has taken account of the Inspector's

comments at IR339 about Winchester's Annual Monitoring Report (AMR) and its reliance on the appeal site in the longer term to meet housing needs.

20. The Secretary of State agrees with the Inspector that, whilst PPS3 does not advocate a moratorium on housing development (IR339), it anticipates that longer term housing requirements will be addressed through local development documents (IR338). He agrees with her that the appeal proposal offers an assured supply of housing in accordance with PPS3 (IR339). However, the Secretary of State has also taken account of the Inspector's comments at IR340 about the Council's *Blueprint* process which has sought to engage with local people and organisations in the planning of their area and to adopt a bottom-up approach that will eventually inform the CS. For the reasons given by the Inspector at IR341, the Secretary of State agrees with her that the emerging CS carries very little weight. However, Government has made it clear that its intention is to return decision making powers in housing and planning to local authorities. This is a key planning priority for the Government and the Secretary of State considers that in this particular case it is important to give Winchester the opportunity to complete its *Blueprint* process. He observes that the appeal proposal is very significant in scale – indeed, if Winchester were to adopt a future housing requirement for the non-PUSH area at the same level as that currently set out in the SEP, the appeal proposal alone would provide a housing land supply of more than 7 years for the non-PUSH area. The Secretary of State takes the view that, if a decision was taken now to allow such a significant housing scheme, this would be likely to undermine the work currently being carried out in Winchester to establish a new bottom-up housing strategy. Whilst he has taken account of the Inspector's view at IR351 that the appeal proposal is necessary in order to provide an assured supply of housing and meet the SEP's longer term (as well as its shorter term) housing requirements, he gives greater weight to the impact of a grant of permission on Winchester's *Blueprint* process, which is in line with the Government's intention to allow local communities a far greater role in identifying the level and location of housing needed in their areas, and to his conclusions on the scheme's conflict with LP Policy MDA.2. For these reasons, he does not consider that the provision of housing for the medium and long term is a matter which merits significant weight in his determination of this case.

#### *Housing Land Supply against Housing Requirements - PPS3*

21. The Secretary of State has concluded that a 5 year housing land supply cannot be demonstrated against the SEP and he agrees with the Inspector (IR343) that paragraph 71 of PPS3 is engaged. Whilst he has taken account of the Inspector's view in relation to the scheme's compliance with national policy as set out in PPS3 (IR343-344), the Secretary of State does not share her view. As set out below, the Secretary of State has not found the compelling justification required to justify the release of this large greenfield site under LP policy MDA.2, and given the scale and phasing of the proposal, he concludes that a decision to grant planning permission is likely to undermine the process of *Blueprint* which is clearly an important policy objective for Winchester and, as the Inspector notes, the community has contributed considerable time and effort to this process (IR340). He concludes that the scheme conflicts in this respect with the considerations set out at paragraph 69 of PPS3.

### *Affordable Housing*

22. For the reasons given by the Inspector (IR345 – 346), the Secretary of State also agrees that the affordable housing provision represents a considerable benefit of the proposal and is not denigrated by the likelihood that in the longer term the backlog of unmet need is unlikely to materially improve (IR346).

### *The Winchester District Local Plan Review*

23. The Secretary of State has given careful consideration to the Inspector's comments at IR347 – 350. He agrees with the Inspector that it is quite clear from the way that Policy MDA.2 is written and its provenance that the question to be asked is whether the site is needed and not when it is needed, and that the issue of whether there is a "compelling justification" is now for the Secretary of State, as decision maker (IR348). He further agrees with her (IR349) that, as there is no up to date five year housing land supply, it is unnecessary to give further consideration to the question of whether, in the context of PPS3 paragraph 70, the LP Policy MDA.2 reserve site is an "allocation" or not.

### *Conclusion on Housing Requirements*

24. Drawing these matters together, the Secretary of State concludes that the affordable housing offered by the scheme is a considerable benefit. He has found that the Council cannot demonstrate a five year supply of deliverable sites and that paragraph 71 of PPS3 is therefore engaged. However, he is not satisfied that the scheme complies with the considerations in paragraph 69 of PPS3. The Secretary of State has taken account of the Inspector's views at IR351 and he sets out his own conclusions on whether he finds a compelling justification for the release of the site under LP Policy MDA.2, and on the scheme's compliance with development plan and national policies below.

### *Whether the development would be accessible to a range of travel modes and would promote sustainable travel choices*

25. The Secretary of State has had regard to the Inspector's reasoning at IR352 – 364 and sees no reason to disagree with her conclusion that the appeal development would be accessible to a range of travel modes, would promote sustainable travel choices, and would accord with relevant development plan policies including policies SP3, T1 and T2 in the SEP, saved policies T.1, T.3 and T.5 in the LP, and with the principles in PPG13 which promote sustainable transport choices and accessibility (IR364).

### Whether the development would generate traffic that would cause unacceptable congestion or undue harm to highway safety

26. The Secretary of State has given careful consideration to the Inspector's comments at IR365 – 386. For the reasons given in those paragraphs, he shares the Inspector's view that the development would not result in traffic generation that would cause unacceptable congestion or undue harm to highway safety and that it would accord with relevant development plan policies, including policy CC7 in the SEP and saved Policies T.2 and T.5 in the LP (IR386).

Whether the development would deliver a balanced and sustainable community with an energy efficient, high quality and socially inclusive design that meets the need of its local area

27. The Secretary of State has given careful consideration to the Inspector's analysis at IR387 – 397. Having had regard to the Inspector's comments at IR391 and to CABA's letter of 18 January 2010, the Secretary of State shares CABA's concern about the proposed downgrading of the Andover Road and, in common with CABA, he considers that this proposal would be detrimental to the historic integrity of Winchester. He considers that the appeal scheme does not comply with LP policy W1 which seeks to protect and enhance the special and historic character of Winchester and its landscape setting. He has taken account of the benefits identified by the Inspector in terms of Andover Walk providing a quieter route for walking and cycling but he does not consider these outweigh the loss of historical dimension that would result from the downgrading of Andover Road.

28. In other respects the Secretary of State agrees with the Inspector's analysis at IR387 – 397. For the reasons she gives, he agrees with her conclusions that the appeal development would deliver a balanced and sustainable community with an energy efficient, high quality and socially inclusive design that meets the needs of its local area (IR397). He further agrees with the Inspector (IR397) that the scheme accords with relevant development plan policies, including Policies SP3, H3, H4, NRM11 and NRM12 in the SEP, saved policies RT.4, H.5 and CE.11 in the LP as well as the provisions in PPS1, PPS3 and PPS4.

Whether the development would cause unacceptable harm in terms of drainage or flooding

29. Having given very careful consideration to the Inspector's analysis at IR398 – 404, the Secretary of State agrees with her conclusion that the development would not cause unacceptable harm in terms of drainage or flooding and would accord with relevant development plan policies and the guidance in PPS25 (IR404).

Whether any permission should be subject to planning conditions and planning obligations

30. The Secretary of State has considered the proposed conditions, the Inspector's comments at IR291-302 and IR405–406, and national policy as set out in Circular 11/95: *The Use of Conditions in Planning Permissions*. Like the Inspector, the Secretary of State is satisfied that the conditions in the Inspector's schedule are reasonable and necessary and meet the tests of Circular 11/95 (IR405). However, he does not consider that they would overcome his reasons for dismissing the appeal.

31. He has also considered the two Planning Obligations described at IR303-307, the Inspector's analysis at IR407 – 413, and national policy as contained in Circular 05/2005: *Planning Obligations* and the CIL Regulations. He agrees with the Inspector that both Obligations meet the tests in Circular 05/2005 (IR407), and the requirements of paragraph 122 of the 2010 CIL Regulations



(IR408). He sees no reason to disagree with the Inspector's conclusion that, in his determination of this case, account can be taken of the Obligations (IR408), and he also agrees with her that the proposal complies with Policy DP.9 and T.5 in the LP (IR413).

## Other Matters

### *Visual amenity, landscape and agricultural land*

32. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusions in respect of visual amenity, landscape and agricultural land as set out at IR414-418.
33. The Inspector states that, as she has found a compelling justification for release of the site under LP Policy MDA.2, countryside objections no longer apply (IR415). However, as set out below, the Secretary of State does not share her view in relation to a compelling justification and, given this, he considers that countryside policies of restraint are relevant. The development of this attractive, greenfield site would, in the Secretary of State's view, conflict with LP policy CE.5 which seeks to protect the character of the landscape and the key characteristics of Landscape Character Areas.
34. The Secretary of State has gone on to consider the other matters set out by the Inspector at IR414. In relation to the concerns expressed about the loss of farmland, the Secretary of State has had regard to Chapter 14 of the Environmental Statement – document CD1.1 and, given his conclusion that a compelling justification for release of the site does not exist, he has weighed the irreversible loss of some 86 hectares of best and most versatile agricultural land against the effect of granting permission for the scheme. The appeal site is not designated as a green wedge, but the Secretary of State agrees with objectors that its development would alter a valued part of the setting of the historic city of Winchester (IR414) and he concludes that this adds to the conflict he has already identified with LP policy W.1. In relation to the site's quality as a recreational resource, the Secretary of State appreciates that this is valued by many local people. However, having taken account of the recreational open space of various kinds included within the appeal proposals and the biodiversity area to the east of the site (IR15), the Secretary of State is satisfied that the proposal does not give rise to significant conflict with LP policy RT2.
35. Having had regard to the Inspector's comments at IR416, the Secretary of State shares her view that the Combined Heat and Power (CHP) Plant would be highly visible and visually harmful from a number of locations. In respect of viewpoints within the South Downs National Park, the Secretary of State also agrees with the Inspector that the Landscape and Visual Impact Assessment concludes that, whilst for the most part there would only be a slight adverse impact, more substantial adverse impacts are recorded from a few closer locations in the Abbots Barton area on the western edge of the National Park (IR417). In common with the Inspector, the Secretary of State considers that the proposed mitigation would reduce the visual harm although it would not eliminate it altogether (IR418) and he concludes that these matters add to his concerns in respect of the scheme's conflicts with LP policies CE.5 and W.1.

### *Residential amenity*

36. The Secretary of State agrees with the Inspector's reasoning and conclusions in respect of residential amenity (IR419 – 420).

### *Effect on local democracy*

37. The Secretary of State sees no reason to disagree with the Inspector's comments at IR421-422. He agrees with her that, given the Government's commitment to decentralising power to the local levels and making local communities accountable for the decisions that affect their areas, it is indeed understandable that there are many who believe that any decision to allow the appeal proposal now would fly in the face of local democracy and undermine the very process of localism that the Government is advocating (IR421). The Secretary of State has indicated (paragraph 20 above) that he considers it important that Winchester is given the opportunity to complete its *Blueprint* work in a meaningful way and, in reaching his decision, he has taken account of the scheme's potential to undermine this process.
38. The Secretary of State notes the Inspector's comment in IR423 about the potential benefit to the local community arising from payment by the Government of the New Homes Bonus.

### *Changes since the 2005 planning appeal*

39. The Secretary of State has had regard to the Inspector's comments at IR424 and has taken account of these matters in reaching his decision.

### **Overall Conclusions**

40. The Secretary of State has given careful consideration to the Inspector's conclusions at IR426-431.
41. The Secretary of State has concluded (at paragraph 23 above) that LP policy MDA.2 requires the decision maker to decide whether or not there is a "compelling justification" for the release of this greenfield reserve site. In considering this matter the Secretary of State has taken into account that Winchester is unable to demonstrate a five year supply of deliverable sites for housing and that paragraph 71 of PPS3 is engaged. He acknowledges that the 800 affordable homes which the proposal would provide are a considerable benefit. Like the Inspector, he concludes that the scheme would be in accordance with the Government's recent Ministerial Statement '*Planning for Growth*' (IR426), and he attributes significant weight to the contribution the scheme would make to economic growth and employment. He also agrees with the Inspector that, if sufficient housing is not delivered, there is a very real danger that the local economy will suffer (IR426). However, for the reasons given in paragraph 20 of this letter, the Secretary of State has taken the view that the scheme's contribution to the provision of housing for the medium to long term is not a consideration to which he gives significant weight. He also considers that, given the scale and phasing of the appeal proposal, a decision to grant planning permission is likely to undermine the process of *Blueprint*

which is clearly an important policy objective for Winchester and which reflects a key planning priority of the Government.

42. In his opinion, the factors he has identified as weighing in favour of the scheme are not sufficient to provide the compelling justification required for the release of this reserve site under LP Policy MDA.2.
43. LP Policy MDA.2 states that countryside policies will continue to apply until such time as the land is required for the development of a new community. For the reasons given above, the Secretary of State has found that the scheme would conflict with LP policies CE.5 and W.1. He has also identified conflicts in relation to national policy in PPS7 given the loss of agricultural land. The Secretary of State has concluded that the development of this attractive greenfield site would undermine the character of the landscape and the key characteristics of the relevant Landscape Character Areas. The development would also alter a valued part of the setting of the historic city of Winchester. Furthermore, given his finding that there is no compelling justification for release of the site, it is the Secretary of State's view that a decision to allow the appeal and grant planning permission would not be in line with PPS3.
44. In conclusion, the Secretary of State is not satisfied that the proposal is in overall conformity with the development plan. Whilst he has identified a number of considerations which weigh in favour of the appeal scheme, he has not found such considerations to be of sufficient weight to justify allowing the appeal and granting planning permission.

### **Formal Decision**

45. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for 2,000 dwellings, a local centre including a new primary school, retail food store up to 2,000 m<sup>2</sup>, community building, health centre, 60 bedroom nursing home, district energy centre, car parking and supporting/ancillary uses within Use Classes A1, A2, A3, A4, A5, D1, D2, B1(a), formal and informal recreation open space, car parking, park and ride facility for up to 200 cars, land for allotments, landscaping, drainage measures including four foul water pumping stations, new road infrastructure including the diversion of Andover Road North and formation of new Andover Road, formation of new public rights of way across the site and provision of on and off site infrastructure, in accordance with application reference 09/02412/OUT, dated 20 November 2009.

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

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

47. A copy of this letter has been sent to Winchester City Council and the Rule 6 party 'Save Barton Farm Group'. A notification letter has been sent to other interested parties who asked to be informed of the outcome of the appeal.

Yours faithfully

**Richard Watson**

Authorised by Secretary of State to sign in that behalf

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

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

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

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

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

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

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

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

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

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

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



The Planning  
Inspectorate

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

by Christina Downes Bsc DipTP MRTPI

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

Date: 20 May 2011

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**TOWN AND COUNTRY PLANNING ACT 1990**

**WINCHESTER CITY COUNCIL**

**APPEAL MADE BY**

**CALA HOMES (SOUTH) LTD**

Inquiry held on: 8-11 February 2011; 14-18 February 2011; 28 February 2011  
Site visit held on: 1 March 2011

Land at Barton Farm, Andover Road, Winchester, Hampshire SO22 6AX

File Ref: APP/L1765/A/10/2126522

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## **CONTENTS**

	<i>Page</i>
Abbreviations List	<b>3</b>
Procedural Matters	<b>4</b>
The Site and Surroundings	<b>5</b>
The Appeal Proposal	<b>6</b>
Planning History	<b>8</b>
Planning Policy	<b>8</b>
The Case for the Appellant: Cala Homes (South) Ltd	<b>10</b>
The Case for Winchester City Council	<b>34</b>
The Case for Save Barton Farm Group	<b>54</b>
Other Oral Representations to the Inquiry	<b>72</b>
Written Representations	<b>79</b>
Conditions	<b>83</b>
Planning Obligations	<b>86</b>
Inspector's Conclusions	<b>88</b>
Inspector's Recommendation	<b>116</b>
Annex A: Appearances	<b>117</b>
Annex B: Documents	<b>119</b>
Annex C: Conditions	<b>132</b>

## ABBREVIATIONS LIST

Term	Acronym
Annual Monitoring Report	AMR
Building Research Establishment Environmental Assessment Method	BREEAM
Combined Heat and Power plant	CHP Plant
Core Strategy	CS
Design and Access Statement	DAS
Development Plan Document	DPD
Environmental Impact Assessment	EIA
Environmental Statement	ES
Examination in Public	EiP
Flood Risk Assessment	FRA
Hampshire County Council	HCC
Hampshire County Structure Plan Review	SP
Hectares	ha
Homes and Communities Agency	HCA
Kilometre	km
Landscape and Visual Impact Assessment	LVIA
Local Development Framework	LDF
Major Development Area	MDA
Office for National Statistics	ONS
Per annum	Pa
The Planning Inspectorate	PINS
Planning Officer's Society	POS
Partnership of Urban South Hampshire	PUSH
Regional Strategy	RS
Save Barton Farm Group	SBFG
South East England Regional Assembly	SEERA
South East Plan	SEP
Statement of Common Ground	SCG
Statement of Common Ground on highways and transportation issues	TSCG
Strategic Environmental Assessment	SEA
Strategic Housing Land Availability Assessment	SHLAA
Strategic Housing Market Assessment	SHMA
Sustainable Drainage System	SuDS
Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999	EIA Regulations
Transportation Assessment	TA
Winchester City Council	WCC
Winchester District Economic and Employment Land Study	ELS
Winchester District Local Plan Review (2005)	LP



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**File Ref: APP/L1765/A/10/2126522**

**Land at Barton Farm, Andover Road, Winchester, Hampshire SO22 6AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Cala Homes (South) Ltd against Winchester City Council.
- The application Ref 09/02412/OUT is dated 20 November 2009.
- The development proposed is for 2,000 dwellings, a local centre including a new primary school, retail food store up to 2,000 m<sup>2</sup>, community building, health centre, 60 bedroom nursing home, district energy centre, car parking and supporting/ ancillary uses within Use Classes A1, A2, A3, A4, A5, D1, D2, B1(a), formal and informal recreation open space, car parking; park and ride facility for up to 200 cars, land for allotments, landscaping, drainage measures including four foul water pumping stations, new road infrastructure including the diversion of Andover Road North and formation of new Andover Road, formation of new public rights of way across the site and provision of on and off site infrastructure.

**Summary of Recommendation: That the appeal be allowed.**

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**PROCEDURAL MATTERS**

1. The Inquiry was closed in writing on 11 March 2011 to allow time for the two Planning Obligations to be signed by all parties following discussion in terms of their form and content during the course of the Inquiry. These documents are considered in more detail later in this Report. On 23 March 2011 the Minister of State for Decentralisation issued a statement entitled "*Planning for Growth*" (*Document PIC/1*). As this followed the close of the Inquiry the main parties were asked for their comments and the responses have been taken into account.
2. The appeal relates to an outline proposal with all matters save for means of access reserved for subsequent approval. The bulleted heading above is a shortened description of what is on the application form. The full description is set out in the Statement of Common Ground on planning issues (SCG) between the Appellant and Winchester City Council (WCC) (*Document CD/4.1, Section 3*). It was confirmed at the Inquiry that the application plans listed in Paragraphs 3.19 and 3.20 of the SCG are incorrect and the correct list is as shown in the Documents List (Annex B to this Report).
3. The appeal was made against the failure of WCC to determine the planning application within the statutory period. On 14 June 2010 the Council formally resolved that it would have refused planning permission had it been in a position to do so. There were eight putative reasons for refusal. However in its Statement of Case WCC acknowledged that its concerns relating to highways issues (putative reasons 2-6) may be capable of being overcome through mitigation measures to be agreed with the Highways Agency and Hampshire County Council (HCC) as the relevant Highways Authorities. Such agreement was subsequently reached and a Statement of Common Ground on highways and transportation issues was produced (TSCG) between The Appellant and HCC (*Document CD/4.2*). The mitigation measures are secured through a Planning Obligation by Agreement (*Document ID/4*).
4. WCC's Statement of Case also indicated that the putative reason for refusal concerning infrastructure contributions, including affordable housing, was capable of being overcome by a Planning Obligation. This has been submitted and meets the Council's concerns (*Document ID/5*). WCC has agreed that the

putative reason for refusal concerning archaeology could be addressed through a planning condition. At the Inquiry WCC only pursued its first putative reason for refusal which is as follows:

*"That having regard to its consistent position on the appropriate level of housing numbers for the non-PUSH area of Winchester district the Council is not satisfied that the local need for housing amounts to the compelling justification needed to justify the release of this reserve site".*

5. Along with WCC and the Appellant the Save Barton Farm Group (SBFG) was given Rule 6 Party status.
6. At the start of the Inquiry several members of the public requested that HCC as Highway Authority should attend the Inquiry to explain how the withdrawal of its highways objections were justified. Whilst a witness summons was discussed this was not found to be necessary as HCC agreed voluntarily to this request. No written evidence was provided but it was agreed that the Highways officer would be present during the evidence of the Appellant's highways witness and would answer questions on any outstanding matters (**Document ID/2**).

## **THE ENVIRONMENTAL STATEMENT**

7. There is no dispute that the proposal is Environmental Impact Assessment (EIA) development. The planning application was accompanied by a Transportation Assessment (TA) and an Environmental Statement (ES) (**Documents CD/1.1; CD/1.6**). The latter included a Landscape and Visual Character Assessment (**Document CD/1.1, Chapter 11**). There was also a Flood Risk Assessment (FRA), a Renewable Energy Assessment and a Retail Impact Assessment. (**Documents CD/1.4; CD/1.8; CD/1.9**). The application was supported by Supplementary Information covering a range of topic areas which were provided by means of Technical Notes as detailed in the SCG (**Documents CD/4/1**). WCC has confirmed that it is satisfied with the scoping and adequacy of the ES, that all necessary publicity has been undertaken and that it is not legally deficient (**Document CD/10/3**). Accordingly I consider that the ES is fit for purpose.

## **APPEAL RECOVERY**

8. The appeal was recovered by the Secretary of State for Communities and Local Government on 19 April 2010. The reason for this direction was that the appeal involved a proposal for residential development of over 150 units and was on a site of over 5 ha, 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. There were several matters on which the Secretary of State wished to be informed and these are set out in full in his letter (**Document CD/10.1**).

## **THE SITE AND SURROUNDINGS**

9. There is an agreed description of the site and its surroundings in the SCG (**Document CD/4.1, Section 2**). There are some useful photographs, including an aerial view in the ES (**Document CD/1.1, Chapter 11**). The topography and the boundaries of the South Downs National Park and Local Gap are shown on

Figure 11.1 in the same ES chapter. The location of the site in relation to the wider context, including the highway network, is helpfully shown on Figure 7.1 in the ES (*Document CD/1.1, Page 7-18*). The site in relation to its surrounding suburbs can be seen on a plan in the Design and Access Statement (DAS) (*Document CD/1.2a, Page 35*). The boundaries of the application site are shown on the application plan RPS01 Rev 03.

*The main points are:*

10. The appeal site comprises some 93 hectares of open agricultural land on the northern side of Winchester. It is about 2 km from the city centre with its shops and associated facilities and about 1 km from the railway station. The western boundary adjoins Andover Road (B3420) which is a Roman road and provides a main route into Winchester from the A34. It is edged at this point by a distinctive line of mature sycamore trees. To the west of this route are the mainly residential suburbs of Harestock and Weeke and the Henry Beaufort secondary school. The site extends southwards to the rear of residential properties in Park Road and Old Gardens. The eastern boundary is formed by the London to Southampton railway which stands on an embankment as it crosses the central section of the site. The appeal site extends east of the railway line as a narrow corridor to provide a footpath link to Worthy Road. This crosses a larger area of farmland which is part of the Local Gap and backs onto houses in Courtenay Road and Colley Close within the settlement of Abbots Barton. To the east of Worthy Road are the water meadows of the River Itchen, which is a Site of Special Scientific Interest and a Special Area of Conservation and the South Downs National Park.
11. The northern edge of the appeal site falls relatively steeply to Well House Lane which forms its northern boundary. This road runs east from Andover Road to the village of Headbourne Worthy. To the north of Well House lane is a dry valley within which is the Harestock waste water treatment works. Beyond this the chalk downland rises up towards the A34 and there is a wide panorama of farmland with stands of woodland and tree belts. Another dry valley intersects the southern part of the appeal site continuing east and into the land on the far side of the railway line. A tree lined ridge crosses the central part of the site and provides a prominent feature in the landscape. The wide belt of mature beech trees along the northern eastern section of the ridge give way to a hedgerow interspersed with young copper beeches along the south western section. A public footpath runs along the ridge and this diverts southwards along the edge of the railway embankment through an underpass and up the other side to emerge in Well House Lane on the eastern side of the railway bridge.

## **THE APPEAL PROPOSAL**

12. The planning application was made in outline with all matters save for means of access reserved for later consideration. It was accompanied by a number of documents that give further information about the proposed development. These include a DAS and a Masterplan (*Documents CD/1.2a; CD/1.23*). In accordance with Paragraph 52 of Circular 01/2006 there are indicative details of the distribution of uses, the amount of development proposed for each use, the layout and the height and size of building blocks. The application was also accompanied by a number of other documents including a TA and ES as referred to above. Before the application was submitted there was a process

of consultation with WCC and other stakeholders, which included meetings and workshops. There were also public exhibitions and presentations (*Documents CD/1.10; CD/1.2a; CALA/3/4*).

13. A detailed description of the appeal scheme is in the SCG and also in the evidence (*Documents CD/4/1; CALA/3/1*). The Masterplan indicates that the housing layout would respond to the orientation and topography of the site. To the south of the ridge advantage would be taken of the southerly aspect with development following the contours as the land falls away. North of the ridge there would be fingers of development interspersed by green corridors. The tree lined ridge would be retained free of development as would the land adjacent to the railway, the southern dry valley and the northern slopes adjoining Well House Lane. Within the north western corner would be a park and ride "light" for up to 200 vehicles.
14. The proposal includes the diversion of Andover Road through the site with new signalised road junctions at either end. This would go through the new Local Centre where the route is intended to form a village street with a shared surface and a 20 mph speed limit (*Document CD/1.6b, Section 7 and Appendix D*). The existing Andover Road would be downgraded to a green corridor for cyclists and pedestrians. It would be closed to through traffic although would provide vehicular access to frontage properties.
15. There would be a new Local Centre at the heart of the development. This would provide a foodstore, shops, food and drink establishments and services to meet the daily needs of the new residents. There would be some local employment and community facilities and a health centre. To the east of the centre would be a site for a new primary school and a nursery is also proposed. To the west of the centre and opposite the Henry Beaufort secondary school would be a community open space. The proposal also includes a district energy centre with a Combined Heat and Power (CHP) plant. There would be recreational open space of various kinds, allotments and informal greenspace. Drainage would be by means of a sustainable drainage system (SuDS). To the east of the railway line, but outside the application site, there would be a biodiversity area for informal recreational use. A footpath and cycleway would be provided to link the new development with Worthy Road to the east. Various highway improvements are proposed and these are described in the TSCG (*Document CD/4.2, Section 5 and Figure 10.1*).
16. There would be some 2,000 dwellings built to densities of between 20 and 60 dwellings per hectare. The highest densities are shown around the Local Centre and the lowest on the peripheries including where the site adjoins the existing housing to the south. The buildings height plan indicates that these would generally be 2 or 2.5 storeys in height with some higher development mainly around the Local Centre rising to 4 storeys in places. The CHP plant would be about 2.5 storeys high with a chimney rising to 19 metres. It is proposed to be lower than the adjoining tree belt topping the ridge (*Document CALA/3/3*). Development is anticipated to commence in 2013 with a 10 year phased building programme. The primary school and bus service are expected to be provided at a relatively early stage and the Local Centre in year 5 (*Document CALA/3/1, Paragraphs 3.14, 3.15*). 800 of the dwellings would be affordable (40%), including a 60 bedroom extra care unit.

## **PLANNING HISTORY**

17. Following a public Inquiry in 2005 an outline proposal for 2,000 dwellings on the site was refused permission by the Secretary of State in February 2006 under reference APP/L1765/A/04/1159940 (the 2005 appeal). This was similar to the current proposal although it did not include the diversion of Andover Road or the extent of mitigation measures in the present highways package. The Inspector concluded that there was no compelling justification for the release of the appeal site for housing but considered that the scheme was satisfactory in other respects including infrastructure. The Secretary of State agreed with that conclusion (*Documents CD/11.1, CD/11.2*).

## **PLANNING POLICY**

18. The development plan comprises the **South East Plan** (2009) (SEP) and the **Winchester District Local Plan Review** (2006) (LP) (*Documents CD/5.1; CD/5.2*). WCC has started preparation on its **Core Strategy Development Plan Document** (CS). This had reached "Preferred Option" stage but following the announcement by the Secretary of State that RS were to be revoked work stopped on the CS preparation and a new public consultation exercise was commenced. Whilst the regional tier remains part of the development plan following successful action through the courts by the Appellant, WCC is continuing with its consultation process. The CS is presently at an early stage and WCC intends to publish a pre-submission consultation later in 2011. There was debate at the Inquiry about whether this was a realistic timetable.
19. The policies in the development plan that are considered most relevant to this appeal are set out in the SCG (*Document CD/4.1, Section 5*). There are rafts of policies at all levels that seek to promote sustainable forms of development and accessibility and deal with issues such as highway safety, flood risk, nature conservation, environmental protection, residential amenity and community infrastructure. It is unnecessary to set them all out here but it is helpful to address those policies that have particular pertinence to the main considerations in this appeal. My conclusions and recommendation are based on a consideration of all relevant policies.

### **South East Plan**

20. **Policy SP3** seeks to focus development within or adjacent to urban areas in accessible locations. At least 60% should be on previously developed land and new urban extensions should be well designed and sustainable. **Policy H1** in the SEP sets out the regional housing provision between 2006 -2026. For Winchester district this is 12,240 houses and this is divided into two ring fenced delivery targets. 6,740 houses are to be provided in the southern part of the district which is within the South Hampshire sub region and known as the PUSH area and 5,500 houses in the remainder of the district (275 per annum), which is known as the non PUSH area and includes the appeal site. **Policy H2** sets out provisions for allocating and managing the delivery of regional housing numbers whilst ensuring appropriate regard is paid to environmental and infrastructure issues. It advises local planning authorities to plan for an increase in housing completions to help meet the anticipated need and demand.

21. **Policy H3** states that a substantial increase in affordable housing in the region will be delivered with an overall regional target of 35%. **Policy H4** requires local authorities to identify the full range of housing required to meet existing and future needs both in terms of affordable and market housing. **Policy CC7** states that the scale and pace of development will require sufficient infrastructure capacity to meet its needs. **Policies T1 and T2** seek to rebalance the transport system through investment and management to support more sustainable patterns of development. In advance of locally derived targets being set **Policy NRM11** establishes a target of 10% of energy requirements for new developments from decentralised and renewable or low carbon sources, subject to viability. **Policy NRM12** encourages the use of Combined Heat and Power (CHP) technology in new developments.

### Winchester District Local Plan Review

22. **Policy H.1** sets out the district's housing requirements up to 2011 although these are based on the unsaved Structure Plan target. **Policy H.5** establishes that on the appeal site 40% of housing provision should be affordable. Matters such as type and tenure are subject to negotiation and the affordable housing should remain available to those in housing need as long as the need exists. **Policy H.7** seeks to ensure that 50% of dwellings are small 1 or 2 bedroom units and that developments achieve a net density of 30-50 dwellings per hectare.
23. **Policy MDA.2** identifies the appeal site as a major development area for approximately 2,000 dwellings. It includes a number of detailed criteria relating to matters such as design, sustainability, infrastructure provision and accessibility. It also states that development will only be permitted if the local planning authority is satisfied that a compelling justification for additional housing in the district has been identified by the strategic authorities. Unless or until this happens the policy states that countryside policies will apply. The relevant countryside policies in the LP would not support a development as proposed on the appeal site. The LP was generated within the context of the Hampshire County Structure Plan Review (SP) and the identification of reserve housing sites under Policy H4. This included 2,000 dwellings at north Winchester and the policy made clear that the strategic authorities would only support release in the event of a compelling justification through monitoring. The SP policies have not been saved and no longer form part of the development plan.
24. **Policy DP.9** requires the appropriate provision of social and physical infrastructure. The policy allows for financial contributions in suitable cases. **Policy RT.4** sets out the requirements for public recreational space provision. **Policies CE.7, CE.8** and **CE.9** concern the protection of sites of international, national and local nature conservation importance. **Policy CE.11** seeks opportunities to create and improve habitats and features of nature conservation interest. **Policy T.1** seeks to locate development to minimise travel demand and provide a choice of transport mode. Travel Plans are required for developments with significant transport implications. **Policy T.2** concerns the provision of new accesses to the highway network which should not interfere with the safety, function and character of the road network or have adverse environmental implications. **Policy T.3** requires the layout and access of developments to encourage low vehicle speeds, convenient cycle and pedestrian routes and the efficient operation of bus services. **Policy T.5**

makes provision for off-site transport contributions to overcome transportation objections. **Policy W.1** seeks to protect and enhance the special character of Winchester and its landscape setting.

### **National planning policy**

25. The relevant national policy documents are set out in the SCG. Of particular importance is Planning Policy Statement 1: *Delivering Sustainable Development* (PPS 1); PPS 1 Supplement: *Planning and Climate Change; The Planning System: General Principles*; Planning Policy Statement 3: *Housing* (PPS 3) (June 2010); Planning Policy Statement 7: *Sustainable Development in Rural Areas*; Planning Policy Statement 12: *Local Spatial Planning* (PPS 12); Planning Policy Statement 22: *Renewable Energy* (PPS 22) and Planning Policy Statement 25: *Development and Flood Risk* (PPS 25).

### **THE CASE FOR THE APPELLANT: CALA HOMES (SOUTH) LTD**

*The main points are:*

#### **DECISION-MAKING: THE CORRECT LEGAL APPROACH**

26. Taking account of Section 38(6) of the Planning and Compulsory Purchase Act 2004 it is trite law that the decision will be taken against the policies and other material considerations prevailing at the time of the decision. This is made clear in the leading case of *R (Kides) v. South Cambridgeshire District Council* [2002] (**Document CALA/7/3, Paragraph 122**). Although it is clear that the coalition Government intend in various respects to make changes to the planning system it is essential that the Secretary of State as decision maker is intellectually rigorous in the manner in which he approaches what is and is not a material planning consideration, especially with respect to application of national policy.
- 26.1 Any decision must be taken against the statutory and planning policy background as exists at the date of the decision (*Kides* above). The Inspector's recommendation should also be based on the statutory and planning policy background as it exists at the date of her recommendation, given that she has no knowledge of when the decision will be taken or whether or how the statutory and planning policy position will change or when.
- 26.2 As to what constitutes a material planning consideration, that is a matter of law for the courts, and the Court of Appeal will shortly hear the Appellant's appeal into its challenge to the Statement and Letter of 10 November 2010 ("CALA 2") following the dismissal of its claim by Lindblom J. On 16 February 2011 the Court of Appeal granted permission to appeal on the grounds that "*the case raises arguable issues of general importance*". It is set down for hearing between 4th and 6th May 2011.
- 26.3 The Appellant maintains that the Statement and Letter are unlawful and immaterial considerations and entirely reserves its position and its rights in this respect.
- 26.4 The Inspector and the Secretary of State must be equally rigorous in the consideration of other material considerations that may be said to exist. For example the contention that there is already a different policy

approach and that localism means that decisions about the quantity of development and where it would go would be left with local people as opposed to local planning authorities. This is founded on an incorrect premise, namely that policy has already changed, that there is a statutory basis for such decision-making, and that we are already living in a new world where localism "rules".

- 26.5 Any recommendation or decision founded on such premises would be wholly misguided and unlawful. Firstly, as demonstrated below, the national planning policy position is set out in Planning Policy Statements, in particular PPS 3 and PPS 1. PPS 3 was re-published on 12 June 2010 after the Secretary of State's letter of 27 May 2010. It therefore represents an up to date expression of the Government's planning policy on housing. There is no suggestion by WCC or the Secretary of State that there should be any departure from its terms. Secondly, there is no statutory basis for such musings. The Localism Bill as it stands does not include any provision which would allow local neighbourhoods to fix the level of development or suggest a lower provision than required by the Council. Nor is such the intention of the Government, as the Minister for Decentralisation has made clear when he said:

*"And, to be explicit, if there's an overwhelming need for new homes in the local authority area, the neighbourhood plan is not a way for a neighbourhood to refuse to host its fair share. Though they can, if they wish, grant permission for a greater number of homes than the local authority expects. In other words, neighbourhood planning is not a way of saying 'no' to any development. It can be a way of saying 'yes' to more" (Document CALA/1/14).*

- 26.6 So whilst it might be very tempting to suggest that there is a "completely different approach now" which the grant of planning permission might "prejudge" and that this appeal is the "first of its kind", the reality is more prosaic. The legislation remains the same until repealed, which is entirely a matter for Parliament. And national planning policy remains the same, as set out in PPS 3. And the development plan remains intact, being the SEP and the adopted LP. As matters stand, it is against that fundamentally unchanged statutory and policy background that the recommendation in this case should be made and the decision taken

- 26.7 The Secretary of State maintains that his intention to "abolish RS and return decision making powers on housing and planning to local councils" is a material consideration (**Document CD/6.1**). However it is clearly a matter to which he attaches little weight at this stage of the Parliamentary process as is evidenced by his decision on Land at North East Sector Crawley, dated 16 February 2011 (**Document CALA/1/13/C**). The Secretary of State was entitled to decide what weight he placed on his intention to revoke RS whether it was raised by the parties or not. This decision was promulgated after the vote by the Select Committee on Clause 89 of the Localism Bill. This is also consistent with his general observations made in the decisions on land at Farnborough Airport and land at the former Sevalco Site, Avonmouth (**Documents CALA/1/11; CALA/1/12**). Although those two appeals were non-residential cases, they both enunciated the same general proposition as to weight. WCC is



- misconceived in its belief that these decisions do not amount to a statement of policy by the Secretary of State.
- 26.8 Substantial weight should be given to the Crawley case. It relates to residential development of approximately the same size as the appeal scheme. It also relies heavily on the SEP. There were post 6 July 2010 representations from both Crawley Borough Council and Gatwick Airport Limited to the effect that further representations should be invited to deal with the revocation of the SEP which was regarded by Gatwick Airport Limited as "*going to the very heart of*" the Appellants' case on housing need (*Document WCC/7/1*). The Crawley decision is also highly relevant with respect to the proper approach to housing land supply and need in relation to a strategic site. There is no rational basis for a decision in this case to be taken inconsistently with the principles enunciated in the Crawley case insofar as the Statement and Letter of 10 November is a material planning consideration (*Documents CD/6.3; CD/6.6*).
- 26.9 In the Allerton Bywater appeal the Inspector gave "*significant weight*" "*in the context of this decision*" to the Statement and Letter (*Document CALA/1/3, Paragraph 17*). That was the decision of an Inspector not the Secretary of State and the context was that on any basis it made no difference to the ultimate conclusion about need which on any count was substantially greater than the supply (*Document CALA/1/3, Paragraph 82*).
- 26.10 The Planning Inspectorate (PINS) produced guidance on 18 February 2011 (*Document WCC/8*). This suggests that in determining weight Inspectors may wish to consider the time frame in which a particular need identified in the regional strategy (RS) is to be met, and to compare that time frame to the timetable of the Localism Bill. This is entirely inconsistent with the approach adopted by the Secretary of State in the Crawley decision, promulgated only two days earlier, where he relied upon the figures in the RS and took no account whatsoever of the proposed timetable of the Localism Bill. In fact the PINS guidance inexplicably makes no reference at all to the Crawley decision and is thus per incuriam. Nor does it deal specifically with the housing provision figures of the SEP. For all these reasons, the approach advocated by PINS should be given little weight.
- 26.11 In making her recommendation and in making his decision, the Inspector and the Secretary of State must adopt a rigorous approach to the assessment of the scheme against the proper statutory and policy position. This is not a time for making up policy based on some generalised and speculative notion as to what localism constitutes and what it may mean in practice when eventually enacted by Parliament.

## THE DEVELOPMENT PLAN

### The South East Plan (SEP)

27. The SEP is central to the planning system and its very existence is required by Section 70(1) of the Local Democracy Economic Development and Construction Act 2009, as was acknowledged by Sales J in *CALA Homes (South) Limited v Secretary of State for Communities and Local Government and Another (No. 1)* [2010] (*Document CD/5.1a, Paragraph 52*). The SEP made provision for a total

of 275 dwellings per annum in the non-PUSH part of Winchester district in the period from 2006 to 2026. This requirement feeds into the requirement for a five year housing land supply. It also feeds into the requirement for housing in the district in the medium and longer term.

28. Also within the SEP are a number of other relevant policies and with which the Council confirmed that the Appeal Scheme complied (**Document CALA/1/2, Appendix 2**)<sup>1</sup>. Indeed, the appeal scheme accords with the general spatial distribution of housing as contained in Policy H1 and delivery in accordance with Table H1b. Considerable weight should be given to this key requirement as demonstrating the minimum appropriate level of housing within the development plan for the provision and delivery of housing within Winchester. There are a number of reasons for this:
- 28.1 The SEP figure for the non-PUSH area of Winchester was the product of consideration by the Examination in Public (EiP) and was itself the subject of public consultation at the modification stage of the statutory process. The assessment by the Panel was evidence based.
- 28.2 The requirement had regard to and was based on Office for National Statistics (ONS) population figures, which as Paragraph 33 of PPS 3 confirms is still the basis for carrying out such an assessment.
- 28.3 The Panel's consideration was based on 2004 ONS data, which indicated an additional 34,500 households per annum for the period 2006-2026 (**Document CD/5.1b, Paragraph 7.11**).
- 28.4 At the time of publication of the SEP in May 2009, the latest national household projections suggested an additional 39,100 households per annum to 2031 (**Document CD/5.1, Paragraph 7.4**).
- 28.5 Nevertheless, in endorsing an additional 32,700 dwellings per annum in the South East the SEP expressly recognises that whilst the plan went some way towards meeting strategic needs the level that it set was significantly below the forecast growth of households in the projections (**Document CD/5.1, Paragraph 7.6**).
- 28.6 The SEP recognised that due to the limitations of the bottom up evidence base on the capacity of areas to accommodate higher levels of housing together with a lack of robust economic evidence it could only provide a limited response to meeting the strategic needs of the region. However it made clear that local authorities could test higher numbers through their development plan documents subject to sustainability considerations. Irrespective of the position with other RS the SEP was in fact a "*bottom up*" exercise (**Document CD/5.1, Paragraph 7.7**).
- 28.7 The SEP also states that even though an annual provision or local trajectory number has been met this should not in itself be a reason for rejecting a planning application. Decisions should be taken on their merit and local circumstances – including longer term housing needs and affordability in an area (**Document CD/5.1, Paragraph 7.8**). The SEP makes clear the need to look beyond the 5 year period and to look to the longer

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<sup>1</sup> Inspector's Note – Mr Green agreed in cross examination that the development complied with the SEP policies listed in Appendix 2 to Mr Clements' proof.

- term in decision-making. This is of particular relevance for a large strategic site such as the appeal site.
- 28.8 The most recent household projections (2008 to 2033) are now running at 39,500 (*Document CD/9.1, first page*). This is a figure of only 400 more than the new household projection figure as it stood in May 2009 when the Secretary of State endorsed a figure of 32,700 new dwellings per annum. This underlines the reliability of the household projections used to confirm the dwelling requirement in the SEP. It also demonstrates that the need has continued such that the need cannot have reduced but only increased.
- 28.9 There was no challenge to the publication of the SEP by WCC, HCC or anyone else. There has been no suggestion, either from WCC or any other party to the Inquiry that in the case of Winchester the SEP annual figure for the non-PUSH part of Winchester of 275 was anything other than entirely sound. Indeed, the fact that the latest ONS data indicates a household projection rate almost identical to that which existed at the time of the publication of the SEP serves to strengthen the robustness of the 275 per annum requirement.

### **Option 1**

29. The Option 1 figure does not form part of the development plan. However, it is convenient to deal now with the weight it should be accorded because it will be necessary to form a judgment on its absolute weight as well as its weight relative to the SEP requirement. The Option 1 figure is 185 dwellings per annum. It is not true as asserted by WCC that it was a locally generated housing requirement in the preparation of the SEP (*Document WCC/6*). The reasons are as follows:
- 29.1 The South East England Regional Assembly (SEERA) published a draft of the SEP for consultation in January 2005 (*Document CD/5.1d*). That consultation proposed three levels of growth, 25,500 additional homes per annum; 28,000 additional homes per annum; and 32,000 additional homes per annum. There were also two distribution options, the continuation of the existing policy established in the then RSS; and a "Sharper Focus". There was no detailed assessment as to the quantum and certainly the figures were not derived from Winchester. Indeed, it was difficult if not impossible to understand precisely what was proposed for the city.
- 29.2 Draft core policies were produced in July 2005 by SEERA following consultation responses, but the draft SEP made clear that although the overall scale of housing and associated development was agreed it did not contain district level housing numbers or sub-regional policies. These were to be added following further work being undertaken by the principal authorities in the final SEP submission to Government (*Document CD/5.1c, Paragraph 1.2*). The draft SEP did decide that 800 new homes should be built in the "Rest of Hampshire". SEERA then commissioned HCC to advise it as to how the total should be split amongst the districts (*Document CD/7.19*).
- 29.3 HCC provided that advice in December 2005 (*Document CD/7.19*). The 800 a year amounted to a total of 16,000 over the lifetime of the plan. The advice makes clear that 14,000 of those dwellings were expected to be built on sites already earmarked for housing or on other sites within

- towns. One of the consultation options for accommodating the remaining 2,000 was all at Winchester (Barton Farm). Nevertheless, the recommended option was of sharing the development around all districts.
- 29.4 The quantum figure of 16,000 was thus not locally derived but imposed by SEERA. The only matter which was the subject of any consultation locally was undertaken through the document "*Where shall we live?*" which related to the 2,000 units, some 12.5% of the total (**Document CALA/1/7**).
- 29.5 WCC's claim that the Option 1 figure was locally generated is therefore false. So is the claim that the Option 1 figure "*did command local support and to that extent was a properly derived and supported "bottom up" assessment of local needs*" (**Document WCC/6**) The reality is that the quantum was generated by SEERA and there is no evidence that the Option 1 figure commanded any local support.
30. The evidence base which supported the figure eventually proposed by SEERA of 28,900 dwellings per annum was the subject of a detailed critique in the EiP Panel report:
- 30.1 The Panel noted that "*There is no explicit basis for this very precise figure other than the sum of the district/unitary components within Policy H1*". It concluded that the SEERA proposed figure of 28,900 was too low and explained why the figure should be increased to 32,000 (**Document CD/5.1b, Paragraphs 7.1-7.68**).
- 30.2 It is clear that the SEERA figure was based on 1996 national household projections, published in 1999, which suggested 32,900 households per annum in the period 2001-2021. The Panel made its recommendation on the 2004 figure of 34,500 (**Document CD/5.1b, Paragraph 7.11**). No explanation has been offered for WCC's approach which relies on household projection figures that are some 15 years old. It does not accord with Paragraph 33 of PPS 3 which requires that in assessing an appropriate level of housing, the Government's latest published household projections should be used.
- 30.3 By the time of the publication of the SEP in May 2009, the household projections had grown to 39,100 (**Document CD/5.1, Paragraph 7.4**). However the fact remains that the figure was originally based on household projections which were significantly less. As the existing projections (39,500) are slightly greater than the projections prevalent at the time of the publication of the SEP and significantly higher than the figure assumed by the Panel, there is no basis for any suggestion that the need could have in any way diminished. Indeed, reliance on a reduced figure would be irrational.
- 30.4 Further, it is clear that the Panel did not make bull market assumptions about economic growth (**Document CD/5.1b, Paragraphs 7.42-7.47**).
- 30.5 The Panel identified the key flaw in the SEERA's assumptions and in particular that the draft SEP's housing levels were set below long-term net migration let alone short-term, which was untenable. The Panel therefore adopted a "robust" strategy by having regard to long-term (10 year) migration trends (**Document CD/5.1b, Paragraphs 7.17-7.18**).

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- 30.6 The Panel supported the draft SEP's South Hampshire (PUSH) provision of 80,000 dwellings (4,000 per annum) (**Document CD/5.1b, Paragraph 7.69**). It proposed an increase in provision in the "Rest of County Areas" specifically noting so far as Winchester is concerned that "*insufficient weight is given to the needs of local businesses*" and that in Winchester "*heritage considerations may have been given too much weight*" (**Document CD/5.1b, Paragraph 7.99**). The validity of this conclusion is reinforced by the Technical Assessment undertaken by Nathaniel Lichfield and Partners in its Scenario B (zero net migration) (**Document CALA/4/2, Paragraph 3.13**). A reduction in the housing requirement from that contained within the SEP would lead to a dramatic fall in the labour force in the district, thereby harming the local economy and businesses.
- 30.7 On any basis, the Panel's assessment was very clearly based on a robust evidence base, making an assessment as between different parts of the sub-regions as to which part should accommodate what. It is clearly this aspect of the Panel's task, in making a judgment as to which areas should accommodate any given level of development (when compared with other areas), which is being considered (at the behest of HM Opposition) in the Localism Bill as revised. Local planning authorities will be required to co-operate with others in assessing their respective needs, and in particular to consider the impact on neighbouring areas. Thus other LPAs will be able to make representations about matters such as in-commuting to Winchester and WCC would be statutorily obliged to consider such representations and co-operate with its neighbours when addressing its own assessment of need.
31. WCC has relied on the Annual Monitoring Report (AMR) to support its suggestion that the Option 1 figure has been adopted by WCC (**Document CD/7.10, Paragraph 63, Page 30**).
- 31.1 The statement is in direct contradiction to the Council's evidence to the Inquiry which confirmed that<sup>2</sup>:
- 31.1.1 There has been no adoption of any figure which WCC prefers to the SEP figure;
  - 31.1.2 The SEP is the only development control figure and there is no need to adopt a lower figure for development control purposes;
  - 31.1.3 The Option 1 figure has not been the subject of consultation since the 10 November letter;
  - 31.1.4 The Option 1 figure is not intended to feed into a DPD document;
  - 31.1.5 The Option 1 figure would only be used in the event of a "policy vacuum" when the SEP is revoked.
  - 31.1.6 The Inspector and Secretary of State should be using the SEP figure as at today's date;

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<sup>2</sup> Inspector's Note – These points were agreed by Mr Green in cross-examination.

- 31.1.7 There has been no WCC decision to the effect that the Option 1 figure has been adopted for assessing the five year housing land supply. The decision of WCC was limited to authorising publication of the AMR.
- 31.2 If the Option 1 figure had been adopted, then it would be in direct contradiction to Planning Officer's Society (POS) advice note which cautions against changes to strategic principles and targets prior to undertaking technical work and discussions with other authorities (*Document CALA/1/10, Paragraph 1.4*).
- 31.3 In Winchester no technical work has been undertaken at all and there are no indications of any discussions with adjoining local planning authorities. The advice is clear as to the importance of undertaking such work.
- 31.4 WCC seeks to rely on the debate at the Committee stage of the Localism Bill in support of its evidence that great weight should be accorded to the Government's intention to revoke RS. However it is very clear from the statement by Jack Dromey MP that HM Opposition are opposed to revocation (*Document WCC/4/1, Column 548*). It is certainly open to them to vote against it in due course when the matter returns to the floor of the Commons (it should be noted that only members of the Localism Bill Committee are entitled to vote at committee stage and there is a clear majority in favour of the Coalition). Yet it is equally clear that the Labour party have argued forcefully for stronger provisions regarding co-operation between neighbouring authorities, and this is a matter which the Minister, Greg Clark MP, has agreed to consider further (*Document WCC/4/2, Column 597*). Thus, it is impossible to give weight to the revocation of RS without knowing the counter-balancing proposals with respect to the statutory duty to co-operate. Such proposals are being considered by the Minister but as yet are inchoate and will only become clearer later in the Parliamentary process.
- 31.5 Thus, any assessment of the future housing requirement is bound to have regard to the impact on neighbouring authorities, and that is precisely what the POS Advice note establishes. It is clearly at the heart of the concern raised by HM Opposition.
- 31.6 On 16 February 2011 an appeal was allowed for 33 residential units on land at the Pumping Station, Spring Gardens, Alresford (*Document CALA/1/18*). This is a local reserve site in the LP and lies within the non-PUSH part of the district. The Inspector concluded that the Option 1 figure should be accorded "*little weight*", as should (consistent with the decision at Crawley) the Secretary of State's expressed intention to abolish RS. His conclusion with respect to the weight to be accorded to Option 1 numbers related to the fact that no Local Development Framework (LDF) document will be produced in the near future and when there is consultation, the figures could be higher which the Council accepts in the present case. The Inspector acknowledged that the results of the consultation exercise on 'Blueprint', as very recently undertaken by WCC, 'cannot be foreseen'. Importantly, that was not a reason to refuse planning permission at this time.

32. No material weight may be given to the Option 1 figure for all the reasons which have been set out above. The Option 1 figure has no relevance at all either in determining whether there exists a five year housing land supply or, perhaps even more importantly, in identifying the requirements of the district in the medium and longer term. By contrast, the SEP figure of 275 represents a sound and robust basis upon which to assess need because:
- 32.1 It is the product of a recently published development plan document;
  - 32.2 It was subject to rigorous testing and found to be sound;
  - 32.3 Neither WCC nor anyone else at the Inquiry has suggested that there is any basis for assuming that the appropriate level of housing should be any less than the figure represented by 275 units per annum, having regard especially to existing household projections. Further, WCC was unable to put a positive case that the Option 1 figure should be accorded weight, let alone more weight than the SEP figure.
33. The importance of the point that significant weight should be accorded to the SEP figure is because the Council accepted the following<sup>3</sup>:
- 33.1 If the SEP was in place and there was no proposal to revoke the SEP by legislation or otherwise the position of WCC is that planning permission should be granted because there would be no other way to meet the requirements of the SEP.
  - 33.2 If there were no other considerations to take into account a determination in accordance with the development plan leads to the inexorable conclusion that planning permission should be granted.
  - 33.3 If WCC is required to meet the SEP figures it could not do so without releasing Barton Farm.
34. If, as is clearly the case, substantial weight should be accorded to the provisions of the SEP, then there is no dispute but that the appeal should be allowed and planning permission granted.

### **The Winchester District Local Plan Review (LP)**

35. The appeal site corresponds to the area of Policy MDA.2. This includes ten criteria with which the development must comply. WCC has agreed that the appeal scheme complies with each of those criteria insofar as they are still relevant (it is agreed that no Appropriate Assessment is required)<sup>4</sup>.
36. Much time was taken at the Inquiry by an examination of whether the appeal site is "allocated" for residential development or identified within the terms of the policy. It is noteworthy that the term was used both in WCC's evidence and the Report to Committee (*Documents WCC/1, Paragraph 2.33; CD/2.1, Paragraph 2.1*). However the real relevance of the allocation does not relate to how the appeal site is described in Policy MDA.2 but whether it is allocated in the overall land supply in terms of Paragraph 70 of PPS 3. It is clear that the appeal site is relied upon and allocated within the AMR for the purposes of the

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<sup>3</sup> Inspector's Note – These points were accepted by Mr Green in cross examination.

<sup>4</sup> Inspector's Note – This was accepted by Mr Green in cross examination.

land supply within the period to 2026. WCC's contention that Paragraph 70 is referring to a LP allocation is seeking to re-write PPS 3. The AMR deals with the "up to date supply" not the LP. In the Alresford appeal the Inspector concluded that because the site was identified in the LP Review as a reserve site, 'it is allocated in the overall land supply' (**Document CALA/1/18, Paragraph 11**).

37. Policy MDA.2 requires the demonstration of a "compelling justification" for the release of the appeal site. Whether there is a compelling justification for release now is a matter relating to land supply. Even if there is not a compelling justification the weight to be given to its absence requires an assessment of PPS 3, which post-dated policy MDA.2.
38. There is absolutely nothing within the policy which indicates that the compelling justification should relate to market housing need alone. Indeed, it is one of the difficulties with much smaller non-strategic sites that they simply cannot viably provide affordable housing in the quantities provided by the appeal scheme. For example the scheme at Alresford promoted 12 affordable housing units out of a total of 33 (36%). Where there is an acute need for affordable housing as in Winchester it would be unjustifiably prescriptive to deny that its provision could provide the compelling justification that the policy requires.

## **OTHER MATERIAL CONSIDERATIONS**

### **National Planning Policy including PPS 3**

#### PPS 1

39. PPS 1 prescribes the key objectives of the planning system. It aims to ensure "*the right development, in the right place and at the right time*" by means of a "*positive and pro-active process*". Sustainable development is singled out as the "*core principle...which underpins the planning system*" and, importantly, it is the "*plan-led system, and the certainty and predictability it aims to provide*" which is "*central to planning*" and "*plays the key role in integrating sustainable development objectives*" (PPS 1, Paragraphs 1, 2, 5 and 8).
40. Paragraphs 17-19 of *The Planning System: General Principles* prescribe the limited circumstances in which prematurity might constitute a ground for refusing planning permission. WCC's CS is not even at the consultation stage and there have already been a number of serious delays in bringing it forward (**Document CALA/1/8, Paragraphs 55-59**). Even on the Council's evidence consultation on preferred options would not take place until June 2011 and that timetable slipped yet further during the course of the Inquiry to November 2011 (**Document WCC3, Page 18**). It would be wholly inappropriate to refuse planning permission on prematurity grounds and indeed WCC has not raised prematurity as a policy basis for refusing permission and does not suggest that any question of prematurity arises<sup>5</sup>.
41. Granting planning permission would not pre-determine decisions about scale, location and phasing given that the appeal site has already been identified on

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<sup>5</sup> Inspector's Note – Mr Green agreed in cross examination that the Council did not oppose the scheme on prematurity grounds.



several occasions now as the most appropriate location for large scale growth in Winchester and given that the need is no less than that identified within the SEP. Taking account also of Paragraph 72 of PPS 3 prematurity could not be a possible basis for refusing permission in this case, not least because of the delay it would inflict on the development control process. There is no plan or policy whose consideration the appeal scheme could pre-empt in the context of a forthcoming examination.

### PPS 3

42. PPS 3 was republished on 12 June 2010 and therefore represents an up-to-date expression of Government planning policy. Its provisions should be given full weight. It demonstrates clearly that there is not now a "*completely different approach*"<sup>6</sup>. Paragraph 2 confirms that the requirement to provide a "*step change*" in the delivery of housing remains. Paragraph 10 stresses that the planning system should deliver a sufficient quantity of housing taking into account need and demand and seeking to improve choice. Against that advice, it is therefore impossible for the Council to argue with credibility that it would be a desirable outcome for home-sharing to increase or for more people to take lodgers into their homes. Nor is it acceptable or justifiable to assume that young people have no appetite to enter into the housing market<sup>7</sup>. This is pure speculation and unsupported by any empirical evidence.
43. In the assessment of what is an appropriate level of housing it is noteworthy that Paragraphs 32-35 of PPS 3 still place heavy reliance on the role of RS. Delivering a flexible supply of housing is dealt with in Paragraphs 52-57. Although these paragraphs are principally relevant to policies within local development documents they are also relevant in the assessment of the five year housing land supply and in considering housing provision beyond five years, especially as the requirement is for a rolling five year supply.
44. Paragraphs 68-74 are expressly relevant to the determination of planning applications. Para 69 identifies issues to which local planning authorities should have regard. WCC agreed that there was no conflict with any of the criteria although it changed its mind in relation to the final one relating to planning for housing objectives (*Document CALA/1/6*). This should not have been controversial given its acceptance that the appeal scheme reflects the need and demand for housing (*Document WCC/1, Paragraph 4.1*). Indeed, it is expressly relied upon within the AMR for delivering the identified housing, particularly within the short and medium term. In that it accords with the SEP, it reflects the spatial vision for the area and its release would not undermine wider policy objectives such as addressing housing market renewal issues.
45. There does not exist a five year housing land supply. Therefore the development is required to be considered under Paragraph 71 whereby favourable consideration should be given to the application having regard to the policies in PPS 3 and Paragraph 69. Although the development would

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<sup>6</sup> Inspector's Note – This arose from my query about whether the Government's localism agenda heralded a new approach to planning.

<sup>7</sup> Inspector's Note – Mr Green made these points in cross examination and in answer to my questions to illustrate his point that there was not necessarily a correlation between household formation and the need for housing.

deliver only 150 dwellings within the five year period this consideration is of little weight<sup>8</sup>:

- 45.1 Paragraph 71 does not suggest that differing degrees of weight will be given to the favourable consideration of planning applications depending upon the extent of the shortfall. If such was intended it would have been easy to say so. Instead, the application must be considered "*having regard to the policies in this PPS including the considerations in paragraph 69*". The policies in the PPS include those policies at Paragraphs 53 and 55.
- 45.2 The requirement to demonstrate a compelling justification cannot be dependent solely on whether there exists a five year housing land supply deficit or the extent of it. The policy was formulated long before PPS 3 came into existence. The demonstration of a compelling justification is not constrained by the demonstration of a deliverable five year supply. There will be other considerations, to which weight should be attached, such as the dependence of the district for its housing supply in the medium to long term from the appeal site.
- 45.3 The constraints on delivery of such a large strategic development would never allow more than a few hundred units to be delivered. The same was true of Crawley, except that in that case there were two separate developers which would permit multiple marketing outlets.
- 45.4 Thus, the ability to reduce the five year housing land supply will be a consideration in the determination of a compelling justification but it will not be the only consideration. The medium term contribution is also of importance. This much is evident from the Crawley case. Attention is drawn to the approach of the Inspector, endorsed by the previous and present Secretaries of State (*Documents CALA/1/13/A, Paragraphs 11.98, 11.127; CALA/1/13B, Paragraphs 25, 37; CALA/1/C, Paragraph 28*).
- 45.5 The shortfall in the Crawley case was between 1.3 and 1.9 years. The Inspector in the recent Alresford case found the shortfall in Winchester to be between 0.9 and 1.8 years, which is very similar.
46. Paragraph 68 expressly recognises that policies in PPS 3 may supersede policies in existing development plans. Since the exchange of evidence the appeal decision at Allerton Bywater has been promulgated. That related to housing proposals in Leeds where there is a triggered phased release of housing sites in the UDP Review. The Inspector expressly endorsed the view that such trigger could not be relied on given the provisions of PPS 3 (*Document CALA/1/3, Paragraphs 32 and 33*).
47. If there is no conflict with the provisions of Paragraph 69 of PPS 3 then it is impossible for WCC to maintain that the appeal site should be held back even if there was no compelling justification in terms of housing need. The requirement for demonstration of such justification can no longer be sustained. WCC's contention that Policy MDA.2 should be adhered to because it has been

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<sup>8</sup> Inspector's Note – This relates to evidence given by Mr Clements in answer to my questions and during cross-examination. Mr Village in closing made the comment orally that the Council's had misrepresented Mr Clements' evidence in closing (*Document WCC/11, Paragraph 35*).

"saved" misunderstands why the Secretary of State saved policies. It is clear that new national policy has considerable weight in decisions (*Document CD/5.2a*) But even if it can the evidence has clearly demonstrated that the prevailing need for housing within the non-PUSH area of Winchester is compelling, not to say overwhelming.

### **The Statement and Letter of 10/11/10 and the Letter of 27/5/10**

48. For the reasons already given the Statement and Letter are not considered to be a material consideration and should not be taken into account in determining this appeal. The Court of Appeal will be the arbiter of this question in early May. If they are found to be lawful material considerations no weight should be accorded to them for the following reasons:
- 48.1 The Bill has only just started its long passage through the Committee stage of the House of Commons. This is an important revising stage and it is impossible to know what provisions the Bill will eventually contain.
- 48.2 As concluded by Sales J the revocation of RS will require a Strategic Environmental Assessment (SEA) under the SEA Regulations (*Document CD/5.1a*). This is not merely a "tick box" exercise and no assumptions can be made that revocation will be acceptable in light of the process.
- 48.3 WCC's reliance on Lindblom J is misplaced. He did not make any finding about the revocation of RS and was solely concerned with whether SEA should have been undertaken on the letter of 10/11/10, which he concluded it should not.
49. However it is entirely clear, not least in light of the recent statements and decisions of the Secretary of State that these documents cannot conceivably outweigh the SEP and have no significance whatsoever in the absence of a robust evidence base for identifying an alternative level of housing provision.

### **Market housing need**

50. It has already been demonstrated why the requirement of 275 dwellings per annum should be given significant weight and why there is no warrant whatsoever for giving weight to WCC's suggestion that the Option 1 figure should be used. WCC and objectors would need to show that the Secretary of State's decision to revoke RS is a material consideration sufficient to outweigh the requirements of the SEP of 275 dwellings per annum. Also, as the local Member of Parliament accepted they would have to demonstrate that the need is significantly less than 275 dwellings per annum. There no evidence that the requirement is even one unit less than 275 dwellings per annum.
51. Notwithstanding this, the Appellant has given further consideration to quantifying the appropriate level of housing provision in the non-PUSH part of the district. A technical assessment for the need for new housing provision in Winchester has been produced (*Document CALA/4/2, Appendix 1*). Scenario A is a straight-forward assessment of need assuming a minimal growth of 128 new jobs per annum. It demonstrates that the need within Winchester is for 375 dwellings per annum, which is well above the SEP requirement. WCC made the point that this assessment departs from the "strategy" which is set out in the SEP for the provision of housing within the PUSH and non-PUSH parts of the district.

- 51.1 The exercise was one which simply sought to identify need based on demographics. It took no account of any SEP strategy because if one was using the SEP strategy then the figure of 275 units would be used.
- 51.2 Even if it was considered that regard should be had to the SEP strategy, but not the figures, then regard must also be had to the fact that the SEP encouraged greater provision than the minima figures identified in Table H1b (*Document CD/5.1, Page 55 and Paragraph 7.7*). There could therefore be no basis for artificially constraining provision in any event.
- 51.3 Even if it is assumed that the proportionate split should be maintained that does not assist the Council's case. Based on a requirement of 556 dwellings in the PUSH and non-PUSH parts of the district and applying the 55:45 split between the two would give a requirement of 250 dwellings per annum in the non-PUSH area. Thus the total requirement between 2010 and 2026 would be 4,000 dwellings. As the trajectory in the AMR shows, SHLAA sites and extant permissions will only account for 2009 dwellings in the same period. Therefore, even against a requirement of 4,000 units in the period to 2026 there is a shortfall of 1,991 units which can only be provided by the appeal scheme.
52. The plain fact is that Scenario A demonstrates an up to date assessment of need for housing within the non-PUSH part of the district which significantly exceeds that which is required by the SEP. This again goes to demonstrate that far from there being cogent evidence that the need is less than the 275 required by the SEP there is very strong evidence to demonstrate that the need is in fact greater.
53. Scenario B is broadly equivalent to reducing the housing requirement in the non-PUSH area by an amount equivalent to not releasing the appeal site. An objector helpfully and tellingly described this as "utterly unrealistic" because it would lead to a dramatic fall in employment in Winchester<sup>9</sup>.
54. In light of the unassailable evidence with respect to Scenario A, it is unnecessary to spend much time considering Scenario C, which shows the need in the non-PUSH area to be 545 dwellings a year.
- 54.1 Scenario C does not take account of the recent economic downturn. It would be entirely inappropriate to base employment forecasts on short term variables when the aim of the exercise is to assess the need for housing land supply within the long term.
- 54.2 Moreover within the forecasting 'spectrum' adopted in WCC's own Employment Land Study (ELS), which is the only recent economic assessment for the area, Scenario C opts for the more conservative approach by using the 'baseline' rather than the 'baseline plus' scenario (*Document CD/7.33, Paragraphs 4.15-4.18*). It is thus incorrect to suggest that Scenario C presents an unduly optimistic economic forecast.
- 54.3 WCC's alternative hypothesis that the public/private job split in the South East forecasts of Cambridge Econometrics cannot be transposed at a district level was based on data from 1996 in the LP which inevitably proved unreliable. In fact as the most recent data shows, the

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<sup>9</sup> Inspector's Note – This point was made by Mr Cole in his cross examination of Mr Spry.

split in Winchester (27:73) mirrors that at a regional level (*Document CALA/4/9*).

55. WCC misunderstands the position in respect of Scenario C because it relies on a world where the SEP does not exist. Where the SEP does exist the position is that 275 dwellings are required annually. Even if employment growth in Scenario C were considered to be unrealistically high it would need to be reduced by more than 75% to arrive at an employment figure equivalent to that which would arise anyway in the baseline demographic projection in Scenario A. In other words the need for housing would still be well in excess of the SEP figure.

### **Affordable housing need**

56. The net shortfall in affordable housing is identified in the SHMA as 375 dwellings per annum (*Document CD/7.12, Figure 7.1*). There is thus a chronic need for affordable housing which the appeal scheme would go a considerable way towards meeting. This was recognised in the Report to Committee on 14 June 2010 (*Document CD/2.1, Paragraph 10.78*).
57. WCC did not challenge either the evidence of the need for affordable housing or the significant benefits of providing 800 affordable units. It did take issue with the Scenario D assessment, which identifies a minimum overall housing requirement of between 940 and 1250 dwellings per annum (*Document CALA/4/2, Paragraphs 3.22-3.26*). However this demonstrates the extent of the affordable housing deficit. It was included to illustrate what would be required to deliver all the affordable housing required by the Council's own SHMA and affordable housing targets.
58. Faced with this level of need the provision of 800 affordable units is not only a highly relevant material consideration but also a compelling justification for the purposes of LP Policy MDA.2. It is sufficient of itself to warrant release of the appeal site. This is consistent with the Crawley decision where the 40% affordable housing provision was an important consideration in favour of the proposal (*Documents CALA/1/13/A, Paragraph 11.129; CALA/1/13/B, Paragraph 26, 37; CALA/1/13/C, Paragraph 28*).
59. The Appellant has given an absolute commitment to deliver 40% affordable housing, in accordance with WCC's preferred tenure mix, without any grant funding at a time when public funding to assist with the delivery of such housing has been reduced significantly.

### **Assessment of need for housing**

#### Five year land supply

60. Paragraph 71 of PPS 3 places an onus on WCC to demonstrate an up to date five year supply of deliverable sites. Paragraph 54 makes plain what is meant by "deliverable". The sites must be available, suitable and achievable. Paragraph 58 provides that in calculating the five year supply local planning authorities should not include sites for which they have granted planning permission unless they can demonstrate, based on robust evidence, that they are developable and are likely to contribute to housing delivery at the point

envisaged. The whole purpose is to do away with the past unrealistic expectations about delivery.

61. The most important evidence source before the Inquiry is the AMR 2010. This confirms that based on the SEP, and on WCC's own figures, the supply is 4.2 years for 2010 to 2015 and that the deficit worsens in the period 2011 to 2016 to 3.9 years (*Document CD/7.10, Table 8, Page 30*). WCC's assessment of the deficit is itself inflated:
- 61.1 The 5 year land supply identified in the SHLAA was considered by the Inspector in the Alresford decision to be optimistic. The Inspector preferred the Appellant's figure of 3.2 years against the SEP to the Council's figure of 4.1 years. In particular he noted the Appellant's doubts about the deliverability of the Silver Hill site which the Council maintains will deliver 100 dwellings in 2013/2014 (*Document CALA/1/18*).
- 61.2 There can be no confidence that the Silver Hill site will come forward within the next five years. The developer has gone into receivership and ownership of the site is fragmented into twenty five registered titles. There is substantial public opposition to the development including demolition of the Antiques Market (*Document CALA/1/17*). Notwithstanding that the Council is now willing to progress by way of a Compulsory Purchase Order that process will be time-consuming and complex and may not be successful. There are also other SHLAA sites that are either not deliverable or where the likely yield is overstated (*Document CALA/1/2, Appendix 9*). This includes the 24 units at Royal Hampshire County Hospital where the 5 year Estates Strategy does not identify the site for release (*Document CALA/1/9*).
- 61.3 294 small sites with planning permission are included in the five year housing land supply. WCC had sent a total of 1,200 letters to owners of small sites with planning permission asking them whether they intended to implement their permission. Of these, only 69 replied. It was conceded that no weight could be given to those responses<sup>10</sup>.
- 61.4 WCC cannot therefore demonstrate that any of the small sites are deliverable within 5 years. Even assuming that there is a reasonable prospect of some of these sites coming forward, the lapse rate of 3% is over-optimistic and unrealistic. A standard lapse rate of 10% is more appropriate and this approach was endorsed by the Inspector in the Alresford decision (*Document CALA/1/18, Paragraph 23*).
- 61.5 WCC's methodology for the purposes of establishing the SHLAA was similarly haphazard. Letters were sent to landowners of sites without planning permission to assess availability. The only sites treated as undeliverable were those where the landowner actively expressed resistance to developing the site. Where the landowner did not respond, the site was included within the final results with a delayed delivery date. This is contrary not only to PPS 3 but also to the SHLAA Practice Guidance (*Document CD/9.6, Paragraph 34*).

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<sup>10</sup> Inspector's Note – Mr Green agreed in cross examination that the low response rate meant that no conclusions could be drawn from the exercise about whether the sites would be built out or not.

61.6 WCC's assessment of individual sites was also flawed (*Document CALA/1/2, Appendix 9, Pages 44-48*). WCC accepted that some sites were not deliverable as at today's date. However it was argued that most recent evidence should be ignored because updating the SHLAA was an annual exercise<sup>11</sup>. That is clearly incorrect and is inconsistent with the Council's recent practice, which was to undertake a comprehensive update (in December 2010) of the original SHLAA published in April 2010. The situation is similar to that before the Allerton Bywater Inspector (*Document CALA/1/3, Paragraph 79*). If there are any other sites which are not counted in the SHLAA but should be included in the overall supply WCC could have said so.

62. On the basis of Paragraph 58 of PPS 3 the Council can therefore only at best demonstrate a housing supply of 3.1 years against the SEP. This conclusion has been endorsed by the Inspector in the Alresford appeal decision, who agreed with the Appellant's housing supply figure of 3.2 years (*Document CALA/1/18, Paragraph 24*).

#### Medium/long term housing need

63. Notwithstanding that there exists on any basis a five year supply deficit against the SEP requirement the Council is wilfully blind to the medium to long term requirement for housing in the district. This was a decisive reason in the Secretary of State's decision to allow the appeal in the Crawley case (*Documents CALA/1/13/A, Paragraphs 11.98 – 11.100, 11.127; CALA/1/13/B, Paragraphs 23, 25, 37; CALA/1/13/C, Paragraphs 17, 28*). Consideration of the medium to long term housing land supply is clearly material where, as here, the site is large and will be delivered over a greater than five year time span.
64. The contribution that the appeal site will make is readily ascertainable from the AMR (*Document CD/7.10, Pages 33-4, 100*). The trajectory shows that in 2010 to 2015 if the 150 dwellings from the appeal site are removed from the projected completions the supply figure is 1,153 and this corresponds with the figure in Table 8 of the AMR. If the same exercise is done for subsequent 5 year periods it can be readily appreciated that without the contribution from the appeal site the five year deficit remains throughout the whole of each successive five year period up to 2019 getting steadily worse.
65. Beyond 2015 and through to the end of the SEP period, the supply of housing land becomes increasingly desperate. This is because the SHLAA sites deliver so few units post 2019/20, a mere 139 in total in the years 2019 to 2026. Even WCC recognises the dire situation because it assumes it will be necessary to allocate a greenfield site for 700 units even based on the erroneous assumption that the annual requirement is reduced from 275 units (SEP) to the Option 1 figure of 185 units (*Document CD/7.10, Pages 104-5*). This approach is a negation of its duty to provide for the housing needs of the district. WCC cannot even identify the site which it recognises would be required to accommodate 700 dwellings.

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<sup>11</sup> Inspector's Note – In answer to questions in cross-examination Mr Green said that the Council does not have the resources to update the SHLAA on an ad hoc basis. He said there may be other sites that have come forward.

66. As with Crawley, the appeal site would be a major and assured source of dwellings throughout not just the immediate five years but in each of the subsequent five years. Without it there will continue to be a deficit. It is thus untenable to claim that consideration need only be given to the present five years in circumstances where there is no evidence that such five year deficit will evaporate. As the Council's own evidence clearly demonstrates, far from diminishing, this deficit continues and worsens.
67. WCC's response is that the appeal should be dismissed because it will be a matter for local people to determine the extent of housing provision and its location in due course. It says it has embarked on such an exercise with its "Blueprint" consultation and that it will bring forward proposals through a new CS. It is suggested that when such work and consultation has been undertaken it might actually demonstrate an increased need for dwellings such that development at the appeal site should have to be extended to the north. These points are untenable and absurd for the following reasons:
- 67.1 There is absolutely no policy basis for adopting what amounts to a moratorium on decision-making with respect to strategic development sites. Indeed there is a very clear view from Ministers, as expressed by the Rt Hon Greg Clark MP, that local planning authorities should not slow down decision-making, but speed it up (*Document CALA/1/14*).
- 67.2 The Crawley decision shows that the Secretary of State is still content to release large strategic housing sites which will extend well beyond the immediate five years and which is wholly reliant on the SEP in demonstrating a policy basis for housing need. The Crawley decision was released after the debate and resolutions passed at the Committee Stage of the Localism Bill. This decision was made de novo and the Secretary of State was not obliged blindly to follow the conclusions reached by his predecessor in his "minded to" decision.
- 67.3 The Blueprint consultation process did not begin to address questions of quantum of need (*Document WCC/3, Paragraph 5.1*).
- 67.4 The timescale through which the Core Strategy will be brought forward has already slipped considerably. It must in any event be in substantial accordance with the SEP so it could not be submitted until such time as the SEP had been revoked unless it accorded with its provisions. WCC's belief that Royal Assent will be given to the Localism Bill in November 2011 is optimistic and speculative (*Document WCC/3, Paragraph 6.2*). This is evidenced by the view of the Opposition spokesman Mr Dromey who sat on the Localism Bill Committee and considered that it could be as late as 2012 before the Bill receives Royal Assent (*Document WCC/4/1, Column 549*). There is not any likelihood on a balance of probability of the Core Strategy being adopted until 2013 at the earliest. This will introduce yet further unjustifiable delay to the provision of homes.
- 67.5 There is no provision in the Localism Bill for local people or indeed neighbourhoods to determine the quantum of housing or where it will go. This will be a matter for WCC which must make the decision having regard to all competing interests. The appeal site has long been allocated as a residential development site for 2,000 houses. Most recently it was allocated by the same council that will in due course make decisions under a possibly different statutory planning framework.



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- 67.6 WCC's argument that the appeal should not be allowed at this time because in fact more development may be required at the site or to the north of it is not a matter which formed any part of the putative reasons for refusal. It is tantamount to a prematurity argument, which the Council expressly eschewed as a basis for refusing planning permission. There is no evidence that development to the north of the appeal site is in any sense realistic<sup>12</sup>.
- 67.7 In any event, there is no evidence that development of the appeal site would constrain any development to its north. A few hundred further units could be provided on the appeal site by amending the densities<sup>13</sup>. However the LP allocation only extends to 2,000 dwellings.
68. There is a clear present and future requirement for residential development of the appeal site to meet the identified existing and future need for homes in Winchester. The appeal site has itself been allocated in the LP as well as in the emerging CS where its provision formed the cornerstone of both of its options. Its release is inevitable to make proper provision for the need which exists now. SBFG suggested that brownfield land exists in Winchester for housing and that a dispersal strategy would be appropriate. However the AMR concludes that those statements are wrong. The AMR is based on the SHLAA and that document has looked at all of the available supply sources over the next 15 years and clearly identified a deficit. Whilst the opposition to change of members of the SBFG is understood it has been wholly evident from the people who attended the Inquiry that they are not representative of the whole cross-section of the community, in particular the young and those most in need of their own home.

### THIRD PARTY OBJECTIONS – SAVE BARTON FARM GROUP (SBFG)

69. Many impassioned pleas from SBFG and others have been made as to why the appeal site should not be developed as a matter of principle. They will never accept that the land should be developed whatever the housing need. However this is an issue which has already been considered in the context of the development plan. This is significant because it is not possible for objectors to try and re-open, by reliance on alleged material considerations such as flooding and adverse effects on landscaping, matters which were considered as part of the allocation of the appeal site in the first place.
70. This proposition of law is obvious, but was stated clearly in the case of *Bromley LBC v Secretary of State for Communities and Local Government* [2007] (*Document CALA/7/4, Paragraph 18*). Accordingly, it is not lawful for the Secretary of State to re-open issues as to the principle of the development of the appeal site, especially where there has already been a careful assessment within the LP process (in 2005) as to where the need for residential development in Winchester to meet an identified need should be met. Nonetheless, the points raised by SBFG are briefly dealt with below.

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<sup>12</sup> Inspector's Note – This point did not form part of Mr Green's written evidence. In oral evidence-in-chief he raised the matter but said that he considered such a scenario to be unlikely.

<sup>13</sup> Inspector's Note – Mr Adams in re-examination agreed that the appeal site could accommodate more dwellings, if the density was increased, without undue harmful impact.

## Transport and infrastructure

71. Given the approach adopted by SBFG and third parties it is important to be clear about the following:
- 71.1 It is against the composite package of mitigation measures that the appeal scheme falls to be assessed. The Appellant proposes a substantial and innovative package of mitigation measures designed both to increase highways capacity and to reduce private car use. This includes an enormous amount of up-front infrastructure, the benefits of which will be evident at a very early stage of the development (*Document CALA/2/1, Paragraphs 3.6-3.7*).
  - 71.2 The Appellant's highways proposals have come a long way since the last appeal in 2005, and even at that stage the Inspector did not consider this to be grounds for refusing permission (*Document CD/11.1, Paragraph 347*). After extensive negotiations the appeal scheme now has the full agreement of HCC and the Highways Agency (*Documents CD/4/2; CALA/2/2, Appendix A*). Both the morning and evening peak hour traffic forecasts are acceptable throughout the phasing of the development and beyond<sup>14</sup>. This is reflected in the comprehensive TSCG, the contents of which must be accorded substantial weight.
  - 71.3 There are very substantial sustainability benefits including the interception of in-bound commuter traffic at the park and ride "light" and the early provision of a frequent shuttle bus service between the site and the city centre. The development provides a significant opportunity for those who presently commute into work in Winchester to relocate much closer to their employment within the city. There is a considerable commuting imbalance to the town (*Document CALA/4/2, Appendix 1, Paragraph 2.17*). Only development in Winchester town itself, as opposed to the development in the PUSH area or rural parts of the district, will address the commuting imbalance in the town. In this respect the appeal site is the paradigm example of a sustainable urban extension.
72. The appeal site is in a highly sustainable location and is unusually close to a wide range of facilities including the city centre (*Document CALA/2/1, Paragraphs 5.2, 5.3*). This was recognised by the LP Inspector (*Document CD/5.2b, Paragraph 12.15.28-30*). It is ideally located to encourage easy access to the extensive facilities of the city centre by bicycle and on foot, being close to a number of existing cycle routes and footpaths (*Document CD/1.6, Figure 2.2b*). Local facilities and amenities are located within the proposed new Local Centre, which is at the heart of the appeal scheme and in very close proximity to the new primary school and residential areas.
73. Extensive provision has been made for cyclists and pedestrians in accordance with advice in PPG 13. In addition to the dedicated cycle and pedestrian area along the old Andover Road, well-lit footways and cycle-ways will be provided on site. Connecting cycle paths and the widening of the inbound Andover Road will improve safe access to the city centre for both pedestrians and cyclists.

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<sup>14</sup> Inspector's Note – This was confirmed by Mr Jenkins (HCC) in answer to my questions.

Controlled pedestrian and cycle crossing phases will be installed at the signal controlled junctions between the New Andover Road and Well House Lane and Stoney Lane. The New Andover Road has been designed to accommodate the existing traffic including abnormal loads. It has been subject to a Stage 1 Safety Audit and it is agreed in the TSCG that it can safely and satisfactorily accommodate the type and amount of traffic that would use it. An Initial Design Code has been agreed relating to the geometry and treatment of the new route (*Documents CD/1.6b, Page 2; CD/4.2, Paragraph 3.2; CALA/2/1, Paragraphs 5.38-5.39*). The appeal scheme also makes use of shared space surfaces where appropriate including in the Local Centre which would be a 20 mph zone (*Document CD/1.6b, Section 7*).

74. In addition to the extensive traffic mitigation works, substantial financial contributions (index linked) have also been made towards City Access including measures in the Winchester Town Access Plan such as bus priority improvements on the approaches to City Road junction (£200,000), measures to the east of the City (£200,000), measures to enhance non-motorised user access (£341,000), measures to the west of the city (£240,000) and new bus provision (£1,271,288) (*Document CD/4.2, Paragraphs 5.5, 5.6, 5.10-5.13*). Measures would also be included to improve the safety and capacity at Junction 9 of the M3 motorway (*Documents CD/1.6f; CALA/2/1, Paragraphs 5.62-5.66*). A park and ride "light" for 200 vehicles is proposed at the northern end of the site. This is expected to remove 140 in-bound commuter trips from Andover Road in the morning peak. The TA shows that with this in place there would be no noticeable difference to congestion in the morning peak and only a small increase in the evening peak (*Documents CD/1.6b, Paragraph 9.7; CALA/2/3*). HCC has agreed that the contribution towards the City Access Plan would help reduce the impact on this junction and it is also to be noted that the assessment takes no account of modal shift through the proposed Travel Plans. These are designed to encourage travel by modes other than single occupancy car journeys (*Document CD/1.7a*). The appeal scheme will comply with all relevant local car parking standards (*Document CD/4.2, Paragraph 3.3; CALA/2/1, Paragraphs 5.8-5.17*). This is one issue which is often highly controversial in substantial new developments, but it does not arise in this case.

## **Flooding**

75. This matter was thoroughly canvassed by SBFG at both the LP Inquiry and at the Inquiry into the previous appeal. The Environment Agency does not object to the appeal scheme, subject to a list of proposed conditions. Southern Water has confirmed that the Harestock waste water treatment works to the north has sufficient capacity for the first 1,000 units and that planned improvements to capacity could accommodate the remaining demand (*Document CALA/5/1, Paragraphs 2.4, 3.4, 4.2*). A Flood Risk Assessment accompanies the scheme and has been approved by the Environment Agency. It confirms that the developed area would be within Flood Zone 1 which complies with PPS 25. There is no need to apply the Exception Test in these circumstances (*Document CALA/5.1, Paragraphs 5.1, 5.2*).

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76. The following explanation was given in response to points raised by SBFG<sup>15</sup>:
- 76.1 There is no risk of a repeat of the flooding in the year 2000, which was caused by overland flow resulting from the discharge of surface water from the Andover Road. Any overland flow would be dealt with by the on-site SuDS proposal, which would accommodate all surface water from the development within the boundaries of the site (*Document CALA/5.1, Paragraphs 3.4, 5.3*).
  - 76.2 The SuDS scheme would comply with the standard imposed by the Environment Agency and is designed to withstand a 1 in 100 year flood risk event plus a 30% climate change allowance. There would also be a 0.5 metre freeboard allowance to ground floor levels of proposed housing. The system could realistically withstand a 1 in 200 year event, which would result from about 15% more rainfall (*Document CALA/5.1, Paragraph 3.4*).
  - 76.3 The SuDS system located along the northern boundary would alleviate any risk of flooding from the Harestock waste water treatment works to the north. If the plant were to close, waste would be stored in the on-site pump stations or removed by tanker. There is no risk whatsoever of effluent being dumped on-site.
  - 76.4 The Environment Agency has confirmed that the discharge of treated effluent into the River Itchen has been assessed and is acceptable. This can be dealt with under Southern Water's existing discharge consent. The Environment Agency has confirmed that the impact in terms of volume of flow and water quality on the River Itchen would be acceptable (*Document CALA/5/1, Paragraph 4.3*).

### Landscape and countryside issues

- 77. SBFG seeks to rely upon the comments of the LP Inspector in 1997 with respect to the impact upon Winchester's landscape and setting (*Document SBFG/4/1, Paragraph 303*). That reliance is misleading because the LP Inspector in 2005 explicitly considered these comments within the framework of Policy H4 of the SP. He concluded that the appeal site should nonetheless be allocated. It is relevant to note his conclusion that the designation of the reserve MDA would make a positive contribution to the character of Winchester (*Document CD/5.2b, Paragraph 12.15.21*).
- 78. The outstandingly high quality of the Masterplan shows that the opportunity identified by the LP Inspector has been taken with this appeal scheme. The LP Inspector also unhesitatingly rejected the argument, aired again during this Inquiry, that granting permission for this development would be the "*beginning of the end*" for the setting of Winchester (*Document CD/5.2b, Paragraph 12.15.23*).
- 79. It is neither necessary nor possible to deal individually with the numerous other issues raised by SBFG. Suffice to say that the LP Inspector was clearly right to conclude that these were all "*issues that are either clearly outweighed*

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<sup>15</sup> Inspector's Note – These points were made by Mr Walker in oral evidence-in-chief and in answer to questions from Prof Jung.

*by other considerations, or matters that can be dealt with in the detailed planning of the reserve MDA" (Document CD/5.2b, Paragraph 12.15.25).*

## **THE SECRETARY OF STATE'S MATTERS**

80. Most of the matters raised by the Secretary of State have already been addressed. There have been significant changes in circumstance since the previous appeal decision of 2005 (*Documents CD/11.1; CALA/1/1, Section 9*). The policy landscape and the development plan have been completely transformed when neither the SEP nor the LP formed part of the development plan and when PPS 3 had not even been issued for consultation. At that time, the appeal scheme was found to be contrary to the development plan. By contrast, the grant of planning permission is now not only in accordance with the development plan but also with PPS 3.
81. The development is supported by comprehensive Section 106 Agreements and conditions, which have been the subject of detailed discussion during the course of the Inquiry and are agreed by WCC and HCC (*Documents ID/3; ID/4; ID/5*). The Section 106 Agreements secure delivery of a significant package of mitigation measures totalling many millions of pounds. In addition to the traffic-related matters they will deliver a new primary school and represent the only opportunity to secure an extension to the Henry Beaufort secondary school. Significant weight should be attached to this agreed package of mitigation measures.
82. For the reasons already set out, none of the issues identified by third parties are of such substance to outweigh the significant need which exists for development of the appeal site. For the reasons already given it would be wrong and unlawful for the Inspector or the Secretary of State to depart from the established legal and policy framework in the name of the so-called 'localism agenda'.

## **THE PLANNING BALANCE AND OVERALL ASSESSMENT**

83. Any assessment of the planning balance demands release of the appeal site for residential development immediately. The need for its release is overwhelming and undeniable. WCC has accepted that a determination in accordance with the development plan leads to the conclusion that the appeal should be allowed and planning permission granted. This is the only rational conclusion that may be reached on the evidence. The clear need is demonstrated both by reference to the five year housing land supply and by reference to the medium and longer term housing requirements for the non-PUSH part of the district.
84. There is an accepted and identified need for the substantial provision of affordable housing. The appeal scheme includes provision for 40% without grant funding. Having regard to the clear need demonstrated by the Council's own SHMA, this is a significant benefit. The appropriate annual provision for housing in the non-PUSH part of the district is not less than 275 dwellings per annum. There is not a shred of evidence before the Inquiry that the need is any less. By contrast, there is very weighty evidence that the need is likely to be considerably more. The test of "compelling justification" has been amply met.

85. The Appellant and the Council do not disagree about the site's suitability for development as a matter of principle or in terms of development control. There is no question but that it is of a very high standard of urban design, the philosophy of which responds to the requirements of both PPS 1 and PPS 3 (*Documents CALA/3/1, Section 6; CD/4.1, Section 7*). It is important not to overlook the superlative vision which lies behind the Masterplan and it is agreed that this would create a well designed and sustainable community that is distinctive and would integrate with the surrounding area (*Document CD/4.1, Paragraph 7.21*). It is simply wrong for SBF or third parties to say that the appeal scheme would detract from Winchester's character or setting (*Document CALA/3/4*). On the contrary, the appeal scheme has been designed with the 'DNA' of Winchester firmly in mind. Further, the appeal scheme was itself the subject of very extensive consultation with the local community as well as WCC and its evolution responded directly to issues and concerns arising out of this consultative and collaborative process.
86. It is also agreed that the appeal scheme satisfies the provisions of PPG 13 and there is a TSCG (*Document CD/4.2*). The whole philosophy of the design of the development is to encourage less car use (*Document CD/4.2, Paragraph 6.5*). The appeal scheme is the paradigm of a highly sustainable development proposal (*Document CD/4.1, Section 8*). There are also benefits to the wider economy, including the direct jobs created from the construction and the 4 indirect jobs created by every house that is built (*Document CD/13.1; CALA/1/1, Paragraphs 9.19-9.21*). In addition there would be some £20m<sup>16</sup> under the New Homes Bonus, which would be a substantial benefit to the local community<sup>17</sup>.
87. The appeal proposal entirely accords with the Ministerial Statement "*Planning for Growth*" (*Documents PIC/1; PIC/3*). The evidence has demonstrated that significant economic and sustainability benefits would flow from the scheme and this has not been contested. The proposal complies in all respects with the development plan and PPS 3 and should be dealt with promptly and favourably in line with the Minister's clear advice. However WCC considers that the development plan should be set aside whilst preparation of its CS proceeds although it raises no issue of prematurity. This cautious and negative approach towards growth is contrary to the objectives in the Statement and invites procrastination and obfuscation. It is tantamount to planning for recession not recovery. Significant weight should be given to the Appellant's work, which was largely unchallenged, relating to housing requirements (*Document CALA/4/2, Appendix 1*). This demonstrated the economic benefits of meeting the requirements of the SEP and the adverse effect on local labour supply if sufficient housing is not provided. The Statement is clear that the strength of the housing market should be used to drive growth and economic recovery. If the scheme is allowed development would proceed quickly in response to identified needs and the strong demand that exists in the local housing market which is recorded in the AMR (*Document*

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<sup>16</sup> Inspector's Note – In oral evidence-in-chief Mr Clements estimated that the new Homes Bonus would be about £20m in the absence of a prescribed dwelling mix.

<sup>17</sup> Inspector's Note – Mr Village did not consider that this benefit would be inconsistent with the policy and objects of the existing legislation, unlike the revocation of RS, which he believes to be contrary to the provision in the 2009 Act that such should exist. However if the New Homes Bonus is contrary to the policy and objects of existing legislation he would accept it is not a material planning consideration (*Document CALA/7/2, Footnote 57*).

*CD/7.10, Paragraph 58*). This would act as a driver for economic growth creating both direct and indirect employment.

88. Against all the above powerful considerations WCC says that there should be a determination otherwise than in accordance with the development plan. This is based on the Secretary of State's Letter and Statement of 10 November 2010 indicating his intention to revoke RS. WCC contend that is a consideration of such weight as to outweigh those matters identified above which strongly support release of the appeal site. Even if it is a lawful consideration, which the Appellant disputes, the position is shown to be misconceived by recent decisions of the Secretary of State himself, and the Inspector in the Alresford case, where 'little weight' has been attached to the intention to revoke RS. However it is simply not enough for WCC to prove that such is a material consideration of such weight as to outweigh the development plan provisions and all the other matters which support release of the appeal site. In addition it is necessary to prove that the need is less than the 275 dwellings per annum currently identified in the SEP for the non-PUSH part of the district. This it (and all other objectors) have manifestly failed to do. The evidence is clear that the 275 figure must be regarded as the bare minimum.
89. There are no material considerations which indicate a determination otherwise than in accordance with the development plan. This is an outstanding development proposal of the highest design quality which will make a substantial contribution towards meeting the market and affordable housing requirements of Winchester for at least a decade.

## **THE CASE FOR WINCHESTER CITY COUNCIL(WCC)**

*The main points are:*

### **INTRODUCTION**

90. This is an appeal about short term and long term decision making. It is also an appeal about the extent to which the planning system allows the local community to make the important decisions on growth which will best meet the needs of their area. It is about whether the local community should be trusted to make the right long term decisions to meet Winchester's need for new housing. It is about whether the short term need to top up the 5 year supply of housing land and to deliver some of the needed affordable housing provides sufficient justification for taking that decision away from local people.
91. The limited short term benefits of allowing the present appeal are not a good enough reason for the Secretary of State to take what will in fact be a long term decision, over the heads of the local community, which will settle the scale, shape and direction of growth at Winchester for many years to come.

### **THE LOCAL PLAN REVIEW (LP): POLICY MDA.2**

92. The Appellant accepts that saved Policy MDA.2 is part of "the most up to date local framework for decision making" and that it is the part of the development plan that is specific to the appeal site (*Document CALA/1/1, Paragraph 3.11-*

- 3.12). There is no claim that there was any conflict between Policy MDA.2 and the later policies of the SEP<sup>18</sup>. Thus whatever weight is given to the SEP there is no scope for any argument that the later policies of the SEP over-ride the need to satisfy Policy MDA.2 in the LP. Section 38(5) of the 2004 Act, which gives priority to the terms of the most recently adopted part of the development plan in the event of any conflict, is simply not engaged in this case.
93. Policy MDA.2 not only addresses the circumstances in which the site may be considered for development but also sets out detailed development management criteria if the principle of release is established. Compliance with Policy MDA.2 will thus be a fundamental requirement for any proposal which wishes to claim that it is "*in accordance with*" the development plan. To comply with Policy MDA.2 it will be necessary for the requirement for a "*compelling justification*" to be demonstrated.
94. The Appellant accepted that if the factors being relied on to make out a case for a "*compelling justification*" were not thought to do so then there were no other material considerations that would outweigh the conflict with the development plan<sup>19</sup>. Thus, satisfying Policy MDA.2 is the critical issue in the determination of this appeal. The other LP policies are of lesser relevance. There is no conflict alleged by WCC with any of the general development management policies provided the agreed mitigation works and associated improvements which are the subject of the agreed conditions and planning obligations are required and secured in the final decision. The detailed criteria in Policy MDA.2 are agreed to be satisfied on the same basis. WCC considers that there is a conflict with the countryside policies of the LP but this is consequential on its position that Policy MDA.2 is not satisfied.
95. Policy MDA.2 is explicit that it "*identifies*" what it describes as a "*reserve site*" and that development will only be permitted if the Council is satisfied that a compelling justification for additional housing in the Winchester District has been identified. It is common ground that the original reference to this identification being by the strategic planning authorities is now redundant with the demise of the former SP as a consequence of the approval of the SEP (**Document CD/5.1, Paragraph 1.10**). Identifying a compelling justification is now a matter for the decision maker applying Policy MDA.2 and so is now a matter to be resolved by the Secretary of State.
96. However, it is necessary to have some understanding of the origins and derivation of Policy MDA.2 to gain a proper understanding of its meaning and intended purpose. The original context was provided by SP Policy H4. This was the strategic policy in place at the time that Policy MDA.2 was first put forward (**Document CD/5.2b, Paragraphs 12.15.2-12.15.4**). Policy H4 was part of the mechanism that had been adopted by the strategic planning authorities to meet the housing requirements of the former RPG9 (2001) (**Document CD5.1F, Paragraphs 223-226**).

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<sup>18</sup> Inspector's Note – Mr Clements agreed in cross examination that there was no conflict between Policy MDA.2 and the policies in the SEP.

<sup>19</sup> Inspector's Note – This point was agreed by Mr Clements in cross examination.



97. Because the SP was adopted in February 2000 before RPG9 (2001) was finalised, it was not able to establish with certainty the final housing requirement. It therefore proposed the concept of reserve sites, which were to be identified for potential release but which might or might not be needed. Winchester City (North) was one such proposal in SP Policy H4. The trigger for release was the demonstration of a “*compelling justification*”. The whole purpose of setting such a test was to make it clear that the reserve sites were not some form of delayed or deferred release which were already known to be needed at some future point in time, but rather that circumstances which did not currently exist would have to exist in future which could be properly regarded as “*compelling*” before those sites could be released. The rationale for such a strict approach was both to encourage efforts to regenerate urban areas and to “*protect the countryside from unnecessary development*” (**Document CD/5.1f, Paragraph 223**).
98. It is apparent that one obvious consequence of this approach is that the identified reserve sites might not ultimately be needed to meet development needs. It is also apparent that the Appellant has never really recognised this limitation on the identification of the appeal site as a potential area for development. The Appellant has always approached the site on the basis that the policy framework is only concerned with the question of establishing *when* the site should be released for development, and that it is not concerned with the more fundamental question of *whether* the site should be released for development.
99. This disconnect between the actual policy position and the Appellant’s aspirations can be seen in the objections pursued in the course of the LP Inquiry, where the Appellant repeatedly sought an immediate allocation of the site but without success (**Document CD/5.2b, Paragraphs 6.5.4, 6.5.6, 6.13.3, 12.15.32-35, 12.15.39**). The same inability to accept the limitations of the reserve site status is apparent in the case presented to the 2005 planning appeal which was rejected by the Secretary of State (**Document CD/11.1, Paragraphs 191, 206, 333, 338**). At the Inquiry the Appellant proffered a new argument which suggests that in fact Policy MDA.2 has been superseded by the advice in PPS3 so that there is now no need to show a compelling justification after all (**Document CALA/1/8, Paragraph 4**)<sup>20</sup>.
100. The argument starts by noting that in the Secretary of State’s letter accompanying the saving direction for the policies of the LP the general point is made that the saved policies should be “*read in context*”, with particular attention being drawn to PPS 3 (**Document CD/5.2a**). When saving policies under the transitional powers in Schedule 8 of the 2004 Act it was not open to the Secretary of State to alter or re-write the policies but only to save them or not save them. If policies were considered to be inappropriate in the light of current national advice the option was open to the Secretary of State to decline to save those policies. That was not the approach taken with Policy MDA.2. Reading Policy MDA.2 in context cannot alter the clear terms of the policy or remove the need to demonstrate a “*compelling justification*”. Thus the Secretary of State’s letter does not assist the Appellant in its attempt to avoid this requirement.

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<sup>20</sup> Inspector’s Note – Mr Clements conceded in cross examination that this was a new point and not one made in his original proof of evidence. He agreed that the argument

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101. The next stage of the Appellant's argument is to suggest that Paragraph 70 of PPS 3 leads to the conclusion that the need to show a "*compelling justification*" has been superseded. The claim based on Paragraph 70 of PPS 3 is said to stem from the Inspector's remarks in the Allerton Bywater appeal decision (*Document CALA/1/3, Paragraph 32*). That case, obviously, was not concerned with the meaning and effect of Policy MDA.2. It was looking at policies in the Leeds UDP Review (2006) and the precise terms of the relevant policies are not available in evidence to this Inquiry. However it is clear that the Leeds policies were in very different terms to Policy MDA.2. In the Leeds UDP Review the site was clearly allocated and so expected to come forward at some point in the plan period and the only issue was the timing of its release (*Document CALA/1/3, Paragraph 23*). It was in that context that the Allerton Bywater Inspector described it as included "*in the overall land supply*".
102. The Appellant has sought to suggest that the appeal site is also allocated in the overall housing supply although the evidence on this point was somewhat equivocal. The terms of the SP were said to be ambiguous on whether the Policy H4 sites were allocations. It was also argued that the site was allocated in the overall supply for the purposes of Paragraph 70 of PPS 3 because it was included in the SEP based trajectory in the AMR. However the Appellant's approach misunderstands what an allocation is. Allocations are creatures of a development plan. Other documents cannot allocate land for development. This is made explicit in the terms of the Local Development (England) Regulations with its requirement that a site allocation policy can only be created by a DPD.<sup>21</sup> It is also emphasised in PPS12<sup>22</sup>. The author of Paragraph 70 of PPS 3 can be assumed to be well aware of this fundamental point. Thus, the reference to sites being "*allocated in the overall land supply*" is a reference not to sites which might be identified in an AMR (which might, of course, include sites identified in a SHLAA which have not yet gone through the planning process) but only to sites which are "*allocations*" in a current development plan.
103. What Paragraph 70 is saying is that where sites are so allocated the only issue is when they should be developed not whether they should be developed. The mere fact that they come forward for development before their due time should not in itself be a reason for rejecting them unless their early delivery would undermine the Council's policy objectives. However, it is clear that Policy MDA.2 does not allocate the appeal site for development. Whether it should be developed has not been settled in definitive terms by the LP because it is dependent on there being a compelling justification shown at some future point. That is confirmed both by the language used in the policy itself and by the assessment of the policy position by the LP Inspector. He was very clear that "*it is beyond the remit of the Plan to promote Winchester City (North) from Reserve status to an allocation*" (*Document CD/5.2b, Paragraph 6.5.6*).
104. This conclusion is not altered by the terms of the supporting text of the LP (*Document CD/5.2, Paragraph 12.55*). The text cannot alter the meaning of the policy itself and in any event this text is doing no more than summarising the apparent effect of the former SP. Policy H4 of the SP had itself referred to

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<sup>21</sup> Town and Country Planning (Local Development) (England) Regulations 2004 – Regulation 7(c).

<sup>22</sup> PPS12, Paragraphs 4.6 and 5.3.

reserve sites being *"identified in local plans"*. Whilst it then went on to say that *"the need for allocations of land to be released to accommodate this reserve provision"* would be a matter for the strategic authorities, it did not suggest that the local plan identification process would itself allocate the reserve sites. Rather it suggested that *"wherever possible, the release of this allocation should be brought forward through alterations to the appropriate local plan."*

105. In other words the SP was envisaging a process whereby local plans would initially identify the reserve sites as a reserve and then if they were needed a local plan alteration would be the preferred way for the reserve sites to be released. The essential point is that the SP did not allocate the reserve sites for development or expect the local plans which then identified them to do so.
106. The language used in the AMR cannot alter or change the terms of the LP. It is correct that the AMR refers to Barton Farm as one of 3 sites that *"the Preferred Option of the Core Strategy (May 2009) suggests allocating"* to meet the South East housing provision and that the following table adds *"Previously allocated as a 'reserve' in the WDLPR"* (**Document CD/7.10, Page 32, Paragraph 34; Page 33**). This latter comment is simply loose language rather than an accurate statement of the effect of the LP in relation to Policy MDA.2. Equally, the inclusion of completions from the site in the SEP-based trajectory in the AMR does not make the site an allocated site. It merely means that its contribution has been identified as part of the housing supply that would be required were it necessary to meet the SEP housing provision target. Whether that target is a matter that should now carry any real weight is an issue which is at the heart of this appeal.
107. It may be that the Appellant will seek to draw comfort from the language of the Inspector in relation to his description of that local reserve site at Alresford. That Inspector does not appear to have been asked to consider applying Paragraph 70 of PPS 3 to over-ride the effect of LP Policy H2 but he did observe of the site: *"Because it is identified as a reserve housing site in the Development Plan, it is allocated in the overall land supply"* (**Document CALA/1/18, Paragraph 11**). This is a doubtful proposition, given that reserve sites might never be needed but in any event Policy H2 local reserve sites are different from the reserve sites in Policies MDA.1 and MDA.2. The H2 sites were intended to make good potential shortfalls in the base-line housing provision under Policy H1(i). The H2 sites were introduced by the LP Inspector to ensure that this requirement would be met (**Document CD/5.2b, Paragraphs 6.0.6, 6.5.13**). They were not subject to a test of a *"compelling justification"* before they could be considered for release. The H2 sites were not part of the strategic reserve which might or might not be needed above the base-line.
108. In any event, the Alresford Inspector did not approach his decision on the basis that simply because that site was part of the allocated supply so it could come forward at any time subject only to it not undermining the Council's policy objectives. Instead, it is clear that the Inspector was only prepared to endorse the release of the site once he had concluded that there was not a 5 year supply of housing land. In his decision he applied Policy H2 on its own terms rather than regarding it as a policy that no longer needed to be satisfied because it had been superseded by PPS 3 (**Document CALA/1/18, Paragraphs 12, 13, 18, 30, 53**). Thus, his decision provides no support for the Appellant's argument on Paragraph 70 of PPS 3 in this case.

109. Even if it is thought that Paragraph 70 of PPS 3 might be applicable in terms of Policy MDA.2 it is giving advice where there is an up to date 5 year supply of sites. It could only apply here if the Option 1 figures are used to generate the housing requirement. The Appellant argues that a local authority should be *"in no better position"* than under Paragraph 70 if it does not have a 5 year supply but this misunderstands the nature of the advice being given.
110. Paragraphs 70 and 71 of PPS 3 clearly deal with 2 different situations in different ways. Where there is a 5 year supply, allocations in the development plan should only be held back if their early development would undermine the Council's policy objectives. Where there is not a 5 year supply, all housing sites (whether allocated or not) should be considered favourably, subject to the overall policies in PPS 3 and in particular the considerations in Paragraph 69. Those considerations are deliberately drawn more widely than simply the test of not undermining policy objectives. The two paragraphs therefore cannot be combined in the way suggested by the Appellant. The Appellant can therefore claim reliance on Paragraph 70 only if it is prepared to accept that there is a 5 year land supply, which of course it will not do.
111. In any event Paragraph 70 requires that WCC's policy objectives are not undermined. The Appellant sought to obtain confirmation from WCC that granting planning permission for the appeal scheme would not undermine the achievement of any of the LP policy objectives. WCC accepted that there were no *"aspects of the scheme that are contrary to any policies"* meaning that the proposal was not contrary to the detailed criteria in Policy MDA.2 or to any of the policies of the SEP listed in **Document CALA/1/2, Appendix 2**. However its considered view was that to release the site without the demonstration of a compelling justification would undermine the policy objectives of the LP.
112. It can be noted that on this particular point the Appellant recognises that the policy objective of ensuring that a large greenfield site was not developed unless it was required would be undermined and there would be *"an unnecessary and unjustified loss of countryside"* if the site was released without there being a compelling justification<sup>23</sup>.
113. The real issue which is set by Policy MDA.2 is whether *"a compelling justification"* has been provided. The answer primarily depends on the weight that is now to be given to the SEP relative to other material considerations in relation to the particular facts of this case. It is accepted that with the demise of the SP and the monitoring process established by the former Policy H4 there is now no limit on the range of factors that could be relevant to whether there is or is not a compelling justification, provided those factors are themselves material planning considerations. However the position on housing land supply will be a particularly weighty consideration in the evaluation of those factors. This will include the requirements of the SEP and the Government's intentions to abolish it; the alternative merits of the Option 1 housing requirement; the Council's current process to identify local housing requirements via 'Blueprint' and related DPD work; other potential indications of the likely level of housing needed and the scale and timing of any contribution to housing delivery that could be made by development of the appeal site.

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<sup>23</sup> Inspector's Note – This point was agreed by Mr Clements in cross-examination.

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## THE SOUTH EAST PLAN

114. The SEP is part of the development plan and it sets a housing requirement for the non-PUSH part of the district for the period 2006 to 2026. This is expressed both as a requirement over the full 20 year period (5,500 dwellings) and as an annual average figure (275 dwellings). WCC accepts that if the SEP is used to generate the housing requirement and no other considerations are brought into account then the appeal site will be needed to ensure that that requirement is met over the remaining 15 years of the SEP plan period.
115. The Appellant would like this to be the only matter that needs to be considered because this would then be sufficient to make out the “*compelling justification*” required by Policy MDA.2. For this reason, the Appellant seeks to emphasise the original advice on the appeal application provided by the Head of Strategic Planning (*Document CD/2.01, Paragraph 10.14*). However, it is clear from the Committee report that this advice was tendered before the Secretary of State had announced his intention in the letter of 27 May 2010 to abolish the SEP (*Document CD/2.01, Paragraph 11.1*). In the light of that letter officers considered a different approach could be justified and WCC concluded that the required compelling justification was not made out by reference to local housing requirements (*Document CD/2.01, Paragraph 10.16, 10.18(a), 11.1, 11.2*).
116. The appeal proposal is a single proposal for a comprehensive development of 2,000 dwellings and associated facilities. Thus, any “*compelling justification*” has to be sufficient to justify the full development. Plainly, unless longer term needs are brought into account, there is no prospect of showing that short term needs alone could justify this development. This is because the proposal will at best only deliver 150 dwellings (7.5% of its capacity) in the short term and 92.5% of the dwellings will not be delivered until after 2014/2015. Even the Appellant regarded the contribution that would be made in the short term 5 year period as a factor that should carry only limited weight. Later evidence that a shortfall in the 5 year housing supply could provide the required compelling justification sat rather oddly with this view especially as it had been accepted that the compelling justification had to apply to the scheme as a whole. The Appellant also gave the more measured response that addressing a shortfall in the 5 year supply could constitute part of a compelling justification<sup>24</sup>.
117. The SEP has had its day and it should only now carry limited weight in making decisions which relate to the longer term. The chronology of future events is important in this regard. Even if planning permission is granted for the appeal proposal during 2011 it is not in dispute that no dwellings will actually be provided until 2013/14 at the earliest. By then it is reasonable to expect a number of other events will have taken place. Foremost amongst these is the likelihood that the Localism Bill will be enacted during the course of 2011. This will provide the statutory means to revoke the SEP. In addition the Council will have produced a “*bottom up*” CS setting out its assessment of the local housing needs that should properly be accommodated within the non-PUSH part of the district.

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<sup>24</sup> Inspector’s Note – These were points made by Mr Clements in answer to my questions and in cross-examination and re-examination. They revolved around the amount of development that would take place by Year 5 which Mr Clements expected to be 150 units.

118. The High Court has confirmed that the Government's intention to abolish RS is a material consideration, with weight being a matter for the decision maker (*Document CD/6.7, Paragraphs 67, 78*). The Appellant is appealing this decision in the Court of Appeal but as matters stand today the High Court decision is a definitive declaration of the legal position. The Secretary of State's statement of 10 November 2010 and the Chief Planner's letter of the same date are valid statements of the Government's position, unless and until they are declared invalid by the Courts. The judge commented that it made perfectly good sense to be free to take into account the potential removal of RS in the decisions that will in the meantime have to be made (*Document CD/6.7, Paragraph 53*). The PINS advice to Inspectors follows similar reasoning (*Document WCC/8, Paragraph 3*).
119. In the present case, there is a short term requirement to provide a 5 year housing supply. That period runs to the end of March 2015 and the appeal proposal can provide no more than 150 dwellings to contribute to that requirement. The next 5 year period runs from 2015 to 2020 and the SEP itself and its overall housing requirement run to 2026. The appeal site is expected to be developed over a 10 year period, starting in 2013/2014 and ending in 2023/2024. All of these dates are, of course, after the expected demise of the SEP. This is so even if the passage of the Localism Bill is delayed until some stage in 2012 (*Document WCC/4/2, Column 549*).
120. The Appellant argues that the abolition of the SEP is too uncertain at present to be relied on but this is wishful thinking. The Localism Bill is a Government Bill and Clause 89 reflects the manifesto commitments of both partners in the Coalition (*Documents CD/9.5b, Pages 73-74; CD/9.5c, Page 81*). Clause 89 was not opposed at the Committee stage of the House of Commons by HM Opposition (*Document WCC/4/2, Column 602*). It is correct that the lack of opposition was coupled with the desire to see an improved duty to co-operate but this is not something that the Government opposes as a matter of principle (*Document WCC/4/2, Column 601*). HM Opposition has acknowledged in terms that RS will go (*Document WCC/4/2, Column 573*).
121. Thus none of the main political parties is seeking the retention of RS. Abolition is a feature of the Coalition Programme for Government. (*Document CD/9.5a, Page 11, Section 4*). HM Opposition could change its stance before the Bill completes its passage through the House of Commons but there is no evidence at all that any such change of position is being contemplated. The Committee stage is expected to be completed by 10 March 2011 then the Bill will be the subject of the Report stage and finally its Third Reading in the House of Commons. The Bill will then move to the House of Lords but it is clear from the Salisbury Convention that the House of Lords will not seek to defeat by any wrecking amendments a manifesto commitment of the Government of the day (*Documents WCC/9 Page 2; WCC/10, Paragraph 99*). Thus, effectively the passage of Clause 89 is already assured. Certainly, once the Bill has passed its Third Reading in the House of Commons there can be no sensible basis for expecting that Clause 89 will not be enacted.
122. The Appellant then argues that even if passage of the Localism Bill is assumed, the timescale for abolition is not certain, not least because of a claimed need for there to be SEA of any proposal to revoke or abolish the SEP. However as Lindblom J commented freely taken political decisions on legislative proposals are not subject to an obligation to carry out SEA. The Appellant's proposition

therefore rests on shaky foundations. SEA is not required of a proposal to abolish the SEP provided that this is achieved by means of primary legislation that is voluntary by nature rather than being mandated by some other legislative, regulatory or administrative requirement. This would be fulfilled by Clause 89 of the Localism Bill which expressly proposes revocation of all RS<sup>25</sup>. In any event, even if SEA is required, the initial requirement is for no more than a screening exercise to be undertaken and there is no reason to expect that such a screening exercise would be particularly lengthy or time-consuming. Even if further SEA work is required, SEA is a process to inform decision making, it is not a process which seeks to dictate the ultimate decision. There can be no doubt that if the Government wishes to remove RS it will be able to do so even if as part of that exercise SEA has to be undertaken.

123. Even if SEA is built into the process of abolishing the SEP it does not alter the overall point on timing, which is that the SEP will no longer be part of the development plan well over a year before the first dwellings could be built at the appeal site. It begs the question why the SEP should be given material weight in the decision as to whether those dwellings should be built. The Appellant argues that the matter has to be looked at simply by focusing on the development plan as it stands today and putting aside any prospect of change. This is a blinkered approach that attempts to freeze time and divorces the decision making process from obvious common sense when making a decision about a development that will be built out over the longer term and which will then endure for most of the rest of the century.
124. The Appellant claims support from 3 recent decisions of the Secretary of State and from one Inspector's decision where "*little weight*" was given to the prospect of abolition of the RS. These decisions need to be examined with some care to see if they do indeed provide a basis for the stance urged by the Appellant in relation to the facts of this case.
- 124.1 The decisions are decisions on individual cases and are not said to be a statement of general policy. It is open to the Secretary of State to have a policy on the weight he considers should be given to particular material considerations, but he has not chosen to announce any such policy in relation to the abolition of RS<sup>26</sup>. The Secretary of State's statement of 10 November 2010 carefully leaves the issue of weight to the individual decision maker. The recent PINS advice does likewise. The PINS advice does draw attention to 2 of the Secretary of State's decisions but does no more than say that consideration of those decisions can be useful (**Document WCC/8, Paragraphs 2, 8**).
- 124.2 In the Farnborough decision of 10 February 2011 the principal parties had agreed that revocation of the SEP did not significantly affect the balance of the arguments and the Secretary of State considered the same was true when the SEP was reinstated as part of the development plan (**Documents CALA/1/12, DL Paragraph 8, IR Paragraph 6.24**). That

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<sup>25</sup> Inspector's Note – The detailed legal reasoning as to why the Council does not consider that SEA is required for the proposal to abolish the SEP is set out in Mr Bedford's closing submissions (**Document WCC/11, Paragraphs 43-45**).

<sup>26</sup> *The Planning System: General Principles*, Paragraph 13. Also see Planning Policy Guidance Note 2: *Green Belts*, Paragraph 3.2.

context has to colour the approach that was then taken to the Localism Bill. It was not a contentious or controversial issue and it is therefore understandable that the Secretary of State sought to dispose of it simply by giving that factor little weight. There is no suggestion that the Secretary of State was provided with the detailed position on the progress of the Localism Bill and at the date of this decision the Public Bill Committee's debate on Clause 89 had not yet taken place.

- 124.3 In the Avonmouth decision of 10 February 2011 it is clear that the relevant RS provided neither a reason for grant nor a reason for refusal (*Document CALA/1/11, Paragraphs 6, 28*). The effect of the RS was not therefore a main issue in the decision. It is again, therefore, unsurprising that the Secretary of State simply disposed of the Localism Bill by a brief comment that it would be given little weight. Again, the decision was before the relevant Public Bill Committee debate on 15 February 2011.
- 124.4 The Crawley decision of 16 February 2011 was a housing case and in strict chronology the decision was issued after the Public Bill Committee debate on 15 February 2011 (*Document CALA/1/13*). However once the relevant correspondence that the Secretary of State received on the proposed abolition of the SEP is taken into account, it is clear that this decision too related to a very different set of circumstances (*Documents WCC/7/1-WCC/7/6*). The correspondence took place between July and September 2010. It was therefore written at a time when all parties believed that the SEP was not part of the development plan. No-one made representations to the Secretary of State after the decision on 10 November 2010 reinstating the SEP. No-one made representations to the Secretary of State after the Localism Bill was introduced to Parliament on 13 December 2010.
- 124.5 At the time of the Crawley Inquiry in June 2009 it was clear that the housing requirement had to be based on the SEP (approved in May 2009). This then was the approach taken by the Inspector in his main report of October 2009 and in the Secretary of State's "minded to" decision of November 2009. The correspondence in July, August, and September 2010 raised some issues about housing land supply on the basis of revocation of the SEP. However by the time the Secretary of State came to make his decision the SEP had been "reinstated" and there was no "live" argument being raised about it. Certainly, no-one was arguing that despite its formal status as part of the development plan it should carry only limited weight because it was proposed to be abolished. The Secretary of State was not therefore presented with the arguments that arise in the present case.
- 124.6 There is no evidence that the Public Bill Committee debate or its outcome was brought to the attention of the Secretary of State when making this particular decision. Not every matter of fact which is known to the Secretary of State in his overall corporate capacity is automatically known to the Secretary of State when making a decision on an individual appeal. No reason is given in the decision as to why a clause which was a manifesto commitment and which was not opposed at the Committee stage by the HM Opposition should carry only limited weight. Nor is there any explanation of why, in those circumstances, the remaining Parliamentary stages might be expected to impede the



passage of Clause 89. Thus, if little weight was given to the Localism Bill despite those factors the reasoning given is simply not persuasive. In any event, even if it is assumed that the Secretary of State was aware that Clause 89 had been passed by the Committee, he would still be entitled to give the Localism Bill more weight once it secures its Third Reading in the House of Commons and effectively completes its progress through the Lower House.

- 124.7 In the Alresford decision of 16 February 2011 there is no indication that the Inspector had before him all the material available to the present Inquiry on the progress being made on the Localism Bill. Nor does the Inspector give any detailed reasoning to explain what procedural step he thought was "*this stage of the parliamentary process*" or what obstacles he anticipated might arise before the Bill completed its progress to enactment (**Document CALA/1/18, Paragraph 28**). In addition, the proposal was for only 33 dwellings and sought to address the immediate short term shortfall rather than being primarily to address longer term needs. The development was one that could therefore be implemented swiftly and this may also have been a factor in the Inspector's approach to the weight he wished to give to the Localism Bill.
- 124.8 The sensible conclusion on all these appeal decisions is that each one turned on its own facts and there were material differences between those facts and the available evidence and the circumstances that arise in the present case. Consequently, none provides a sound guide to the weight that should be given to the SEP and to the Secretary of State's intention to abolish it via the Localism Bill in the present case. The weight that should be given to these factors in this case will need to reflect the evidence given in this case, both in relation to the current progress being made on the Localism Bill and in relation to the relative timings for the likely abolition of the SEP and for the expected first dwelling completions at the appeal site. The fact that the first dwellings will not be provided until after the SEP has been abolished is a compelling reason why the SEP should carry only limited weight in the decision to approve those dwellings.
125. The Government has come to the clear conclusion that housing targets imposed by the regional tier of the development plan do not provide the homes that are needed in the places that they are needed, primarily because of the lack of acceptance and "ownership" by local communities of those targets (**Documents CD/12.2, Page 20, Question 297; CALA/1/14**). This lack of "ownership" and the perception that the targets were a top-down imposition led to conflict and confrontation rather than delivery (**Document CD/12.1, Page 12, Question 28; Page 16, Question 36**). The Government believes very firmly that if local communities are able to make the decisions on housing growth then they will make sensible decisions that properly reflect the needs and aspirations of their areas (**Document CD/12.2, Question 300**).
126. A good deal of information has been provided to the Inquiry on the evolution of the SEP and its evidence base. On the point about the "*ownership*" of the resulting figures it is clear that the SEP was one of the RS where the draft level of housing provision in various parts of the region was significantly increased as a result of the Panel's Report and the Secretary of State's changes. This included the "Rest of Hampshire" (**Document CD/5.1b, Tables 7.1, 7.2**). Those

changes were subject to the formal process of statutory consultation but this was limited to an opportunity to make representations to the Secretary of State about the proposed changes. The ultimate decision on the level of housing provision remained with the Secretary of State. Both because of its manner of creation and because of its imminent demise, the SEP should be given limited weight in the determination of this appeal.

## ALTERNATIVES TO THE SOUTH EAST PLAN: OPTION 1 FIGURES

127. The Government now wishes to move away from such top-down imposition and allow local communities to take on a far greater role in identifying the level and location of the housing that is needed in their areas. That process needs to be informed by the evidence base but it is more than a technocratic exercise. The communities who are affected by the exercise need to be involved in it and to share in its outcomes. This is a process that WCC is fully engaged in with its innovative '*Blueprint*' consultation<sup>27</sup>. As the opportunity to look afresh at housing needs without the constraint of the target imposed by the SEP only emerged last year with the change of Government the process could not begin until last summer and it is unsurprising that it has not yet reached completion. Active progress is being made with the latest timetable indicating that a submission CS reflecting the new approach will exist before the end of 2011 (*Document WCC/3*).
128. The Appellant has suggested that the timetable is unduly optimistic. The timetable is consistent with WCC's evidence that publication of the Core Strategy is expected by the end of 2011 following a 6 week (non-statutory) consultation on "*Plans for Places after Blueprint*" taking place in June 2011. The precise timetable is of little direct relevance to the issues in the case. WCC is not seeking to rely at this stage on any particular output from '*Blueprint*'. Nor is it suggesting that the emerging CS has reached a stage where a prematurity objection could be raised. The real significance of the work being undertaken is to demonstrate that WCC is actively seeking to embrace the new agenda of locally-based decision making, and that progress is being made which even with a pessimistic assumption of some slippage will still see a CS in place well before any dwellings are built on the appeal site.
129. The question which now arises is which housing figures should be used in the interim before the '*Blueprint*' process produces a locally informed result. Whether the SEP figures should continue to be used despite their top-down nature and their expected demise or whether an alternative should be sought. It is clear that in principle the Government has recognised that the Option 1 figures that were produced at local authority level in the preparation of the SEP could be used in preference to the SEP. This was suggested in the Chief Planner's advice of 6 July 2010 (*Document CD/6.2, Question 12*). However, the Government has emphasised that the figures used need to be robust (*Document CD/12.2, Page 13, Question 264*).

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<sup>27</sup> Inspector's Note – Information about Blueprint can be found on the Council's website using the following link: <http://www.community-blueprint.co.uk/about-project/>

130. The Option 1 figures that informed Hampshire's housing provision as an input to the SEP were based on earlier forecasts of population and household growth. The base figures used were the 2002 based household projections (**Document CD/5.1b, Paragraphs 7.13, 7.19**). The Panel considered that 2004 based household projections should be preferred (**Document CD/5.1b, Paragraph 7.21**). Later projections have suggested increasing levels of households within the region. However, the SEP itself was approved in the context that its level of housing provision was below that which was suggested by the then latest household projections (at that time 2006 based) (**Document CD/5.1, Paragraphs 7.4-7.7**). A decision was made to accept that the plan provision would not meet expected needs in full, in part because of the limitations of the bottom-up evidence base on the capacity of sub-regional areas and districts to accommodate a higher level of housing. Since the approval of the SEP there has been minimal change in the level of the household projections as between the 2006 based data set and the latest 2008 based data set (**Document CD/9.1, Table 8**).
131. The mere fact that the Option 1 figures have a somewhat historic foundation is not a sufficient reason to set them aside. By that token the SEP figures are also dated and are not robust. In addition, since these various projections were compiled there have been significant changes to the prevailing economic circumstances that themselves have an influence on household formation. The Appellant contends that economic circumstances are not a dominant factor and this view is shared by the National Housing and Planning Advice Unit (**Document CALA/4/5 Paragraph 25**).
132. However the available evidence is rather more equivocal. The household projections take no account of affordability (**Document CALA/4/3, Paragraph 57**). In addition Experian has reported a close link between changes in household representative rates for the younger age groups and changes in the house price to earnings ratio (**Document CALA/4/3, Paragraphs 59-60**). This is also borne out by the information provided by the Home Builders Federation, which has suggested that total net lending in 2010 will be only around 10% of that in 2006 and 2007 (**Document CD/13.1, Page 7**). The reality is that household projections are sensitive to economic fluctuations and they are only one element that needs to be considered. Certainly on an interim basis the Option 1 figures have a sufficient evidential basis to still be seen as robust, pending the review that WCC is already engaged in.
133. The Appellant has criticised the Option 1 figures on the basis that, whatever their demographic provenance, they are not "*locally derived*". The implication is that they are no more a bottom-up reflection of community aspirations than the imposed figures of the SEP. This criticism fails to reflect the very extensive process of community involvement in the production of the draft SEP. Unlike the EiP Panel or the Secretary of State, the former SEERA was a body where 60% of its membership had to be members of the constituent local authorities within the South East. Thus, leaving aside the involvement of the individual local authorities in the process of producing the draft SEP, SEERA itself had some measure of local accountability through its constituent membership.
134. It is plain that SEERA embarked on a very wide consultation process in relation to the options to be put forward for housing growth in the 'Rest of Hampshire' (**Document CD/5.1d, Page 29, Paragraphs 1.2; Page 31, Paragraph 3.2.4; Page 33, Paragraph 3.4; Page 34, Table C2**). The community was not presented with a

rigid figure on a take it or leave it basis but had a series of spatial options to consider. Thus, the County Council (and the districts and individuals) were consulted on “*how much*” as well as on “*where*”<sup>28</sup>. Only after that consultation had occurred did SEERA then identify the figure of 800 dwellings per annum as the ‘Rest of County’ figure (*Document CD/5.1c, Page 24, Paragraphs 9.1-9.5; Page 32, Table C2; Page 35, Table C3*). Even then it sought advice on the distribution of this figure and HCC undertook this exercise for SEERA with a further round of consultation (*Document CD/7.19*). It was this process which then produced the figure of 185 dwellings per annum for the non-PUSH part of the district. Not only was this figure the result of a series of consultations with a marked degree of public engagement, it was also a figure that was supported directly at the EiP by WCC (*Document Documents CD/5.1b, Paragraph 2.26; CALA/1/2, Appendix 8, Paragraphs 27, 30*). This consultative process was far more inclusive than the minimum consultation undertaken by the Secretary of State in relation to the proposed changes that produced the final SEP.

135. The Appellant also criticises the Option 1 figures as having no status within the Council’s area because they have not been adopted for development control purposes. This approach sets up a false test to establish whether the Option 1 figures are relevant in establishing the current housing requirement. The Option 1 figures have been approved by the Council in its decision to publish the December 2010 AMR. This is a formal document that not only has to be produced to monitor housing performance but also has to be approved by the Council prior to its submission to the Secretary of State<sup>29</sup>.
136. The AMR is explicit in setting out the Option 1 figures as its preferred approach to examining the housing requirement for the non-PUSH area pending the completion of the Council’s own review of housing provision in the light of ‘*Blueprint*’ (*Document CD/7.10, Page 24, Paragraph 36; Page 30, Paragraph 63; Page 31, Paragraph 65*). The Option 1 figures are not put forward in the AMR as only being relevant once the SEP has been revoked. The Option 1 figures are relevant at present to set against the SEP as well as being relevant to the future position once the SEP had been abolished<sup>30</sup>.
137. The Appellant may seek to take comfort from the fact that the Alresford Inspector was not persuaded that he should use the Option 1 figures in place of the SEP. That Inspector seems to have been influenced by the fact that one potential output from ‘*Blueprint*’ could be a housing provision figure that was higher than Option 1 (*Document CALA/1/18, Paragraph 26*). WCC would agree that at this stage that might be a possible outcome. However, this rather misses the point about why it is relevant to use the Option 1 figures instead of the SEP whilst the more up to date work is being done. It is clear that the SEP is in the process of being abolished and its approach of top-down imposition is not seen as an acceptable way to generate a housing requirement.

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<sup>28</sup> Inspector’s Note – Mr Clements accepted in cross-examination that all options were available for consultation and that they provided input on the quantum of development and where it should go on a sub regional basis.

<sup>29</sup> Planning and Compulsory Purchase Act 2004, Section 35; PPS 3, Paragraph 60.

<sup>30</sup> Inspector’s Note – In cross-examination Mr Green said that once the CS consultation process had been completed a figure may emerge for the non-PUSH part of the district that resembles the Option 1 figure.

138. Pending the completion of more up to date work it is therefore sensible to utilise the figures which were locally derived, consulted on at the local level, and supported by the democratically accountable local authorities. In terms of the localism agenda which now lies at the heart of Government thinking, the Option 1 figures have a better pedigree than the imposed targets of the SEP. That is the essential reason for giving them preference in the interim period before the 'Blueprint' work is completed. The fact that they may be at a lower level than the figures which ultimately come out of 'Blueprint' does not bear on this reason or in any way undermine it.

### ALTERNATIVES TO THE SOUTH EAST PLAN: APPELLANT'S SCENARIOS

139. The Appellant argues that even if the SEP is removed the underlying housing need will not thereby disappear and if anything more housing provision will be needed not less. The work carried out by the Appellant was ostensibly to inform the 'Blueprint' process (**Document CALA/4/2, Appendix 1**). Since the Council has not yet completed that process it has as yet reached no concluded views on the worth of this work. However, scrutiny at this Inquiry suggests grounds for being cautious about the Appellant's analysis. The preferred scenario appeared to be the employment led Scenario C. However there are problems with all of the higher growth scenarios.
140. A fundamental problem is that the modelling exercise concentrated on the non-PUSH part of the district, without making any adjustment for its relationship with the rest of the district. The approach to accommodating growth was therefore at variance both with the basis of the draft SEP (as reflected in the Option 1 figures) and with the basis in the SEP itself. Under the SEP housing growth was split between the PUSH and non-PUSH parts of the district not simply in proportion to their existing populations but in furtherance of the spatial strategy to focus growth on the identified sub-regions and correspondingly require less growth from the 'Rest of County' areas (**Document CD/5.1, Policy SP1, Paragraphs 4.2, 4.23-4.24**). This spatial strategy was termed "sharper focus" and was recognised and endorsed by the Panel (**Document CD/5.1b, Paragraphs 4.6, 4.39, 7.96, 7.105**).
141. In the final SEP this meant that the district had a requirement for 612 dwellings per annum which was split between 337 in the PUSH area and 275 in the non-PUSH area. That latter figure had been an uplift of 90 from the Option 1 figure of 185 dwellings per annum. The SEP therefore apportioned the district's housing growth on a 55:45 basis as between the PUSH and non-PUSH areas. This did not reflect the population split, which was about 31:69 as between PUSH and non-PUSH or the employment split, which was about 24:76 as between PUSH and non-PUSH (**Document CALA/4/2, Appendix 1, Table 2.1; Paragraph 3.21**).
142. In Scenario A, the non-PUSH part of the district has been modelled as a self-contained entity and its growth needs projected simply by reference to the net growth of the current population plus net migration changes. It recognises that in overall terms, taking the district as a whole, the growth projection has fallen since the data that informed the SEP. Thus, using more up to date data, the district wide requirement would fall from 612 dwellings per annum to only 556 dwellings a year (**Document CALA/4/2, Appendix 1, Table 3.1**). A similar position is reached when using the CLG 2008 based household projections,

where the district figure falls to 555 dwellings per annum (*Document CALA/4/2, Appendix 1, Paragraph 3.10*).

143. If the spatial strategy is one of “*sharper focus*” and with growth being channelled towards the sub-regions, it would be expected that a fall in the district projection would result in at least an equivalent fall in the projection for the non-PUSH area. However, this is not what is being suggested. Because the population projection pays no regard to the spatial strategy Scenario A suggests that despite an overall fall in the expected growth for the district, the figure for the non-PUSH area should rise from 275 dwellings (the SEP figure) to 387 dwellings per annum.
144. The Appellant seeks to respond to the criticism that the approach is a significant departure from the spatial strategy by pointing out that the SEP does not preclude local planning authorities from testing higher levels of provision (*Document CD/5.1, Paragraph 7.7*). The SEP does allow higher levels to be tested through development plan documents but any such testing would need to reflect the overall spatial strategy of the SEP. If as in Scenario A the overall population projection for the district has reduced the dwelling requirement down to 556 dwellings per annum then to apportion 387 of those dwellings to the non-PUSH area would leave only 169 for the PUSH area compared to a SEP requirement of 337. This would be a fundamental rewriting of the spatial strategy. If provision in the PUSH area is to be maintained, any increase in the non-PUSH area could only be achieved by assuming increased in-migration to one or other of those areas. This would again involve rewriting the strategy.
145. Scenario C suffers from a similar problem. The methodology starts with a jobs growth figure of 538 jobs per annum for the district as a whole, derived from the Winchester District Economic and Employment Land Study (ELS) (*Document CD/7.33*). This is then used to generate an annual dwelling requirement for the district of 782. The district wide jobs growth figure is then apportioned by reference to the existing split of jobs in the district to produce a non-PUSH area jobs growth figure (*Document CALA/4/2, Appendix 1, Paragraph 3.21*). This is then used to generate a non-PUSH area annual dwelling requirement of 545 (*Document CALA/4/2, Appendix 1, Table 3.3*). However, to apportion job growth by reference to the existing split of jobs as between PUSH and non-PUSH again materially departs from the spatial strategy. It leads to a result that 70% of the dwelling requirement is apportioned to the non-PUSH area, compared with 45% in the SEP.
146. In addition, the methodology has further weaknesses. The main one is to take a long term projection of employment growth from 2006 to 2026 in the ELS to derive the annual level of job growth of 538. The problem with this is that if there is a period of reduced or negative growth in the period 2006 to 2009, it is not enough to simply start the growth at 2010 and assume the same rate as before. The figure of 538 was achieved by taking the difference between the ELS job forecast for 2006 of 75,680 and the ELS job forecast for 2026 of 86,450 in the “baseline” projection and then dividing this by 20 years (*Document CD/7.33, Table B-1*). However, if the ELS job forecast for 2026 is now too high because in part of the period from 2006 there has been reduced or negative growth, then the figure of 86,450 would need to be reduced. If it was, then the annual rate of growth over the 20 year period from 2006 would

fall to a lower figure than 538. Thus, even starting from 2010 it would not be appropriate to apply that annual rate of job growth to the years thereafter.

147. The Appellant offered an alternative and lower annual growth figure of 310 jobs for the district based on the Cambridge Econometrics press release of June 2010 (*Document CALA/4/7*). However, even this figure was suspect. It assumed that in the period 2010 to 2015 private sector growth in employment would significantly outstrip public sector job losses. It was suggested that the district level position could be extrapolated from the regional position as the public sector/private sector job split is broadly in line with the regional average (*Document CALA/4/9*). However, without knowing how the categories within these sectors compare it is not possible to conclude that the district will experience the same pattern of job growth and job losses as the region overall. The Cambridge Econometrics data does not provide this level of information but it is apparent from the ELS that the district differs quite markedly from the region in relation to some job categories (*Document CD/7.33, Table 3-5*).
148. A further concern with Scenario C is the implications for in-migration. Taking Scenario A at face value, the dwelling requirement for the base population plus ONS forecast migration flows is 387 dwellings per annum in the non-PUSH area. Scenario B shows that if zero net migration is assumed this requirement would fall to 173 dwellings. Thus, ONS net migration amounts to 214 dwellings a year. For Scenario C, however, the annual dwelling requirement rises to 545. This is an increase of 158 dwellings compared to Scenario A and an increase of 372 compared to Scenario B. Thus, Scenario C would entail a very substantial increase in net in-migration to the non-PUSH area. This has no warrant in terms of any approved spatial strategy for the area.
149. Scenario D is driven simply by the objective of meeting all affordable housing need. Whilst laudable in abstract terms it is simply unrealistic as a scenario because of the very substantial increase in market housing that would be needed to realise such an objective. As the Appellant acknowledged, it would be significantly different from the SEP and it would entail substantially more increased levels of net in-migration<sup>31</sup>. In addition, the calculation itself is suspect because the input value of 375 affordable units per annum relates to a 5 year period, assuming the backlog of need is cleared in that period (*Documents CD/7.12, Figure 7.1; CALA/4/2, Appendix 1, Paragraph 3.22*). That figure cannot be applied without adjustment to a 15 year period from 2010 to 2026. It also assumes that no other affordable housing will be provided, which would be an artificial assumption (*Document CD/7.12, Paragraph 7.4*).
150. The problems with all of these scenarios mean that the alternative formulation of housing need put forward by the Appellant is not robust and is certainly not a sufficient basis to either validate the figures in the SEP as remaining current or to undermine the figures that were put forward in Option 1.

## **HOUSING LAND SUPPLY**

151. If Option 1 is used to generate the requirement then even on the Appellant's assessment there is a 5 year supply. There is no dispute that the Option 1

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<sup>31</sup> Inspector's Note – Mr Spry accepted these points in cross-examination.

based 5 year requirement is 795 dwellings. The Appellant suggests the available supply is 867 dwellings or 5.45 years (*Document CALA/1/5/2*). In such circumstances, Paragraph 71 of PPS 3 would not apply. The arguments on Paragraph 70 of PPS 3 have been discussed above but they do not assist the Appellant in overcoming the requirements of Policy MDA.2. If there is no short term need for housing, then there is no need to release the appeal site at present. Any question of longer term needs can be left to be resolved, as they should be, through the development plan process.

152. If the housing requirement is to be derived from the SEP then it is necessary to look more closely at the disagreements on the available supply. WCC would accept that there would be a shortfall against the SEP, albeit not as great as that claimed by the Appellant. WCC accepts that there would be a 4.2 years supply. The Appellant suggests the supply is no more than 3.18 years.
153. There is a substantial difference in relation to the Silver Hill site in the city centre, mainly because of the need to resolve land assembly issues. The fact that the site has attracted commercial interest from a property investor despite earlier problems with a previous developer is a testament to the underlying merits of the scheme. The fact that, in principle, the Council is prepared to use CPO powers if necessary and justified is a clear indication that land assembly is not a fundamental constraint. WCC has accounted for the delay that the use of CPO might entail by including no contribution from the site until years 4 and 5 of the 5 year period, and only assuming a contribution of 100 dwellings from the site in that period compared to the permitted capacity of over 300 units. This is a realistic assessment.
154. The issue on lapse rates for small sites with permission is essentially a matter for judgment. WCC's discount has some empirical basis, even if the survey data could have been more comprehensive. The Appellant's discount is generic and is simply within a range of general figures that have been put forward at different times. It has no particular provenance in the local context (*Document WCC/2, Paragraphs 12-18*).
155. The contributions from the SHLAA sites turn in part on general points of approach and in part on some site specific matters. For the latter a site visit and the exercise of judgment should suffice. For the former, the main issue is the appropriateness of a piecemeal attempt to review the SHLAA without attempting a full reassessment. The SHLAA is intended to be an annual exercise and should be reviewed as such (*Document CD/9.6, Paragraph 9*). Partial updating of individual sites to reflect subsequent events presents a distorted picture because it leaves out of account any new sites which may be identified the next time that the SHLAA is updated. Partial updating also means that the SHLAA does not provide information as at a common base date for all sites. It is then no more than a series of snapshots. Such a process is not robust for similar reasons to those identified by the 2005 appeal Inspector (*Document CD/11.1, Paragraph 314*).
156. There were some criticisms of the Council's approach to density but these were misplaced. The use of densities taken from the development plan is not inconsistent with the SHLAA practice guide (*Document CD/9.6, Paragraphs 30-*



- 32). The URBED multiplier was used to reduce capacity on larger sites and cannot sensibly be the subject of complaint<sup>32</sup>.
157. WCC therefore maintains its view that its supply is of the order of some 1,138 dwellings set against a requirement for 1,358 dwellings, or a shortfall of about 220 dwellings (*Document WCC/2, Paragraph 24*). The Alresford Inspector did not accept this position but the decision in this case must be made by reference to the evidence and arguments presented in this case.
158. In the Crawley appeal some reliance was placed on the supply position for years 6 to 10 and the Appellant was tempted to argue a similar point in this case. However, it was accepted that PPS 3 focuses on the 5 year supply for development management decisions and expects the longer term supply to be addressed through the plan-making process<sup>33</sup>. If consideration is given to the longer term, any contribution that the site could make after the 5 year period needs to be balanced against the following factors:
- 158.1 Housing provision is currently being reviewed and the outcome could be for a level of housing above or below that identified in the SEP;
- 158.2 If the housing is set materially below SEP levels there is unlikely to be a need for this site and its development would involve the unnecessary use of a greenfield site in the countryside;
- 158.3 If housing is set materially above SEP levels so that WCC has to think more radically about the options for the growth of Winchester, the release of this site as currently proposed could potentially pre-empt options for the most sustainable development of the land to the north of Well House Lane (*Document WCC/1, Paragraph 3.19*);
- 158.4 Even if the housing is set at similar levels to the SEP there are other spatial options that might emerge for the longer term including a more dispersed pattern of development supported by the New Homes Bonus and CIL in relation to infrastructure provision;
- 158.5 Policy MDA.2 requires a "*compelling justification*" to be demonstrated at the time of release, and this would not be satisfied if there was uncertainty as to whether the site would actually be needed.
159. Given these factors the longer term contribution that the site could make to requirements that are still in the process of being settled is too uncertain to amount to a weighty factor.
160. If the SEP is used to set the housing requirement then the Council cannot show a full 5 year supply and Paragraph 71 of PPS 3 and therefore Paragraph 69 applies. Whilst no issue was raised in relation to the first 4 indents it is not

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<sup>32</sup> Inspector's Note – The URBED multiplier derives from the 1999 document "*Tapping the Potential*". Mr Green explained in cross examination that for smaller sites proportionately less of the site can be developed due to infrastructure requirements. The multiplier was thus used in addition to the density ranges which derived from LP Policy H7. Mr Clements agreed in cross examination that the use of densities from the development plan is not inconsistent with the SHLAA Practice Guidance.

<sup>33</sup> Inspector's Note – Mr Clements agreed in cross examination that Paragraphs 70 and 71 of PPS 3 focus on the 5 year delivery period and that there is no similar advice about the longer term except in the context of a 15 year developable supply of sites in the development plan.

accepted that the last indent would be satisfied. This requires consideration to be given to the “*spatial vision*” for the area. That vision as set out in the LP does not see this site coming forward unless there is a compelling justification for its release. Developing a site of 2,000 dwellings in order to provide a 150 dwelling contribution to a 5 year shortfall of between 220 and 490 dwellings is a disproportionate response and it cannot be said that where 90% of the dwellings will not address that shortfall that there is a compelling justification for the release of the site.

## **OTHER MATTERS**

161. The delivery of 40% affordable housing over the lifetime of the scheme is welcomed. This is a positive benefit but it does not add materially to the case for a compelling justification for the release of the site as a whole. If the 1,200 market dwellings which are the inevitable consequence of the 40% affordable housing cannot be justified on their own terms, then the fact that they are linked to the affordable housing will not overcome that deficiency.
162. It is worth noting that it is unlikely that most residents of the district will be able to access the market housing from their own resources. Only some 12%-15% of residents without substantial equity in existing property or non-commercial sources of funding are likely to be able to purchase market housing on this site, assuming that some of that housing was priced at lower quartile levels (*Document CALA/4/1, Page 26, Table 5.5*). There is no market evidence to show that simply adding to the supply, at substantially unaffordable levels for most residents, will either lower prices or even slow the upward rise of prices. The comments of the West Midlands EiP Panel do not provide any market evidence of such effects (*Document CALA/4/10*). Thus the benefits of providing the housing in terms of meeting the needs of the local community should not be overstated.
163. The development has been well-planned and meets the WCC’s design aspirations and satisfies the detailed criteria in Policy MDA.2. However, meeting these criteria does not amount to or add to the case for saying there is a compelling justification. Failure to meet the criteria would simply constitute a separate planning objection.
164. The possibility that the development could be eligible to attract the New Homes Bonus is a factor which potentially might be a material consideration. However, it would be necessary for there to be some evidence that this financial benefit would be utilised in some way to offset or mitigate some impact of the development or otherwise address its consequences in order for it to be material in judging the merits of the appeal proposal. There is no such evidence and as matters stand the prospect of the future receipt of the payment is either not material or it is too uncertain to carry any real weight.
165. The implications of the Ministerial Statement “Planning for Growth” are limited (*Documents PIC/1; PIC/5*). WCC believe that it should be allowed to develop locally derived targets and aspirations for development in the light of the Government’s commitment to abolish regional strategies. The need for economic growth is of key importance and was subject to evidence at the Inquiry. The issue is who decides what the right level would be and where it should take place. The Ministerial Statement is in response to the current economic situation and allowing the appeal would do little to promote

economic development now. WCC is pressing ahead with preparing its development plan and is making good progress through its Blueprint exercise. It aims to publish the results of the assessment of local development needs in June 2011 and the pre-submission version of the CS by the end of the year. To interpret the Ministerial Statement as "anything goes" in the form of economic growth would be a short sighted view and would not assist in the longer term planning of the area in a sustainable manner which involves the local community in determining development needs.

## **CONCLUSION**

166. This appeal proposal is essentially about LP Policy MDA.2. It requires a compelling justification before this site can be released. In the light of the changing planning landscape at both national and local levels, the scale and long term nature of this development, and the limited contribution it can make to meeting short term needs, it is concluded that the necessary compelling justification has not been demonstrated.

## **THE CASE FOR THE RULE 6 PARTY (SAVE BARTON FARM GROUP)**

*The main points are:*

### **INTRODUCTION**

167. Barton Farm is a reserve greenfield site only to be released for development in the event of established need. Save Barton Farm Group (SBFG) is a community group which represents and has the support of over 5,000 residents of Winchester District. SBFG opposed repeated applications and appeals by the Appellant since 1999 to develop this reserve greenfield site.
168. This is a substantial greenfield site with a mature ecology. It is prime best quality agricultural land which will be needed in future. World food shortages are already a fact, and the price of wheat, grains and rice will double this year due to a disastrous harvest in Russia and low harvests in Canada and the USA. Large price rises will follow for staple foods like bread, rice and pasta. We need to retain our productive farmland. It is and has been for many years an amenity to the community and forms an integral part of the setting and character of this heritage city.
169. The proposed development is a major, irreversible one which will inevitably bring with it the seeds of destruction for the unique character of Winchester. 2,000 additional houses and the 5,000 or so people who will occupy them would place impossible strain on an infrastructure that is already creaking. The much-paraded facilities to be provided by the Appellant to sweeten the package will only provide for the new residents brought into Winchester to live on the development.

### **STATEMENT OF MATTERS**

170. Prior to the Inquiry the Secretary of State set out the matters on which he particularly wished to be informed and these matters are answered as follows:
- 170.1 The development is not in accordance with the development plan as set out in the LP adopted in 2006.

- 170.2 The development is not consistent with PPS 1, which requires "*right development, right place, right time*". Building new dwellings on greenfield land is not the "*right development*" unless there is no alternative. Building 2,000 dwellings on open and unspoilt countryside is not development in the "*right place*", again unless there is no alternative. Winchester District has alternative brownfield sites. It is not the "*right time*" because the AMR demonstrates there is no compelling justification for building on this farmland at this time.
- 170.3 The development is not consistent with PPS 3 on 2 main counts. First PPS 3 states that planners must prioritise the use of previously developed land for all new developments. Second planners must identify a 5 year supply of deliverable sites available for housing and monitor this supply annually in the AMR. The AMR when assessed against the Option 1 requirement shows there is an adequate supply in all sub areas and periods especially in the non PUSH area. This applies both to the current situation 2010 to 2015 and the projected situation in the coming 5 years 2011 to 2016.
- 170.4 The extent to which the development is consistent with advice in PPG 13 is considered in detail below.
- 170.5 There have been no changes in circumstance to justify the grant of planning permission since the last appeal. The reasons for refusal have been strengthened by the removal of the 1,800 additional dwellings undemocratically imposed on Winchester district by the SEP.
- 170.6 No planning permission should be granted as the reasons for refusal are compelling. Section 106 Agreements or planning conditions should not apply.
- 170.7 The Inspector has raised the question of affordable housing (*Document CD/10.2*). The Appellant claims this application could provide 800 affordable dwellings over the planned build period. Assuming that the 10 year build will be achieved and the necessary Government grants made available this only equates to an average of 80 affordable homes per year. Winchester district has historically provided this level of affordable homes through small scale development in the city and its suburbs. Current schemes include the urban regeneration site at Silver Hill which could provide 307 homes including 100 affordable residential units with 35% social rented.
- 170.8 WCC has local authority brownfield land available which could accommodate affordable housing, including social rented, if the necessary Government grant funding is made available, possibly from the New Homes Bonus. At the Inquiry WCC confirmed that it could meet the affordable housing requirement on existing brownfield sites in the non-PUSH area.
- 170.9 Affordable housing should be shared among the settlements in the county so that rural settlements are not set in aspic to become either dormitories for the better off or just wither and die. Of course developers prefer to use large sites because the economies of scale maximise their profits. It requires more complicated organisation to build on many and smaller sites. But over more than 12 years that SBFG have been talking to the public this is what most people have said they

want, a reasonable number of affordable homes so that young families can stay in their towns and villages, using the local school and supporting local business.

## **SBFG OBJECTION 1: HOUSING ISSUES AND PLANNING POLICY**

### **Evidence at the Inquiry**

171. Evidence has been given that shows that the people of Winchester, the respected organisations, representatives of every political party, the Parish Councillors, County Councillors, the MP, and WCC itself oppose this development. The Inspector has witnessed the understanding all these people have of the city's unique character, history, and its integral landscape setting. All these representatives have come forward to protect this nationally and internationally famous historic city from urban sprawl which is not in the right place nor at the right time and would be a cost that neither Hampshire, nor WCC, nor Hampshire residents, nor the Appellant can afford to pay.
172. Many of the speakers actively want or accept the need for houses, especially affordable houses. They simply do not want them provided in this way, bringing 1,200 open market houses in their wake. Witnesses who are in a position to know say that affordable housing can be provided elsewhere. The Inquiry also heard that Winchester has a good mix of housing which has been built over the years and is still continuing to be built now. The people of Winchester do not wish to prevent the building of houses in appropriate locations. They only wish to preserve the character of the city which is so important to them.
173. It has been said many times that affordable housing is needed, although it was also said that Winchester's waiting list is smaller than the average for the rest of the country. However if the funding is not available the building of affordable housing will not happen. More than one witness opined that the waiting lists for affordable houses will revert to the current figure after a short time. Whilst that is not a reason not to do anything it is a reason not to build affordable housing at the cost of irrevocably harming the character of Winchester when it is perfectly possible to provide that housing in other ways.
174. The Appellant has accused SBFG and the residents of Winchester who have attended the Inquiry of all being comfortable, owner-occupiers of a certain age who do not wish others less fortunate to have houses<sup>34</sup>. Nothing could be further from the truth. The reason that many of the attendees are older is that younger people are at work during the Inquiry. In any event the local MP and Councillors are people who listen to and speak for the residents of Winchester. Some witnesses have spoken who live in other parts of the city. Only one person has felt strongly enough to speak in favour and that is the sole Councillor to vote for the scheme at the Planning Committee meeting.
175. The Appellant argues that the Report to the Planning Committee in June 2010, on the basis of which the Committee indicated that it would have refused the application, proceeded from the erroneous assumption that the Secretary of State had power summarily to withdraw RS (*Document CALA/7/1, Paragraph*

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<sup>34</sup> Inspector's Note – Mr Village made these observations orally in closing and in writing at *Document CALA/7/2, Paragraph 17.11*.

3.17). At that stage WCC did believe this to be the case although the Judge in CALA 1 took a different view. However it should be noted that WCC also referred in the Report to the clear statement by the Secretary of State to render the overarching requirements of the SEP obsolete (*Document CD/2.1, Paragraphs 10.16, 11.2*). The Localism Bill currently proceeding through Parliament is evidence that his intention remains precisely as WCC understood it to be and indicates that it is only a matter of time before it is put into effect. WCC considered the Secretary of State's intention to be '*a material consideration*' and the weight to be attached to it '*a matter for each local planning authority to judge in relation to each particular application*'. It is thus equally clear that the Report was also based on the intention of the Secretary of State (and thereby the Government) to remove RS and that is still the case.

176. The Appellant assumes that the Localism Bill will have a long passage through Parliament but that is not necessarily the case. It is argued that abolition of the SEP would be irrelevant if the housing need still remains or is even greater. That ignores the fact that the previous housing need figures were predicated on the basis of top down requirements determined at regional level which, if examined, would bear little relationship to the actual needs of the area. The Appellant contends that based on the SEP requirement the Council accepts that it cannot demonstrate a 5 year housing land supply. That is exactly the point. This argument only has weight from the perspective of the SEP figures.
177. The Appellant considers that no material weight should be given to Option 1 figures. WCC as local planning authority and Government DCLG Guidance give very significant material weight to Option 1 figures. WCC has shown that they are the best currently available assessment of local housing need. It is clear that the Appellant holds fast to the old way of looking at planning issues. For example, there was a very obvious reluctance to accept that the residents of an area can have views on planning issues that should be taken account of - and are possibly more useful and apposite than those of the "experts". It is clearly the Appellant's view that the people of Winchester know nothing and are concerned only with their own personal interests. This is not the case. People who need homes should have homes, but not at the cost of ruining the countryside and a heritage city, when they can be provided elsewhere on previously developed brownfield land and dispersal amongst the settlements.

### **Establishing an identified need for additional housing**

178. Little or no weight should now be given to the SEP. Regional strategies have been rejected by Government policy. The Secretary of State has declared his intention to replace the regional tier of planning by the Localism Bill, currently passing through Parliament. As a result the SEP will carry little weight in this case as it will no longer be applicable to the timescale required if this development were started. In addition it would be inconceivable that a development of this enormity could be built before the SEP is abolished in late 2011 or early 2012.
179. The decision as to whether or not local need amounts to a compelling justification to trigger the release of this site cannot be determined until such time as the review of local need can be established. The test for LP Policy MDA.2 will be local need. The SEP does not represent the needs of the district because the housing numbers were undemocratically determined by a top-down process which this Government has determined will be replaced. The

Government confirmed local authorities had the right to revert to the Option 1 numbers democratically tested by the strategic and local authorities by extensive consultation with the people of Hampshire including the part of Winchester district within central Hampshire.

180. The LP was adopted in 2006 and specified Policy MDA.2 would retain the reserve status of Barton Farm, established by the SP and ratified as a saved policy in the LP by the Secretary of State. Until and unless it was triggered by a shortfall in housing provision, countryside policies would apply. The decision as to whether local need amounts to a compelling justification is clearly supported in the spirit of localism. In the absence of local evidence of need the local authorities are entitled to rely on Option 1 figures which provided the best analysis of local need. WCC is required to work with its local communities in identifying local need and the local authority will make provision informed by consultation within the plan system, local and national, to inform the emerging LDF.
181. WCC's SHLAA (December 2010) identifies sufficient housing land to meet the Option 1 housing land requirement. The AMR (December 2010) confirms that the SEP figures are no longer relevant to this case. Until such time that an identified need for additional housing has been tested little weight can be given to the SEP.

#### **Reserve status and the requirement of "compelling justification"**

182. The protection given to Barton Farm in the LP conveys its significance. This reserve site is only to be released for development in the event of "compelling justification" to meet identified local housing need. Until such time as that need might be justified the land would be protected by countryside policies. Half of this farmland to the east is a Local Gap to protect the distinctiveness of the settlements. To build on part of this wedge would violate the distinctive urban edge which defines the city and its countryside. This could trigger applications to develop the entire wedge as far as the A34 at Three Maids Hill roundabout which could result in urban sprawl equivalent to a new town.
183. The reserve sites policy was introduced to ensure brownfield sites were prioritised and to avoid unnecessary development on greenfield land. The prioritisation of previously developed land is emphasised in PPS 3 Housing. The reserve site policy ensured that PPS 3 paragraphs 43 and 44 were implemented. PPS 3 explicitly sets out the presumption that previously developed land should be drawn from various sources. This reserve policy was highly successful in Hampshire, improving sustainability and saving countryside around urban areas. Barton Farm is a green wedge of high quality farmland, reaching to the boundary of the city and giving access to the countryside. It is a valued amenity which contributes to the quality of life of the wider community and is a factor which contributes to the creation of jobs and income from tourism.

#### **Annual monitoring through the AMR:**

184. The "compelling justification" required to determine whether the release of Policy MDA.2 would be triggered is the AMR as established in the LP. The AMR does not show a deficit of a magnitude which could justify the release of an MDA of 2,000 dwellings, services and facilities. In the non-PUSH area it shows a deficit of 207 dwellings, demonstrating over 4.2 years land supply, for 2010-

2015 on the basis of the SEP. On the same basis for Option 1 it shows a surplus of 358 dwellings, demonstrating 7.3 years land supply (*Document CD/7.10, Page 30, Tables 8 and 9*). WCC has set out the clear case for the democratically tested Option 1 figures which is fully endorsed. It should be noted that using Option 1 follows the DCLG Guidance Note from the Secretary of State (*Document CD/6.2*). An MDA of this size should not be determined by top-down numbers allocated at regional level. They should be the decision of the local authorities working with their communities to determine the housing needs of the locality in accordance with the Localism Bill.

185. WCC's argument that Policy MDA.2 does not allocate the reserve greenfield site is supported. The land is identified but with the caveat that its release can only be triggered by a compelling justification of a shortfall in the allocated housing numbers. There is no 2,000 dwelling shortfall. WCC decided to accept the Government's recommended Option 1 democratically approved housing provision. It has since undertaken comprehensive consultation with the communities throughout the district to assess local housing need to inform the CS to be published later this year in 2011.
186. It should be for WCC to determine whether there is compelling justification to trigger the release of this MDA and that decision should be upheld by the Secretary of State unless he determines the decision is based on grounds which are unsound. The Blueprint consultation has been endorsed by WCC as a successful joint venture with the community. WCC acknowledged that many of the ten principles recommended are already embedded in other Council plans and strategies and will be used in the revision in updating the '*Vision for Winchester*' (*Document WCC/3, Paragraph 2.6*). There is now a timetable agreed to progress the CS with a further consultation identified to inform the finalised document by November 2011.
187. The release of the Barton Farm site at this time would prejudice the consultations with the community. It would pre-empt the assessment of identified need for housing in the non-PUSH area and the grounds for refusal in the first putative reason for refusal (*Document CD/2.1, Page 67*). The Secretary of State and the DCLG Chief Planner have made it clear both verbally and in writing that RS will be abolished in the Localism Bill now before Parliament. Considerable weight must be given to that stated intention. The fact is that the CS is not yet ratified and that this MDA could not be started before 2013/2014 at the earliest. Judging by the slow time-scale for the only other MDA so far undertaken in this district at West of Waterlooville this is a very optimistic scenario. This site was a baseline requirement in the SP from 2001 and to date only about 100 dwellings have been built in a decade.
188. The AMR clearly shows that the only requirement to even consider including the Barton Farm site in the proposals for the proposed CS were the higher numbers required by the SEP (*Document CD/7.10, Page 30, Paragraphs 63, 64*).



### Dunsfold Park appeal decision (APP/R3650/A/08/20891438)<sup>35</sup>

189. In relation to questions of prematurity the Inspector in the Dunsfold Park case stated that *"the allocation of sites is a matter for the development plan process."* The SEP and the saved policies of the Waverley Borough Local Plan oppose major development in the countryside, reflecting PPS 3 requirements. In the present appeal the SEP and the LP approved the saved reserve site under Policy MDA.2 but with its additional clause requiring a "compelling justification" to trigger its release, tested annually through the AMR.
190. Paragraph 385 of the Dunsfold Park Inspector's Report also stressed that *"in preparing its LDF the Council will need to assess the needs of existing urban and rural settlements, while taking account of many factors including the existing infrastructure capacity. In doing so it will need to work with other stakeholders, so as to accord with Paragraph 38 of PPS 3."* The impact of this development if accepted would have serious implications for other local settlements. In Paragraph 386 the Inspector states that there is a presumption in PPS 3 against refusal of planning permission on grounds of prematurity. But as would be the case with Barton Farm, the Dunsfold Park Inspector concluded that for the 2,601 dwellings proposed *"the scale is such that the EiP Panel held that it would seriously unbalance the RS"*. It would have provided in one single location a large percentage of the housing supply. *"The sheer scale of the development would have the effect of pre-empting proper consideration of the housing needs of the Borough and would pre-determine the outcome of the LDF process."*
191. In the Dunsfold Park case as with the present appeal there was no adopted CS. The Secretary of State was of the view that *"a decision to allow the proposals to proceed at this stage, prior to the formulation of the LDF, would effectively pre-empt the proper consideration of alternatives as part of the development planning process."* The Barton Farm scheme would be similarly substantial and prejudicial to subsequent decisions by WCC for the emerging CS.
192. The AMR has justified using the Option 1 requirement to avoid otherwise major and irreversible decisions being made about housing provision, especially in the non-PUSH area. Such would prejudge the planning strategy for the area and prevent it from being locally derived. The AMR states that resisting such sites in the short term would not prevent WCC from utilising additional sites subsequently *"if the locally derived targets"* demonstrate the need (**Document CD/7.10, Page 31, Paragraph 65**). The appeal scheme should be refused to enable the Council to consult and work with the community in identifying the genuine housing need appropriate for Winchester district.

### The Blueprint consultation and the Vision for Winchester

193. There is a Vision for Winchester which is shared by the community and has been articulated at the Inquiry. The responses to Blueprint consultations recommended 10 principles for the future of Winchester. WCC has confirmed the key issues raised from the consultation to be taken forward in a revised CS

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<sup>35</sup> Inspector's Note – This appeal decision by the Secretary of State has not been submitted as an Inquiry document. It was raised by Mr Napier (CPRE) in his evidence and is referred to in his **Document TP/18/2**.

by the end of 2011 (*Document WCC/3*). Threaded throughout the responses to the Blueprint consultation has been the conviction that "*the LDF should be led by consideration of place and character and not numbers alone*" and that "*the 'Winchester City and its Setting' should be adopted and reissued as evidence for the LDF*" (*Document WCC/3, Paragraph 2.7*).

### **The relevance of the Localism Bill to the determination of the appeal**

194. The Secretary of State's clear intention to implement the localism agenda is supported and the considerable weight that should be given to the Localism Bill is recognised. The Bill sets out the Government's determination to revoke RS. If the appeal to release the land at Barton Farm is allowed at this time it could be prejudicial to the Council's commitment to the Blueprint consultation and its emerging CS within the LDF.
195. In this case the time frame is critical as the revocation of the SEP may not take place until after the Secretary of State's decision to accept or to reject the appeal is made. It is an indisputable fact that the proposal is only relevant to the period beyond 2013/2014. A development of this size could not be released until a full planning application was agreed. In the interim significant road works at junctions and preparatory work would need to be undertaken. The impact of the road modifications would be disruptive to transport and access in neighbouring villages, including the unpopular and intrusive re-routing of Andover Road.
196. For WCC the need for clarity relating to this case is crucial to its planning for the CS. The release of such an immense development at this time is not needed and would prejudice the Council's public consultations and assessment of housing need. The AMR 2010 addressed this issue in Paragraph 65. The report emphasises the detrimental uncertainty about future housing requirements until the imminent revocation of the SEP.
197. When the Localism Bill is implemented, Government policy will be ratified and the current uncertainties determined. Unless and until Government guidance is clarified and legally based it would be irresponsible and inappropriate to allocate the appeal site on a premature application. The Appellant is seeking to subvert the laws already passing through Parliament which have direct bearing on this case. This site is too important to the residents of this internationally famous and unique city to be decided during a vacuum in a delay in changing the laws.
198. The Appellant's entire case rests on the thin thread of the SEP which it is Government declared policy to revoke. Neither Option 1 genuine housing need and numbers nor the revoked SEP numbers require release of a 2,000 dwelling site. There is neither need nor compelling justification to release the Barton Farm reserve site. The Inspector's note of 24 February 2011 sets out the materiality and weight that Inspectors can give to the clauses in the Localism Bill (*Document ID/7*). The Localism Bill is currently at the Committee stage following the second reading and although there may well be amendments, these are unlikely to affect the thrust of the Bill. This will put into effect the frequently expressed desire and intention of the Government that the views of the community should be given significant weight in the planning process. The people of Winchester have made their wishes plain on many occasions.

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## **SBFG OBJECTION 2: IMPACT ON INFRASTRUCTURE, SERVICES AND TRANSPORT NETWORK**

### **Introduction:**

199. The proposed development incorporates some 2,000 dwellings, the occupants of which would clearly need to travel outside the site and whose visitors would travel in. Although there is some employment and retail provision proposed it is small in context of the number of dwellings and it is naive to assume that the employers will hire staff only from within the site or that residents will only ever shop there. Evaluation of the site from a transport perspective must consider:

- The effect of re-routing the Andover Road through a new suburb including an area of 'shared space';
- The trip generation, including visitors and deliveries;
- The modes and direction of the trips including pedestrians and cyclists;
- The state of existing supporting infrastructure;
- Established trends in local traffic loading; and
- The impact of the additional trips on the local road network and mitigation strategies.

### **Transport Statement of Common Ground (TSCG)**

200. SBFG prepared and submitted a proof of evidence outlining its objections to the application in early January 2011. The Inspector's pre-Inquiry Note recognised that SBFG also had concerns about highways matters and so as to avoid unnecessary duplication of evidence she suggested that it would be helpful to involve the Rule 6 Party to see whether there is any scope for agreement on highways issues in advance of the Inquiry. The Inspector refers to co-operative discussion to narrow the areas of dispute and that all parties have the responsibility to ensure that Inquiry time is used effectively and efficiently (*Document CD/10.2, Paragraphs 11, 25*). HCC did not engage with SBFG in the preparation of a TSCG (*Document SBFG/2/3*). It did though separately negotiate a TSCG with the Appellant (*Document CD/4.2*).

201. The proposed mitigation measures in the TSCG potentially significantly change the nature of the application and have clearly fundamentally altered the previous view of HCC causing withdrawal of its highways related reasons for refusal. The TSCG does not provide any evidence for the effectiveness of the proposed mitigation measures in terms of queue lengths, junction saturation and so forth. The Appellants will make a financial contribution by way of part payment to install safety measures but HCC, i.e. the community, will have to find the balance at a time of cuts in public expenditure. The viability and effectiveness of the mitigation measures proposed have not been proven.

### **Re-routing Of the Andover Road,**

202. It is clear that to divert the amount of traffic passing down the existing Andover Road through this proposed development and also to accommodate the traffic created by the appeal scheme would be a risk to the health and safety of the would-be residents. The re-routing of the Andover Road traffic onto a meandering 20 mph route through the site may be presented as an

appealing image of calm, slow, traffic harmoniously sharing the road space with pedestrians. That presentation is specious. The reality is that this is the main approach to the City of Winchester from the North and it must, perforce, carry a great burden of mixed use traffic.

203. The Appellant explained the concept of 'shared space' and the fact that it is relatively new in this country. It is understood that there is no change in levels between the road and the pavement (*Document CALA/3/4*). Reference was made to Oxford Street and Regent Street and to the fact that it was working there<sup>36</sup>. It is now understood that the Appellant may have been referring to Oxford Circus where the junction has been paved over and pedestrians and cyclists are able to walk across the junction in any direction. However, it is noted that this only happens when the traffic is stationary under the control of traffic lights at red.
204. Emergency vehicles use the Andover Road extensively as their route between the Royal Hampshire County Hospital and any emergency in the north of the city or beyond. They would be faced with the meandering route, and with the traffic queues engendered. Response times can only increase in such circumstances.
205. Beyond the boundaries of the Site, the negative impacts of the proposed development would be more severe. The routes around the new development were not designed as arterial routes and there would be congestion and pedestrian safety issues, particular at junctions and in the vicinity of the schools. Consequently, the development proposal will have a significant impact to the detriment of the highway network which is contrary to saved LP Policy T2 and Policy CC7 in the SEP (*Document SBFG/2/1, Paragraph 143*).
206. There is concern over the issue of vehicle pollution created by diverting the Andover Road through the new development. It is understood that the policy is to reduce the exhaust emissions in Winchester as ultrafine particulate material known as PM<sub>10</sub> and PM<sub>2.5</sub> is high, equalling that of London. The UK Government's Committee on Air Pollution has reported in December 2010 that particulate pollution exacerbates asthma, especially in children, and increases the death rate in older adults from lung disease, cardiac complaints and strokes. Children and the elderly are the most vulnerable to particulate exposure, which is the demographic population intended for this new development. The Committee has also emphasised that particulate pollution in the air is now one of the major public health problems to be overcome.
207. Despite such warnings the developer wishes to divert the Andover Road such that it will pass through the busiest section of the new development exposing the residents, visiting shoppers and workers to exhaust pollution. WCC offers no objections but SBFG strongly objects on health grounds. Exposure to particulate material is highest nearest to the source of emission which will be exacerbated by the need to slow the traffic for road safety reasons, traffic which will not only come from the residents of the development but from commuters and heavy diesel vehicles passing through to the city. Even if the level of particulates is only increased marginally, which is doubtful, the

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<sup>36</sup> Inspector's Note – These were points made by Mr Tighe during cross-examination and re-examination.

exposure will be increased over a long time frame and this is the key feature in the development of serious health problems.

### **Creation of alternative traffic routes during peak periods**

208. A development of this size would be big enough to have a significant impact on the trip level of Winchester as a whole. To give some perspective, this development would add 2,000 houses to a population of around 15,000. Adding that proportion (13%) to a city in any way will give cause for concern in terms of traffic generation (*Document SBFG/2/1, Paragraph 153*). The Appellant has estimated that approximately 1,064 vehicle journeys and 1,286 vehicle journeys will be distributed on the local network at morning and evening peak times respectively. It is clear that even if the measures to encourage non-car transport are successful the great majority of trips to and from the proposed development will be by car. It can be assumed that the mitigation strategies represent the Appellant's best proposals for mitigation. The evening traffic peak is acknowledged to push the City Road junction over saturation levels with attendant queuing.
209. Residents are very concerned at the real possibility of drivers taking alternative routes to avoid any delays as traffic moves slowly along the New Andover Road through the 'shared space' and 20 mph speed zone. In addition other measures will be introduced to reduce the speed of traffic. For example, speed bumps, pedestrian controlled lights at crossings and possibly traffic islands. The Andover Road southbound, from Three Maids Hill in to the city is an alternative route for vehicles in the event that an accident closes or reduces the flow on the main A34 southbound towards junction 9 of the M3 motorway.
210. HCC accepts that during peak periods it is likely that there will be delays resulting in traffic queues in this suburb<sup>37</sup>. Depending on traffic conditions, some drivers will use Down Farm Lane, or Littleton, or Harestock Road/Priors Dean Road/Stoney Lane or Berewecke Avenue as routes to avoid traffic build up at peak times on the New Andover Road. The Appellant has not carried out any studies regarding traffic creating 'rat runs'. The real impact on the local community and the road network has therefore not been established. Having experienced over the years how traffic in the area reacts to delays and hold ups, especially during peak periods, local residents believe that rat runs will become a feature of weekday life.

### **Mitigation measures for increase in traffic flows**

211. The mitigation proposals for some of the issues relating to traffic, cycling, and pedestrians would be insufficient and therefore it has not been demonstrated that the local highway network could operate satisfactorily with the considerable additional traffic likely to be generated by the proposal. HCC should therefore not have withdrawn the second putative reason for refusal.
212. The Park and Ride "light" for 200 vehicles would be totally inadequate to cope with the volume of traffic coming into Winchester from the north. It would have to be capable of accommodating at least 1,000 vehicles as part of a sustainable transport strategy for the area.

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<sup>37</sup> Inspector's Note – Mr Jenkins accepted in answer to questions that there would be longer queues at the City Road junction in the afternoon peak.

213. Vehicles from the proposed new suburb travelling towards Junction 9 of the M3 would use Well House Lane via the single carriageway railway bridge, Bedfield Lane and the Cart and Horses junction. In the absence of any further information regarding the traffic volumes there is extreme concern at the effect on both residents and the structure of the roads along this route.

#### Junction improvements

214. One of the putative reasons for refusal relates to Park Road and its junction with Worthy Lane. It appeared from the TSCG that no proposals had been included for this route and this was noticed by the Inspector<sup>38</sup>. Both the Appellant and HCC indicated that the effect of traffic flows on this route, as a consequence of the development, would not be materially different from its present state to warrant special measures. There has been no serious consideration about the effect of traffic using Park Road as a 'rat run'.
215. On some occasions and at peak times, the southbound traffic, negotiating the Andover Road junction with Bereweeke Road queues back beyond Stoney Lane, a distance of some 400m (*Document SBFG/2/1, Paragraph 159*). It is proposed to create a right turn lane to assist vehicles waiting to turn in to Bereweeke Road from the north. The lane would be long enough to accommodate up to only 4 cars and less if they were buses or lorries. At peak times the proposed layout may enable traffic to reach the City Road junction more quickly but it has introduced safety hazards that are not there at present and has not overcome existing hazards. For example vehicles waiting in the right turn lane would obstruct the view of cyclists from vehicles waiting to turn right from Bereweeke Road. Also, traffic would be unable to turn in to Bereweeke Road from the north as a result of buses and traffic waiting outside Peter Symonds College at peak times.
216. Funding for passenger information and waiting facilities at the bus and railway stations would not, in any way, compensate for a broken key road network junction at City Road. To conclude otherwise would be to substitute a rational and balanced planning process with an auction. Any new development should provide junctions which would work within acceptable capacity limits taking into account all additional traffic that it generates. Any proposal which does not achieve this is fundamentally flawed.

#### Walking and cycling

217. To support their traffic flow figures at the City Road junction, the Appellant relies on the assumption that, because of the close proximity of the development to the city, a number of residents will either travel by bus, cycle or walk in to town. The Appellant is unable to provide any calculation to support the numbers of those who will choose to bus, cycle or walk but it must be considered significant enough to support the argument for the mitigation of additional traffic approaching City Road junction. Re-routing the Andover Road will not necessarily reduce the traffic issues for walkers and cyclists. Direct routes are required if people are to be encouraged to walk or cycle to the city centre. There is no direct route, other than the existing Andover Road, which

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<sup>38</sup> Inspector's Note – I asked Mr Tighe and Mr Jenkins about the impact of traffic on Park Road which was mentioned in the second putative reason for refusal. It did not appear to have been included in the modelling.

narrows considerably beyond Park Road and is especially dangerous for cyclists. The Appellant's proposal to use Worthy Lane and Nun's Walk cannot be deemed to be a direct route into the city centre.

218. The most direct route in to the city is via the Andover Road. It is understood that, other than providing a combined bus/cycle lane between the railway bridge and Worthy Lane junction, no other mitigation measures are intended. This section of road is downhill and generally does not provide much of a problem for cyclists until they reach the traffic trying to emerge from Worthy Road. It would seem that there are no additional measures intended to make this manoeuvre safer for cyclists. From the City Road lights, cycling to the left or straight on poses its own safety risks and neither of these routes encourages cycling. It is therefore better to dismount. For pedestrians, the pavement from Berewecke Road is only on the west side of Andover Road and is in places not of an ideal width.
219. In a northerly direction for most of the distance from the City Road junction to Berewecke Road, the route is uphill. It is a long slow climb past a busy Tesco shop and garage, between the left hand kerb and bollards, over the rail bridge and on to Berewecke Road. At Berewecke Road a cyclist is faced with traffic turning across his/her path from both directions. As this route is unsafe it would not be popular with cyclists travelling from the city during rush hour. It would be even less popular in the winter, particularly if it is raining.
220. The alternative route to the city via Worthy Road has also been proposed as a route for cyclists and pedestrians. However it is much longer and has different safety hazards to those along the Andover Road. The exit of the footpath at Worthy Lane and crossing to the far pavement being just one although the Appellant, did suggest that some form of crossing could be installed at the exit on to the Worthy Road<sup>39</sup>. As this route is not the shortest route to the city it would not be attractive, especially in adverse weather.
221. In the absence of supporting data, SBFG is of the opinion that neither of these routes is attractive enough to encourage people to walk or cycle in and out of the city in sufficient numbers to reduce significantly the traffic flows at the City Road junction.

## **Education**

222. On the basis of the evidence presented it seems that the primary school provision amounts to no more than the Appellant donating the land. No secondary school is provided although one must assume that significant numbers of over 11 year old children would be residents too. The community centre is apparently only for residents of the site.

## **SBFG OBJECTION 3A: ENVIRONMENTAL IMPACT – WATER, FLOODING AND SEWERAGE**

223. The Appellant is confident that the Environment Agency is comfortable with the development of Barton Farm and that it presents no risk of increasing the

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<sup>39</sup> Inspector's Note – Mr Tighe said in cross-examination that he would expect a crossing to be provided to the far side of Worthy Road to join the existing cycle route through the mitigation measures.

likelihood of flooding in Winchester or danger of harm to the River Itchen. Both organisations are wrong and their insouciance is based on inadequate investigation.

224. Attention has been drawn to the damaging floods in Winchester city within the last fifty years, despite classification as a 1 in 100 years flood zone. These occurred in spite of the relatively benign structure (cultivated clay topsoil over chalk aquifers) just upstream of the low lying part of Winchester (**Documents SBFG/3/1, Paragraphs 198-219; SBFG/3/3**). These floods represent significant statistical events, which cannot be ignored. They are one of the reasons why the development is opposed, at a time when climate change threatens to make rainfall more severe, turning farmland into a large suburb with hard surfaces, polluted run-off and the sewerage and waste water of 2,000 dwellings.
225. The proposed flood prevention measures for the development, which are designed for a 1 in 100 years risk plus an additional 30% to take account of increased rainfall in keeping with an earlier DEFRA prediction for climate change, are inadequate. They do not take into account the past weather events of Winchester, where a 43% rise in rainfall was associated with the worst flood in living memory in 2000/2001 (**Documents SBFG/3/1, Paragraphs 190-193; SBFG/3/3**). This rainfall figure appeared in the Halcrow report on the flood, but it has not been taken into account by the Environment Agency in their FRA.
226. That flood was a 1 in 200 year event, and to this must be added at least a factor of 30 to 40% for the latest DEFRA predictions for rainfall associated with climate change. The Appellant claims this higher flood risk could be accommodated by enlarging the SuDS scheme, repositioning the houses higher up the sides of the southern dry valley (dry valley 2) and building a flood culvert under the railway embankment in the south east section to protect the rail structure. No explanation was offered as to where the water drained by the new culvert would go, if the underlying chalk were supersaturated by previous high rainfall.
227. The SuDS proposed, even if enlarged to the higher risk category, do not necessarily guarantee protection of the city from future flood-provoking weather because the essential scientific evidence to reassure the Inquiry has not been forthcoming. No evidence has been put forward that the necessary off-site drainage research (in the dry valley 2 east of the railway and dry valleys 3, 4 and 5 at Springvale Road and Headbourne Worthy) has been carried out to assess this risk as required by the Environment Agency in their Report of 2002: *Winchester MDA Strategic Flood Defence and Drainage Issues* (**Document SBFG/3/4**). In the Report it is stated that the city has limited hydraulic capacity and that there is a risk that excess run-off from the development of the site could increase these flood risks. Also that if excess run-off reaches the River Itchen it might increase the existing flood risk to Winchester.
228. It is therefore of serious concern that the FRA was approved when such a risk has not been appropriately assessed. The analysis required for the FRA is incomplete and should not have been accepted by the Environment Agency. Therefore, by inference, it cannot be certain whether or not the developed site would pose a risk to the city in times of high rainfall. The Appellant considered



that any such flood risk to the city was of low probability but gave no cast iron guarantee that it would not occur.

229. The flood attenuation structure has been designed to cope with a 1 in 100 years risk plus 30% for climate change. Even with enlargement to the size required to protect from a 1 in 200 year risk such as the 2000/2001 floods it is agreed that protection would not necessarily be provided unless the effectiveness of the SuDS is secured by a consistently high standard of long term maintenance (*Document SBFG/3/1, Paragraph 238*). This is a situation that the Appellant has conceded could be of serious concern and has still to be resolved despite the enactment of the Flood and Water Management Act 2010. This Act will eventually ensure standards are set for the design, construction, operation and maintenance of SuDS and payment for their maintenance by the local authority. Financial provisions for maintenance could, however, be a limiting factor in preserving the effectiveness of the SuDS in tough economic times taking account of the recent announcement of a cut back in flood protection finance. Also this does not resolve the issue of accidental oil pollution or winter road salt destroying the ecological reed beds used to remove pollutants, whose effectiveness requires long term ecological stability.
230. There is also no resolution of the risk to the ecology of the River Itchen by this development (*Document SBFG/3/1, Paragraph 253*). The sewage and waste water will pass through the Harestock waste water treatment works situated to the north of dry valley 3 astride flood zone 3B, the highest category of flood risk in the historical maps provided by the Environment Agency. This is a site that is well recorded to flood frequently and in the severe flood of 2000/2001 was put out of action by flooding for two weeks. There seems to be a dogged determination by the Appellant and the Environment Agency not to recognise this risk (*Documents SBFG/3/1, Paragraph 249; SBFG/3/3*).
231. The Appellant has admitted that removal of sewage by road tankers may be needed if such an event occurred again. However it was envisaged this would be coping with a one day sewage treatment plant breakdown, not a prolonged episode. Each of the four pumping stations would have its own modest storage capacity but would need up to three tankers a day to remove sewage that could not be sent to an incapacitated Harestock waste water treatment works<sup>40</sup>. Otherwise sewage may have to be dumped on to dry valley 3 if the plant is out of action for more than a day (as it was last time), causing serious risk to the ecology of the River Itchen. This risk was never tested by the Environment Agency in the last major flood when the plant was out of action. There were various reasons for this, including the then foot and mouth epidemic limiting access to the testing sites. Therefore it is difficult to understand how the Environment Agency could give assurance on the safety of the river ecology for this development if their analysis was incomplete. This once again brings into question the validity of the FRA for this development (*SBFG/3/3*).
232. Unless an entirely new sewage treatment plant has been constructed and is fully operational before the occupation of any dwellings planning approval for the appeal scheme should not be given. Such a plant would have to be built outwith the flood-risk area with a higher capacity and the ability to cleanse

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<sup>40</sup> Inspector's Note – These points were confirmed by Mr Walker in cross-examination.

sewage to the extent that subsequent percolation through the dry valley chalk is no longer a requisite to assure only clean water reaches the River Itchen. The Appellant stated that discharge was "*undesirable but not unknown*", and went on to say that it occurs only in very high flood, when it is diluted<sup>41</sup>. Even a measure of dilution could not make the flowing of the equivalent of the contents of twelve tankers of sewage per day an acceptable addition to the water running through Winchester (*SBF/3/3*).

233. Southern Water Services have told the Appellant that they have the capacity within their existing abstraction licence base to supply the new suburb with water but the Winchester District Local Plan Members Panel has pointed out "*The potential impact of further abstraction on the River Itchen's nature conservation interest remains, however, to be assessed*". There is already limited water supply to the city during dry summers that requires hosepipe restrictions and the need to limit usage by installing water meters (*Document SBF/3/1, Paragraph 243, 245*). The Environment Agency has already warned that the forthcoming European Union standards for chalk river water will be difficult to meet without sustained efforts to tackle all sources of water pollution and over-abstraction. Yet no evidence has been forthcoming to counter the point that this development could result in over-abstraction to the detriment of the river ecology.
234. The Appellant does not understand the potential exacerbation of the flood problems in Winchester that building on Barton Farm could bring about. This causes great anxiety to many local people who live here. The concerns are rational and measured. One of the requirements of the Exception Test in PPS 25 is that there should be no increase in flood risk elsewhere and flood risk overall should be reduced. This should be applied to the whole development and for the reasons given it should fail (*SBF/3/3*). The correct procedural diligence has not been pursued to provide the necessary scientific evidence to support a flood risk approval.

### **SBFG OBJECTION 3B: ENVIRONMENTAL IMPACT – LANDSCAPE SETTING AND VISUAL IMPACT**

#### **Introduction**

235. Environmental protection, enhancement of the natural environment and protection of farmland are priorities of concern within the existing and emerging planning system. PPS 7 sets out Government policy for rural areas and the urban fringe. New development is required to respect and enhance local distinctiveness and the intrinsic qualities of the countryside. Conservation and enhancement of both landscape character and natural diversity are required, including areas subject to new development. New stronger policies are emerging to protect farmland, wildlife and local landscapes. The Defra consultation document on the natural environment "*An Invitation to shape the Nature of England*" stresses the need to protect the natural environment. The Natural Environment White Paper is due to be published in spring 2011 (*Document SBF/4/1, Paragraph 292*).

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<sup>41</sup> Inspector's Note – These comments were made by Mr Walker in cross-examination.

236. The appeal is at a time of change with a new Government introducing policies to address the needs of the country in this new decade. The emerging CS will need to address these policies. The appeal scheme would have such a significant permanent detrimental effect on Winchester that the outcome should not be determined until the CS is ratified.

### **Landscape setting and visual impact**

237. Winchester is nationally and internationally famous and its landscape setting is part of its special character. The development of the application site would cause irreversible damage to the green wedge of countryside to the north and to the continuous green corridor to the east. This green corridor links the appeal site with the east across the Local Gap to the Itchen Valley Special Area of Conservation and the boundary of the South Downs National Park. Green wedges are designated in planning policy as a demarcation of the urban boundary to prevent coalescence with smaller settlements. In this case, the proposed development is for part of that green wedge which would have a detrimental impact on the whole (*Document SBFG/4/1, Paragraphs 265-269*).
238. It has been argued that Well House Lane could be a new boundary for the city. Barton Farm, east of the railway bridge, is the boundary of Headbourne Worthy village and is part of the designated Local Gap. Development of part of the wedge could open the floodgates to development applications north of Well House Lane to Three Maids Hill and threaten future development east of the railway triggering, effectively, development the size of a new town similar to Basingstoke.
239. The appeal site is distinctive for the mature trees along Andover Road and the high ridge of mature beech trees across the farmland. This area was valued in the study '*Winchester City and its Setting*' (*Documents SBFG/4/1, Paragraph 270; CD/7.9*). The features which justify protecting the landscape include conserving '*the wide panoramic views*', '*the historic rural character*' and the '*scattered settlement pattern*'. The Winchester District Landscape Character Assessment is a tool enabling important local landscapes to be recognised and valued. This emphasises the contribution the landscape setting of the city makes to the quality of life of residents and tourists. It warns of the potential intrusion of built elements particularly if sited on the more prominent crests (*Document SBFG/4/1, Paragraphs 273-4*). Yet it is precisely on the high ridge at Barton Farm where the Appellant proposes to locate the tallest buildings and the CHP plant with its chimneys approximately 19m tall.
240. Winchester is renowned nationally and internationally and Heritage Status or equivalent protection should have been secured by the local authorities many years ago. If this suburb is permitted, it would destroy the special character of this city forever. There is an overwhelming duty of care to protect Winchester's unique heritage for the present and for future generations.

### **Biodiversity**

241. The SCG identifies that in the ES a major negative unmitigated impact is likely to occur to the River Itchen Special Area of Conservation due to increased disturbance through recreational pressure by the increase in population at Barton Farm, causing habitat degradation. It also demonstrates that the impact can be adequately mitigated by taking the land to the east of the

railway line out of agricultural use and managing it for biodiversity. This would also achieve the additional recreational benefit through providing public access footpaths and an ongoing management strategy (*Document CD/4.1, Paragraph 9.6*). Mitigation, by definition, only lessens the severity of an event and 'adequate mitigation' does not mean that what is being offered will act totally as a substitute for what is being lost.

242. The land to the east of the railway line already provides some level of biodiversity and at present is not circled by a public footpath. The only disturbance, if any, to natural habitats is from those using the public footpath north to access Well House Lane. Further the emphasis is on '*managing the land for biodiversity*'. This implies a well designed scheme to encourage positively an increase in the biodiversity of the area to replace that lost as a consequence of the development. It also requires an '*ongoing management strategy*'. However the increase of biodiversity on the land to the east of the railway would not be a substitute for that lost as a result of the development.

### Farmland

243. Government Policy includes priorities set out in the Defra consultation paper, which includes the requirement for Britain to produce more food locally to counter the 60% of our food currently imported. The Secretary of State has stressed the vital role of farming in providing future food security which contributes to the rural economy. World food supplies are under increasing pressure, high quality farmland needs to be retained to promote food self-sufficiency. These factors emphasise the importance of retaining this best and most versatile arable farmland and makes this proposal, to replace part of a productive farm with an extra suburb of Winchester, ludicrous. In the event of development being permitted, it has been stated that the remainder of the farmland to the east of the railway line would not be viable as farmland. This proposal therefore will effectively remove the whole of the farm, approximately 140 hectares, from productive farmland for ever (*Document SBF/4/1, Paragraphs 281-286*).
244. The remainder of the wedge, from Well House Lane to Three Maids Hill has already been targeted by other developers who hold options on the remaining farmland. The world is currently trying to supply food unsustainably to seven billion people. One billion people across the world are hungry and another billion are suffering severe malnutrition. In another 40 to 50 years world population is expected to reach nine billion. We cannot go on producing food unsustainably and, unless we grow much more of our own food, the world will run out. We are on verge of global hunger and time is running out for the world.
245. In the Inspector's Report in refusing the 1997 appeal the Inspector referred to the landscape importance of the site (*Document SBF/4/1, Paragraphs 302-305*). His comments are as true today as they were then.
246. The response to the Ministerial Statement "*Planning for Growth*" is as follows (*Documents PIC/1; PIC/4*). The planning system must take account of local need, the local economy, the need to protect valuable agricultural land, the effect on local infrastructure and countryside protection. It should not be used as a driver for a swift return to economic growth which would allow developers to build wherever they choose especially on greenfield sites within easy reach

of London. Economic growth is dependant on many factors. Winchester relies on tourist income and jobs which should not be jeopardised to satisfy the needs of a developer. The Government should look at the wider picture and encourage sustainable development in areas where jobs and growth are in short supply. In Winchester there is full employment and there have been many housing developments in the city over the last 20-30 years. There are schemes in the pipeline such as the 300 houses in the Silver Hill regeneration which will include affordable housing. 756 empty homes have been identified which should be brought back into use. WCC is currently working with the local community and businesses to identify available land for development and this accords with the Government's localism agenda. Building on almost 100 hectares of greenfield best quality agricultural land would not secure sustainable growth. A recent grant from the Homes and Communities Agency will allow 29 affordable homes to be built in Kingsworthy. This will be the right size for Winchester whereas the appeal scheme would not.

### **OTHER ORAL REPRESENTATIONS TO THE INQUIRY**

247. A large number of people spoke in opposition to the appeal development and one person spoke in its favour. Those giving oral evidence are listed under Appearances in Annex A to the Report. Many produced written statements and other evidence and that is set out in the Documents in Annex B under the "TP" prefix. Some also produced written representations which are set out under the "WR" prefix in Annex B. The main points have been summarised below but the individual contributions have been adjusted to reduce repetition.
248. **Mr S Brine** is the local **Member of Parliament** for Winchester (*Documents TP/1; WR/6*). He objects strongly and referred to the longstanding opposition of his constituents to development at Barton Farm. The Government is committed to abolishing RS through the Localism Bill and returning decision making to the local community. There is a need for new homes in Winchester but the appeal scheme would not benefit many of those living in the area. In any event the AMR does not show a shortfall in housing that would justify release of a site of this magnitude. The Government's localism agenda is committed to giving local people the responsibility of deciding what is best for their area without being constrained by the top down targets of the RS. Localism is already happening in Winchester with the Blueprint exercise which will inform the LDF. Winchester has special qualities and it is the duty of everyone to protect this area of special and unspoilt countryside.
249. **Mr M Carden** is vice chairman of the **City of Winchester Trust** (*Document TP/2*). His organisation aims to preserve the character of the city but not necessarily to oppose change. Indeed much of the city's character has been derived from change over the years. The development would be of unprecedented scale and would destroy one of the green wedges of countryside that are fundamental to the exceptional landscape setting of the city. The Trust was one of the local groups that contributed to Blueprint. One recommendation is that the LDF should be informed by a comprehensive report on the capacity of the existing urban area and villages to accommodate housing and commercial development and to assess how much greenfield land may be needed. It would be premature to pre-judge the outcome which is at the heart of localism. **Mr P Davis** is a member of the Trust and raised concerns about traffic issues.

250. **Mr H Cole** is also a member of the Trust and is a consultant specialising in the appraisal of the economic impact of major development (*Documents TP/3/1-TP/3/3*). He was also a member of the Planning and Transportation Committee at HCC at the time when reserve sites in major development areas were put forward as a way of meeting housing requirements through a monitoring process to establish a “compelling justification”. There is a large affordable housing need in Winchester and this will increase over time. Raising the total number of houses so that the necessary affordable proportion could be delivered would defy economic reality, raise serious infrastructure problems and be likely to increase outward commuting. The Appellant’s assessment in its economic growth scenario is overly optimistic (*Document CALA/4/2, Appendix 1, Pages 27-29*). The appeal scheme would make a significant contribution to affordable housing but due to economic circumstances the 800 affordable homes are unlikely to be delivered. Even if they were, by the time the development is completed the affordable housing position in Winchester will have barely improved over its current position. This is because the backlog of unmet need grows year on year.
251. **Mr M Slinn** is a Chartered Engineer and spoke on behalf of the Transport Group of **Winchester Action on Climate Change (WinACC)** (*Documents TP/5/1-TP/5/3; WR/5*). The transport objective of WinACC is to reduce carbon emissions and greenhouse gases caused by transport and the need to travel. The information provided by the Appellant on transport matters is insufficient to allow proper scrutiny of the proposal. HCC’s agreement to withdraw its putative objections was based on financial considerations and not on the long term sustainable needs of the local community who have not been consulted. The scheme would have long term adverse impacts on travel behaviour and traffic levels and pollution in the historic city centre, which is designated an Air Quality Management Area. WinACC put forward alternative proposals for a sustainable transport design that has not been considered.
252. The diversion of Andover Road would lead to delays of through traffic due to lower speeds and longer distance. It is not good practice to run a main traffic route that also carries abnormal loads through a residential area. The use of shared space is not appropriate in this situation and evidence shows that the casualty risk would greatly increase. The proposal includes little change to encourage people to walk or cycle along Andover Road to the city centre. The development would not “consume its own smoke” as claimed by the Appellant. No attempt had been made to address the need to reduce carbon emissions and combat climate change in the transport assessment or travel plan.
253. No analysis has been done to establish how effective the park and ride “light” would be at reducing existing trips to the city centre. The evidence suggests that this would be considerably less than the Appellant anticipates. Furthermore, the trip assignment grossly underestimates the amount of development traffic that would go through the City Road junction in the morning peak. This means that congestion at this junction, which is critical to the functioning of the local highway network and is already overloaded at peak periods, would be greatly increased. This would be made even worse if the signal cycle time is increased to aid pedestrian movement. Further congestion would lead to drivers seeking alternative routes, including Park Road. The effect of such diversions on existing roads has not been properly assessed.

254. HCC and WCC are promoting National Cycle Network Route 23. The intended route is across the motorway bridge at Junction 9 via a shared foot and cycleway. This can not be provided if the proposed widening works take place as required by the Highways Agency (*Document TP/5/2*). Further, the Appellant's reliance on Well House Lane and its single lane railway bridge as the main route to the motorway is unacceptable for a development of this scale. The appeal development is contrary to local and national planning policy.
255. **Ms K Macintosh** spoke on behalf of the Built Environment Group of **WinACC** (*Documents TP/6; WR/3*). Any new development would increase emissions, which are already above the national average per capita. It would increase the city's carbon footprint and this is an in principle objection. If it is to be accepted however the development should aim to be carbon neutral with the highest goals and aspirations being set at the outset. The CHP plant should be fuelled by a renewable source rather than gas and should be introduced from the start. Also the proposed standards of construction and insulation in the Renewable Energy Assessment are insufficiently ambitious. The costs and emissions could be reduced by more compact building forms such as longer or dual aspect terraces. Higher densities would release more land for allotments and would also support a viable public transport system. It is the stated aspiration of WCC that new development should be constructed to Code Level 5 and the proposed Level 4 is not acceptable for a flagship project of this kind.
256. **Mr C Gillham** belongs to **Winchester Friends of the Earth** which is also a member of WinACC and endorses its objections (*Document TP/9/1-TP/9/3*). Local housing needs have to be met but it is not necessary to satisfy housing demand. Commuting patterns are complex and there is no evidence that the development would reduce the level of in commuting or that new residents would not commute out. The effects of such a large development are unknown and the only way to plan safely for a complex area such as Winchester is incrementally. Affordable housing need should not be the justification for a development which primarily seeks to make a large profit from meeting housing demand. Winchester has a relatively good record of providing social housing. It should be provided by local authorities rather than developers and one means of doing this would be to realise the capital value tied up in unnecessary car parking in the centre of the city. If there is a need for a significant amount of additional housing it should be provided within the city.
257. Winchester is a small, historic, walkable city with a fine landscape setting. However it has suffered from poor planning with a large amount of growth on the periphery. There has been little consideration of the effect on the historic core especially in terms of traffic impact. However there have been a number of recent public consultations including the draft Town Centre Access Plan and Blueprint. The latter recommended a number of principles that local people have signed up to including a sustainable transport and access policy. It is therefore difficult to understand how HCC could have signed up to a TSCG that is contrary to these responses before it has even begun to analyse them.
258. The diversion of Andover Road may have some advantages but there are also objections. It would remove a historic road alignment. Although the concept of shared space is welcomed, introducing it on a small section of the network would merely cause traffic to rat run along other routes. The impacts have not been assessed by the Appellant. The park and ride would not be effective so

long as an excess of public parking remains within the centre. The park and rides to the south of the city are not well used and an assumed occupancy rate at the appeal site of 70% seems unlikely. The assumption that 140 vehicles would be taken off the highway in the morning peak is overstated and flawed. In any event there would still be a considerable increase in the volume of traffic travelling into the city centre outside peak times and this would add to congestion and pollution which is already at unacceptable levels. This would directly contravene the draft Winchester Town Access Plan which aimed to improve accessibility, air quality and reduce the level of traffic in the city. There is no reason why this development would be any more likely to increase non car travel modes than the adjoining suburbs.

259. **Mr C Napier** is Chairman of **Hampshire Branch of Campaign to Protect Rural England (CPRE)** (*Documents TP/18/1, TP/18/2*). The purpose of the policy approach on reserve sites is to ensure sufficient housing land is provided whilst avoiding the unnecessary use of greenfield land. It gives priority to development on previously developed land in accordance with the sequential approach in PPS 3. This has meant that sufficient land has been available so that reserve sites have not needed to be released. The approach is strongly supported by CPRE. Since the demise of the SP the decision as to whether there is a compelling justification for release is taken by WCC. WCC's decision should be upheld especially taking account of the Government's localism focus.
260. Considerable weight must be given to the Government's intention to abolish RS especially as no houses will be built on the site until 2013/14. Great weight should be given to the Government's statement that local authorities can decide to revise the targets set out in the SEP and utilise Option 1 targets instead subject to testing through the LDF process. WCC has resolved to review its housing requirements within this context. Approval of such a large development would prejudice the outcome of the LDF process through predetermining the scale and location of housing within the non-PUSH part of the District. It would preclude the involvement of local communities and also the South Downs National Park Authority which is responsible for the land in the national park.
261. On the basis of the SHLAA there are sufficient deliverable sites to maintain a 5 year supply and WCC is thus justified in its view that a compelling justification for release of the appeal site does not exist. Permitting the appeal scheme would undermine the clear WCC policy objective of prioritising previously developed land. The LDF will consider how housing land will be provided beyond the 5 year period. More previously developed land may be identified and a dispersal approach is one possibility. Even against the SEP targets there is only a small shortfall in the 5 year period.
262. Barton Farm is the most important of the green wedges which creates the green setting that defines the character of the city. This has been recognised by the LP and appeal Inspector previously and is established in LP Policy W.1. Reference is made to an appeal relating to 2,601 houses at Dunsfold Park, Cranleigh. Here the LDF was at an early stage and the Secretary of State agreed with the Inspector that the scheme would be premature and pre-empt the proper consideration of housing needs due to its scale. Similarly three recent applications to develop reserve sites at Petersfield have been refused by East Hampshire District Council pending a review of the area's housing and community needs through the emerging LDF process.



263. **Mr J Thomas** is Chairman of the **Winchester City Residents' Association** (*Document TP/11*). This organisation represents local residents and aims to maintain and enhance the quality of life in the city in relation to its historic fabric and landscape. Barton Farm is an important green wedge and high quality farmland. Growth should be sustainable and on a scale in keeping with the character of the city. The monitoring process does not support release of the site which would be contrary to the new "bottom up" approach to planning. There are also similar concerns to other objectors about traffic, unsatisfactory infrastructure and the re-routing of Andover Road.
264. Several councillors spoke and many of the points they made supported the objections reported above. **Mrs J Porter** is a **County Councillor** for the Itchen Valley Division (*Document TP/10*). It is important that children study in the same community in which they live. The primary school should be ready by the time the first new home is occupied and not the 250<sup>th</sup> home. Pre-school provision is greatly in demand and should also be available from the start. The park and ride will be insufficient in size to cope with the demand to travel by bus. **Ms P Dickens** is also a **County Councillor** for the Winchester Westgate Division (*Document TP/17*). A visit should be made to Ely, Cambridgeshire where the historic core of the city is heavily congested due to massive housing developments around the edge. Future medical needs should be considered with the local hospital close to capacity and a proposed merger with Basingstoke hospital. There is an attractive wall at the junction of Berewecke Road and it is doubtful that the proposed improvements would be possible.
265. **Ms J Jackson** is a **City Councillor** for the Littleton and Harestock ward. She stressed the disbenefits of the scheme which outweigh the affordable housing gain. A large number of people would be coming into Winchester from elsewhere. There is a nursing home nearby and elderly people would be endangered by the traffic diverted down existing roads to avoid the re-routed Andover Road. **Ms E Berry** is a **City Councillor** for the St Barnabus ward. She also made a written representation (*Document WR/5*). A survey was done prior to Blueprint which showed overwhelming opposition to the development at Barton Farm. No-one can see the benefits. The housing waiting list is normally at about the 3,000 level and the appeal development will not address the problem. The community facilities will just be for the residents living on the new estate. There are already many market houses being built in Winchester. Big developments like this are no longer a good idea and should not be imposed on the community.
266. **Mr K Wood** is a **City Councillor** for the Sparsholt ward. From 2005-9 he was a planning portfolio holder and chaired the LDF process. He commented that around 1,500 people had attended the events and over 3,000 written statements had been submitted. The bottom-up process concluded that Winchester should continue to evolve as a city rather than have the large housing numbers in the SEP imposed. Smaller sites can be looked at now rather than a single large site as had previously been the case. Salary levels in Winchester tend to be low and many cannot afford the high house prices and so they commute in from elsewhere. Winchester is also seen as a very desirable place to live and there are many who commute out to London. The proposed 2,000 houses will do little to lower house prices or benefit existing residents. The need for affordable housing is recognised in the LDF and although the Council has the land to provide it there is not at present the

money available to build. This is being addressed by the Government. Mr Wood raised similar concerns about the ability of the local road system to cope with the additional traffic.

267. **Mr I Tait** is a **City Councillor** for the St Michael ward. He has been on the Planning Committee for 9 years and was the only local councillor who voted in favour of the proposal at application stage. Smaller housing schemes do not deliver the necessary infrastructure. This proposal includes a new Local Centre, primary school, local employment and so forth. Most people at the Inquiry are owner occupiers but there are many others who cannot afford to live in Winchester. The housing waiting list is increasing all the time and the only way to deliver affordable housing is through large development schemes such as this.
268. **Mr D Pearcey** is Chairman of **Headbourne Worthy Parish Council** and most of the appeal site is within the parish. The proposal will lead to the erosion of the Local Gap between Winchester and the ancient settlement of Headbourne Worthy. All three routes eastwards are restricted by narrow bridges. The additional traffic will change the character of these rural roads and increase congestion and pollution. The route to the M3 via Well House Lane is already congested and has inadequate junctions as is recognised in the TSCG (*Document CD/4.2, Paragraph 5.12*). The new footpath to Worthy Road would go behind houses and meet Worthy Road where there is no crossing.
269. A number of **local residents** spoke and generally raised similar concerns and objections to those reported above. **Mr B Porter** lives in Park Road and fears it will be used as a short cut. Its residential character, single file bridge and single file section near to a car home makes it unsuitable for more traffic and will increase noise and pollution. Also at a time when worldwide populations are rising and the cost of food production increasing it makes no sense to lose prime farm land (*Document TP/4*). **Mr K Storey** considers the affordable housing need is overstated and that many people should not be on the housing waiting list. No reliance should be placed on the SEP targets which do not reflect the economic downturn and changing government policy to immigration, lifetime entitlement to social housing and the shifting focus away from the South East. The UK housing shortage could be eliminated by addressing the problem of under-occupied housing stock. There are already many houses for sale in the area and the scheme would bring in more people from outside and further burden the city's infrastructure (*Document TP/7*).
270. **Mr J Beckett** says that a large part of the site is on a floodplain and that its development could cause major flood damage to the city and surrounding area. A large housing development at Waterlooville ran out of funding and the site is unfinished. The Appellant should demonstrate that the same problem will not happen here and that there is sufficient funding for the necessary infrastructure (*Document TP/8*). **Ms J Martin** points out that there are redundant brownfield sites that come up for development that are not always predicted in the SHLAA. The large police headquarters on Romsey Road and the central car parks are examples. In addition many windfall sites are being developed in Winchester some of which will be of sufficient size to contribute affordable housing. However they will not show up on the SHLAA or contribute to housing numbers. There are also upper floors that could be converted to housing and some empty homes that need to be restored and occupied. There should be no more greenfield development until all these options have been

explored. No affordable housing provider is on board at present. It seems unlikely that the provision of 40% affordable housing will be viable especially with all the other contributions that are being required. The use of travel to work data from the neighbouring St Barnabus ward is unreliable as a relatively high proportion are retired people (*Documents TP/21/1, TP/21/2*).

271. **Mr J Gumbel** is concerned about the wider traffic impact of the diversion of Andover Road through the site and considers such diversion inappropriate. The unique landscape setting of Winchester will be destroyed by siting the CHP plant with its 19m high chimney on the ridge, which will dominate the skyline when seen from the north (*Document TP/20*). **Mrs V Bruty** refers to the recreational importance of Barton Farm for dog walkers, joggers and cyclists. She lives off Worthy Road and cycles regularly in and out of the city. The routes are not easy to negotiate and many would not be prepared to use them due to their gradients and safety. Affordable housing is needed but can be provided in small schemes on brownfield land. The houses on Barton Farm are unlikely to be affordable to Winchester residents. Similar points are made on the inadequacy of infrastructure, loss of countryside and agricultural land. In addition the Roman road would be lost which is part of Winchester's heritage (*Documents TP/13/1, TP/13/2*). **Mr G W Bruty** commented on the growth in car ownership which is now higher than at the time of the 2005 appeal and is likely to be substantially more by the time the development is completed. He raises similar concerns about the consequences of the additional traffic and that the modal shift to cycling has been over estimated (*Document TP/12*).
272. **Mr M Charrett** is a long standing local resident and member of **Winchester City Residents Association**. He considers that HCC was wrong to identify Barton Farm as a reserve housing site but commends HCC on its monitoring process to ensure it is only released if and when necessary, which has never been proved. He refers to the key landscape importance of the site as referred to in "*Winchester City and its Setting*". It is also an important recreational resource. He has similar concerns to other objectors about traffic, the re-routing of Andover Road, the loss of an agricultural resource and flooding, amongst other things (*Documents TP/15; WR/5*). **Mr R Bickley** lives close to the appeal site and comments on the serious detrimental effect on ecosystems, the overburdened highway network, infrastructure and the environment (*Document TP/16*). **Mr R Marsh** comments on the favourable impression that is given when entering the city along the green, tree lined corridor of Andover Road. This would be lost through the diversion through a new residential estate that could be anywhere. Similar concerns about safety are also raised. The noise and disruption to residents from years of construction activity would be unacceptable. Mr Marsh also objects to the cost and time involved in a system that allows developers to persist in advancing proposals that have previously failed (*Document TP/22*).
273. **Mr A Trimmer** has lived on Andover Road for 45 years and has seen an increase in traffic and congestion. He raises similar concerns about the impact of traffic generated by the development and the health and safety risks of diverting Andover Road through the development. He also points out that flooding is a common occurrence on the site and that it should not therefore be developed (*Document TP/19*). **Mr C McKinlay** like other objectors values the site for its importance to agriculture, community recreation and as the last rural wedge remaining on the northern side of the city. The damage that

would ensue from the huge increase in traffic would be unacceptable (*Document TP/14*). **Mr P di Gleria** reiterates concerns about traffic and flooding. With regards to the latter he believes that probability figures are derived from large statistical data and are meaningless locally. This is shown by Winchester being flooded twice in the last 50 years, which is more than a 1 in 100 year occurrence. This is due to a huge growth in the city with the construction of the suburbs and new road building, including the M3 motorway. This has changed the area's hydrology and the capacity of the chalk to absorb water like a sponge. Barton Farm is the only open land remaining above the city and tarmacing over it could be the final straw (*Document TP/23*).

274. **Mr P Slattery** considers that the conclusions of 4 Inspectors and 2 Secretaries of State to refuse proposals to develop the site remain valid today. Like others he stresses the value of Barton Farm as a recreational resource and in terms of landscape setting. He echoes other objectors in terms of the flooding issues, traffic impact, diversion of Andover Road and overloading of the train service. He shares the view that there are plenty of brownfield sites and that development should be spread throughout the district in order to maintain existing facilities and services. Mr Slattery is a keen cyclist but comments on the lack of practical, safe routes into the city centre. He is also concerned about the strain on existing educational and health facilities (*Document TP/24*). **Mr R Pascual** comments on existing congestion and has similar concerns to others about the impact of additional traffic on the medieval city (*Document TP/25*). **Mr R Corser** shares concerns about traffic and loss of farmland. **Mr M Wright** is an architect involved in urban design and considers that Andover Road should be protected due to its historic origins. Its diversion through the site is a fundamental flaw because it will create a new self contained centre away from the city centre which is the historic heart of Winchester. This will be contrary to the clear definition that currently exists between the urban centre and the countryside around it.

## **WRITTEN REPRESENTATIONS**

### **REPRESENTATIONS RECEIVED TO THE APPEAL**

*The main points are:*

275. **Josh Bruty** lives on Well House Lane at Headbourne Worthy. He comments that there is no footpath from the rail bridge to Andover Road and also no speed restriction. Walking or cycling to Harestock, including to Henry Beaufort school, is therefore very dangerous and is not often attempted (*Document WR/1*). **Ms C Bailey** is the **County Councillor** for Winchester Downlands division and supports the points made by other County Councillors objecting to the scheme and WinACC. She is particularly concerned about transport and sustainability (*Document WR/2*). **Mrs R Brandon** lives in Headbourne Worthy and says that the junction of Well House Lane and Andover Road has poor visibility and has suffered a fatal accident (*Document WR/4*).
276. The written representations that follow are *at Document WR/5*. **Ms S Carden** is Chair of the Planning Appraisal Group of the **City of Winchester Trust**. She raised similar issues to the oral submissions of the Trust (see above) relating to the setting of the city. She is also concerned about traffic generation and the effect on essential local services. **Dr J Hill** is Director of the **Road Safety Foundation**, which believes that the re-routing of Andover Road through a

higher density of houses with more traffic will give rise to more road crashes especially involving pedestrians and cyclists. More junctions would give rise to potential conflict and congestion could lead to unsafe manoeuvres by frustrated motorists.

277. **Mr A Pritchard** objects to building on farmland and the loss of a leisure asset on the edge of the urban area. The development would be disproportionate in size and would not reflect the organic growth of the historic city. Small scale developments on brownfield land with bespoke design solutions are preferable to the large, standard type of development in one place. Sufficient employment should be provided to restrict demand for commuting and more information given about how the affordable housing will directly benefit Winchester's residents. Mr Prichard has similar concerns to other objectors about traffic, especially its impact on Park Road. He is disappointed at the lack of public consultation. **Mrs D J Alner** refers to the planning history of the site. She refers to climate change and flooding and raises similar objections about the loss of good quality farmland, traffic impact, the destruction of landscape setting and overstretched local services. She considers the development ill conceived and unnecessary.
278. **Mr I Giles** questions whether the responsible authorities and providers have confirmed that they can meet the demand for a development of this size. He is also concerned that no place of worship has been included. **Mr and Mrs J English** object to building on greenfield land which would also increase flood risk. The proposal is premature as the LDF has been found to be flawed and contravenes LP policies relating to traffic, pollution, heritage and the countryside. Similar concerns about traffic, congestion, parking and overstretched local facilities are raised. **Mrs M Hulme** is particularly concerned about the re-routing of Andover Road.
279. **Mrs C Gardner** objects to the loss of agricultural land and countryside. She raises similar concerns about traffic, congestion and flooding. She refers to the localism agenda and the removal of regional housing targets. She considers the development will be for outsiders rather than local people and that housing need can be met on existing brownfield sites. **Mr P Gardner** also objects to building on rural land and raises similar issues about regional housing targets that will not benefit local people and also about inadequate infrastructure. **Mrs J Balfour** objects to the re-routing of Andover Road which would increase the city's carbon footprint and increase pollution. Access to Winchester would be through the already congested City Road junction. 40% affordable housing would be impossible to achieve in the current economic climate and most of the new residents would be commuters as there are insufficient local jobs. There are sufficient new developments being built. Similar objections are raised on flooding, infrastructure and loss of farmland.
280. **Mr I White** believes that following the demise of the SEP any approval on appeal would be premature in view of the large amount of objection and before the Council has had a chance to explore other options thoroughly. Little has changed since the previous appeals. This would be a village or small township that would increase Winchester by about one sixth and add up to 8,000 more people and 2,000-4,000 more vehicles. There is no guarantee that over the 10 years build programme further development will not be sought, for example east of the railway line. Similar points are made on landscape setting and traffic. **Mr J Cleary** acts on behalf of **St Johns Winchester Charity** which

owns agricultural land to the north and south of Well House Lane. The proposed diversion of a section of this road could adversely affect the landholding. A condition should be imposed to allow access to the land in question for maintenance purposes.

281. **Mrs H J Barrow** objects to the building on farmland when there are brownfield sites available. Food production is becoming increasingly important and global warming and climate change are becoming increasingly urgent. The scheme would have a major impact on traffic and pollution and the historic city with its green setting would become like any other urban sprawl. **Mr and Mrs C J York** state that the pre-election manifesto of the Conservative party pledged to retain Barton Farm as farmland to the north of Winchester and this should be honoured. **J D Harrington** raises similar traffic issues and believes that the process is at fault for allowing persistent developer proposals in the face of clearly stated local citizen protest. **Ms B French** writes on behalf of **CPRE's South Downs and Central Group**. There is no compelling justification for the site to be released. A county-wide questionnaire showed widespread support for dispersal amongst settlements and there are brownfield sites available. Building rates have been reduced due to the credit crunch and there is no justification for a development of this scale which contravenes LP policies. The LDF is the right place to review the need for any greenfield development in the area.

#### **REPRESENTATIONS RECEIVED TO THE PLANNING APPLICATION**

282. There were over 600 representations submitted at application stage. There were a few who **supported** the proposal and saw benefit in the re-routing of Andover Road, the junction improvements, the new bus service, the park and ride light. Also in support was the **Winchester New Allotments Society** who welcomed the provision of new allotment land and **Radian Housing Association** who point to the vast need for affordable housing and the willingness of the Housing Association to deliver this part of the development.
283. However the vast majority **opposed** the proposed development. As well as from **individual residents** there were objections from the **local Parish Councils**, including Littleton and Harestock, Headbourne Worthy, Kings Worthy and South Wonston and also the organisations who spoke at the Inquiry, including **Save Barton Farm Group**. Most of the points that were raised in the objections were similar to those expounded in the oral and written representations to the appeal and recorded in the preceding sections of the Report. There was also concern about the adverse impact on residential amenity. Promoters of land to the north of Well House Lane, **Bovis Homes and Heron Land Developments** opposed the scheme. They objected to the diversion of Andover Road and raised similar concerns about traffic and junction capacity. The lack of employment land was also raised. The objections and points in support are summarised in the Committee Report (*Document CD/2.1*). They can also be found in full in *Document CD/1.39*.

#### **RESPONSES FROM EXTERNAL CONSULTEES**

284. Consultation responses are at *Document CD/1.40* and are summarised in the Council's Committee Report at *Document CD/2.1*.
285. **The Environment Agency** does not object to the scheme and considers that the drainage strategy in the FRA is acceptable. Higher groundwater levels are

to be found in the southern dry valley and adjacent to Well House Lane. The system must be designed to cope with potential surface flooding in these areas without increasing flood risk on or off site. Conditions are requested relating to delivery and management of the biodiversity mitigation, according with the mitigation measures in the FRA and approval of the surface water drainage scheme based on sustainable drainage principles and its maintenance and management following completion. The arrangements for foul water disposal are also supported and the development can be accommodated within the current discharge consent which is compliant with the requirements of the Habitats Regulations. Pollution prevention measures to avoid contamination of watercourses should be put in place during and after construction. **Southern Water** is content that the first 1,000 houses can be accommodated within the capacity of the Harestock waste water treatment works. Planned improvements for completion in 2013 will provide the additional capacity for the other 1,000 dwellings. The layout should ensure that new properties are protected from potential odour nuisance.

286. **Natural England** is satisfied that there would be no adverse impact on the water quality of the River Itchen Special Area of Conservation due to waste water discharge from the proposed development. The land to the east of the railway would have an important role as an alternative recreational resource to designated sites and as a wildlife habitat. The ownership and management of the land needs to be secured through a legal agreement and planning conditions. Characteristic landscape features within the development should be protected and strengthened especially from critical viewpoints within the South Downs National Park and from the edge of the city consistent with *All Landscapes Matter*. The phasing and management of green infrastructure should be established prior to the commencement of development.
287. **CABE** considers that the Masterplan has been underpinned by detailed background work on the history and growth of Winchester. It applauds the retention of the green ridgeline. However it has a fundamental concern about the downgrading of the existing Roman road, which is an important radial route into the city. CABE believes there would be a detrimental impact on the historical integrity of Winchester. Development should be focussed along this route with its avenues of trees rather than it being sidestepped. There is concern about the limited connections across the existing downgraded route to allow movement in both directions. CABE also has concerns about the viability of the Local Centre and whether it would provide the active hub intended.
288. **Hampshire and Isle of Wight Wildlife Trust** considers that the land east of the railway could provide valuable informal open space and could reduce potential pressure on nearby protected sites. It could also mitigate for biodiversity loss on the appeal site. Provision and management of the land in perpetuity would need to be secured through a legal agreement to meet biodiversity objectives and should include provision for monitoring and review.
289. **Sport England** welcomes the provision of 8.6 ha of parks, sports and recreation grounds. Conditions should be imposed to ensure that the ground quality and design of the sports pitches are satisfactory and that a detailed scheme be provided for future maintenance and management. There seems to be no provision for the sport and recreation needs of youths. **Winchester Ramblers** believe that a footbridge over the railway is needed for walkers and cyclists to link the development to Headbourne Worthy. A greater connectivity

with the countryside to the north should be provided by safe links. The **Cyclists Touring Club (CTC)** objects to the unacceptable increase in additional motor vehicles that would be detrimental to the needs of walkers and cyclists especially in the wider area around the new development. They object to the re-routing of Andover Road and considered that the railway crossing should be re-instated by providing a bridge for walkers and cyclists.

290. **Hampshire Constabulary** welcomes the developer's commitment to achieving "Secured by Design" certification. Recommendations are made concerning street and parking layouts, playing areas and open spaces to ensure that there is a safe and secure environment. High permeability and good natural surveillance is necessary to reduce opportunities for crime and anti social behaviour.

## **CONDITIONS**

291. The Appellant and WCC produced a list of conditions which was discussed in detail at the Inquiry. As a consequence I produced a note which included comments on some of the conditions (*Document ID/7*). At my request WCC and the Appellant produced a joint response to the points that I had raised and a final agreed list of conditions was provided (*Documents ID/3/1; ID/3/2*). The conditions have been considered having regard to the discussion at the Inquiry and also advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. The comments in this section and the condition numbers support and reflect the list produced in Annex C of this Report.
292. Although this is an outline proposal with all matters reserved save for access, it was accompanied by a considerable amount of supporting information. The EIA was also based on these details and it is important to ensure that the assessment in the ES is relevant to the development that is finally built. The Masterplan and DAS establish the vision and design principles and **Conditions 1, 2 and 3** are necessary to ensure that these are carried forward into the scheme itself. A minor change to Condition 3(c) has been made to ensure that the BREEAM rating is applied to all non residential buildings and not just the offices. The justification in terms of housing provision is for a development of 2,000 dwellings and **Condition 4** is required to establish this in view of the outline nature of the scheme.
293. **Conditions 5-12** relate to the reserved matters and implementation of the development. It is intended to be built out in several phases over a 10 year period. Part of the justification for the appeal scheme is that it would make some contribution to the 5 year housing land supply as well as during the later periods of the housing trajectory. There is thus good reason in this case for **Conditions 7-10** to depart from the standard timescales in order to ensure that construction proceeds expeditiously and that the development contributes meaningfully to the Council's housing needs. The Appellant would accept these shortened timescales. These conditions divide the reserved matters for residential and non residential elements which allows flexibility in the event that parts of the scheme are delivered by different providers. **Conditions 11 and 12** specify further details that are required in connection with the reserved matters and are not unreasonable for a development of this scale. A reference to individual accesses has been added.



294. The building period will be over a number of years. Whilst local residents and those travelling through this part of the city will undoubtedly be inconvenienced the adverse impacts can be reduced if an effective Construction Management Plan is in place. This is provided by **Condition 13** and the hours of work are set out in **Condition 14**. Lorry routeing has however been removed as this is specifically provided for in one of the Planning Obligations.
295. The land to the east of the railway is identified in the ES as providing the opportunity to mitigate impacts on designated ecological sites as well as to increase biodiversity and create habitats. **Condition 15** provides for the management and monitoring of this area in accordance with a representation from Natural England. However there are no specific proposals for its change from agricultural use. The Biodiversity Management Plan referred to in the condition does specifically refer to the grassland, scrub and hedging that would become established over time and it is considered that some intervention would be required to ensure that the ecological area does deliver what it promises. In the circumstances it is necessary to re-word the condition to include this provision.
296. Although landscaping is a reserved matter **Condition 16** is appropriate because it includes a requirement to provide a strategy for the implementation, maintenance and long term management of the landscaped areas and open spaces. This would address comments by Natural England and Sport England. On the other hand the suggested conditions that relate to hard and soft landscaping are unnecessary and would be dealt with at reserved matters stage. It is noted that these conditions cover such matters as ground levels, lighting and materials. However **Condition 11** specifically requires that these elements should be included with the submitted reserved matters. There are a number of important trees on the site not least those that run along the central ridge. **Condition 17** ensures that these are protected during the course of construction and follows the standard wording in the Circular.
297. The Masterplan includes a green framework and the ES comments on the opportunity to increase biodiversity and create more diverse habitats. **Condition 18** is required to ensure a scheme that provides the necessary ecological mitigation and enhancement. **Conditions 19-21** are necessary in order to ensure that the drainage of the site is satisfactory and that flood risk is appropriately managed. These conditions meet the requirements of the Environment Agency. Conditions have been proposed that deal with contamination. The ES indicates that taking account of the agricultural use there is risk of contamination through the use of pesticides and herbicides, waste pits and off-site land uses such as the railway line. **Conditions 22-24** are therefore necessary although the wording has been adjusted for precision and to remove discretionary clauses except where justified. The appeal site is adjacent to a Roman road and the ES identifies remains of local importance. It suggests that preservation by record would be the proportionate response and **Condition 25**, which requires archaeological evaluation, is therefore a reasonable requirement.
298. Policy NRM11 in the SEP seeks to promote and secure the greater use of decentralised and renewable or low carbon energy in new development to secure at least 10% of its energy provision. This would be achieved in the appeal development through the use of the CHP plant and **Condition 28** is

thus reasonable and necessary. In addition the DAS refers to the achievement of Level 4 of the Code for Sustainable Homes but it does indicate that higher levels may be achieved during the development period. In the circumstances the wording of **Condition 26** has been changed to reflect this. **Condition 27** refers to the non residential buildings and the achievement of a “very good” BREEAM rating. Again it would be expected that a higher standard could be achieved in time. Both conditions are necessary in order to achieve a sustainable development but it is not considered that the discretionary clause which allows the Council to accept a variation informally accords with advice in the Circular. The wording of the conditions has been adjusted to take these matters into account.

299. The proposal has been accompanied by a retail assessment. This concludes that the food store and other retail uses would be sufficient to meet the needs of the new population but not of a size that would harm the vitality or viability of other centres or stores. In order to ensure that the retail and office uses are commensurate with the size of the new Local Centre the floorspace limitations in **Conditions 29, 30 and 32** are both justified and necessary. **Condition 31** requires that the retail uses are provided no later than the occupation of the 1,000<sup>th</sup> dwelling. This would be half way through the build and should ensure that the local shopping needs of new residents are adequately served whilst also recognising that there would have to be sufficient spend available to ensure viability.
300. **Conditions 33-35** provide for the delivery of a new medical centre and pre-school nursery which are important elements of the mix of uses and referred to in the DAS. The park and ride is an important part of the transportation strategy whereby existing trips into the city will be intercepted. **Condition 36** requires the details for its specification, layout and future management. It also importantly includes a trigger for provision by the occupation of the 650<sup>th</sup> dwelling. HCC as Highway Authority has agreed that this would be the appropriate point at which the facility should be provided.
301. The ES identifies the parts of the site that would be affected by road and railway noise and the mitigation that would be required. This relates to residential properties in Noise Exposure Categories (NEC) B and C as well as buildings in the Local Centre, including the primary school. As this is an outline scheme with no detailed layout it is not known at this stage the extent of the mitigation required although it is not expected to be extensive. **Conditions 37 and 39** include the necessary provisions. **Condition 38** deals with noise from the CHP plant. The potential for such impact is identified in the ES although its extent would depend on detailed design.
302. **Condition 40** relates to the provision of infrastructure pursuant to the reserved matters and is required to ensure that satisfactory provision is made prior to the occupation of individual dwellings. This would be equally applicable to non residential buildings and so they have been added for the sake of precision. **Conditions 41 and 42** are necessary to ensure that there is adequate parking provision to serve the needs of the development. The Highways Agency requires works to be done to ensure satisfactory operation at junction 9 of the M3 motorway. This is dealt with by **Condition 43** and is necessary for the reasons given in the Conclusions that follow. A condition is suggested requiring further construction and other details of roadways within the development. However **Condition 11** includes most of these provisions

with the exception of individual accesses and amendment to that condition can be made accordingly. Surface water disposal is adequately dealt with under **Conditions 20 and 21**.

## **PLANNING OBLIGATIONS**

303. There are two fully executed Planning Obligations by Agreement which were both discussed at the Inquiry.

### **Planning Obligation by Agreement between the Appellant and HCC**

304. This is dated 7 March 2011 (*Document ID/4*). It provides for financial contributions towards the various highways works and junction improvements and the provision of a new bus service. There are contributions towards improvements to junctions and other works to the east and west of the site. There is a contribution to city accessibility including measures in the emerging Winchester Town Access Plan. There is also a contribution to "non motorised users" which includes pedestrian, cycle and passenger transport infrastructure. There are provisions for various sustainable travel measures including a Framework Travel Plan. There are also requirements for detailed travel plans to be established for the residential, retail and school uses. A requirement for a Construction Route Management Plan is included with arrangements for monitoring and review.
305. Land is provided for a primary school and contributions are made to HCC to build it. There is also a mechanism for the school to be increased in size if this is found to be necessary. A contribution for an extension to the Henry Beaufort secondary school is included. A SCG on education issues and a joint note have been provided by the Appellant and HCC and these explain how the educational contributions and monitoring provisions have been worked out (*Documents CD/4/3; CD/4/4*). SBFG has expressed some concerns about the education contributions (*Documents SBFG/7*). The provisions of the Planning Obligation are linked to various triggers which relate to the occupation of a certain number of dwellings.

### **Planning Obligation by Agreement between the Appellant and WCC**

306. This is dated 8 March 2011 (*Document ID/5*). It covenants to provide not less than 40% affordable housing across the whole development although this can vary between 35% and 45% across individual phases. Tenure mix is established as 66% social rent or affordable rent with the agreement of the Council. 44% would be intermediate housing. Also included would be some extra care units, subject to a suitable care provider being identified. Arrangements for the delivery of affordable housing include triggers that relate to the occupation of market units within the relevant phase. A joint note by the Appellant and WCC was produced in response to points raised at the Inquiry about provisions in the Planning Obligation relating to affordable rent and extra care housing (*Document CD/4/7*).
307. There is provision for the management and maintenance of open space and landscaped areas within a Landscape and Open Space Strategy. There is a requirement to provide a community centre on the site and also to contribute to further facilities at the Winchester Discovery Centre. The justification for this is provided in a joint statement by the Appellant and WCC although SBFG considers the contribution too low (*Documents CD/4/6; SBFG/7*). Other

provisions in the Planning Obligation include public access across the site and over the biodiversity land to the east of the railway line.

## **Bonding**

308. The junction improvements would be carried out by the developer. Funding would also be provided towards various other highway improvements and the bus service. However most of the infrastructure and the school would be provided relatively early on in the development. This means that there would be considerable value remaining in the site in the event that the Appellant ran into financial difficulties. The Travel Plan does include a Bonding provision which is necessary to ensure that its measures are implemented and continue to be properly monitored. However other than that HCC is satisfied that no Bonding provisions are necessary<sup>42</sup>.

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<sup>42</sup> Inspector's Note – This was confirmed by Mr Jenkins in answer to my questions.

## **CONCLUSIONS**

*The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions.*

309. Taking account of the oral and written evidence, my site observations and the matters on which the Secretary of State wishes to be informed the **MAIN CONSIDERATIONS** in this appeal are as follows:

- Whether there is a compelling justification for the release of this reserve housing site and whether it would be premature in advance of the emerging Core Strategy (CS).
- Whether the development would be accessible to a range of travel modes and would promote sustainable travel choices.
- Whether the development would generate traffic that would cause unacceptable congestion or undue harm to highway safety.
- Whether the development would deliver a balanced and sustainable community with an energy efficient, high quality and socially inclusive design that meets the needs of its local area.
- Whether the development would cause unacceptable harm in terms of drainage or flooding.
- Whether any permission should be subject to planning conditions and Planning Obligations.

### **CONSIDERATION ONE: WHETHER THERE IS A COMPELLING JUSTIFICATION FOR THE RELEASE OF THE RESERVE HOUSING SITE AND WHETHER IT WOULD BE PREMATURE IN ADVANCE OF THE EMERGING CORE STRATEGY**

#### **Introduction**

310. The development plan relevant to this appeal is the South East Plan (2009) (SEP) and the Winchester District Local Plan Review (2006) (LP). In the LP, saved Policy MDA.2 provides the site specific context by identifying the appeal site as a major development area. This is specified as a “reserve” site for some 2,000 dwellings, which may only be released for development if there is a “compelling justification” for additional housing in Winchester district. All the main parties agreed that this was a central issue and it was the only one that was pursued by Winchester City Council (WCC) [**18; 23; 93; 94; 182**].

#### **Housing Requirements**

##### ***The South East Plan***

311. There was a great deal of discussion at the Inquiry about the weight to be afforded to the SEP in view of the Coalition Government’s commitment to abolishing regional strategies. However the SEP is at present the statutory strategic document and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act it is, along with the LP, the starting point in the determination of this appeal. Although the SEP post dates the LP there was no suggestion that the policies in the later plan conflicted in any way with those in the earlier document [**18; 26; 92**].

312. Policy H1 in the SEP sets out the housing requirement for Winchester district. This is complicated by the fact that the southern part is within the South Hampshire (PUSH) sub region and it has a separate ring fenced target. However the relevant target in the case of the appeal is the one that relates to the non-PUSH part of the district and it stipulates a requirement for 5,500 dwellings between 2006 and 2026 or 275 dwellings per annum (pa) [20].
313. There was some debate at the Inquiry about the difference between housing demand and housing need and that it is not necessary or desirable to meet the former. A key objective of national housing policy, as set out in PPS 3, is that everyone should have the opportunity of living in a decent home which they can afford and in a community where they want to live. It is acknowledged that house prices in Winchester are relatively high compared with the national UK average and that the 1,200 market homes provided by the appeal proposal would be unlikely to materially alter this position. However that does not mean that such homes are not needed and should not be provided. PPS 3 makes clear that the level of housing provision should be informed by evidence of current and future levels of need and demand. Whilst demand in the South East may be greater than it is possible or desirable to satisfy it is worthy of note that the SEP housing figures were well below the projections of population and household growth on which they were founded. The SEP recognises that an even higher level of housing would have been required if all of the strategic needs of the region were to be met [42; 130; 162; 265; 266; 271].
314. The SEP explained why as a matter of policy it had decided to settle on a lower requirement. This was in part because of the limitations of the bottom-up evidence base in terms of the capacity of local areas to accommodate higher levels of housing. It was also because of a lack of robust economic evidence. The implication is that had this work been properly undertaken a higher housing requirement is likely to have been justified. Indeed the SEP says in terms that higher numbers can be tested by local authorities through their development plan documents. There is no evidence that the evidence base was either flawed or unsound or that it would justify lowering the level of housing provision further. Whilst there is some evidence that affordability issues can dampen down household formation recent projections indicate that the number of households in the South East region has not declined [28; 30; 130-132; 144; 176; 269; 279].

### ***Abolition of Regional Strategies***

315. The Coalition Government is committed to abolish the regional tier of planning and return decision making to the local level. This will be enacted through Clause 89 of the Localism Bill. Whilst it is possible that Clause 89 may be radically changed the evidence does not suggest that this is likely to be the case. HM Opposition has suggested amendments to ensure stronger duties to co-operate between local authorities but there does not appear to be any strong desire by any political party to see the regional level of planning retained. There is the issue of Strategic Environmental Assessment (SEA) and legal arguments were put to the Inquiry as to whether this will be necessary before abolition can take place. Since the close of the Inquiry the Government has decided to undertake SEA voluntarily but the outcome of this process is not yet known [31; 48; 121-123].

316. The Government's intentions in terms of getting rid of regional strategies are longstanding and were made clear in both Coalition partners' election manifestos prior to the general election. Following legal action by the Appellant the High Court has held that the Secretary of State's Statement and the Chief Planner's Letter (both dated 10 November 2010), which reiterate the Government's position on the matter, are a material consideration to be taken into account. The High Court decision has been challenged in the Court of Appeal but the position at this time is that the Statement and Letter are a material consideration so it is for the decision maker to determine the weight that they are given [26; 118; 120].
317. Reference has been made to a number of recent appeal decisions and whether the weight that the Secretary of State and Inspectors have given to the abolition issue amounts to a statement of policy. This is clearly a matter for the Secretary of State but it seems to me unlikely. In my opinion the weight to be given is related to the degree of certainty and is therefore linked to the stage that has been reached in the parliamentary process. In most of the cases that were highlighted the Secretary of State and Inspectors gave little weight to the matter. This is shown in the recent Crawley, Bristol and Farnborough Secretary of State appeal decisions and the Arlesford Inspector's appeal decision. I note however that in the earlier Allerton Bywater appeal decision the Inspector took a different view. In any event time has moved on since these decisions and the Localism Bill had now completed its Committee Stage. Nevertheless the Bill is still only part way through the parliamentary process, the SEA process is now underway and the intentions regarding the duty to co-operate have still to be finalised. In the circumstances I consider that the matter of abolition has limited weight [26; 31; 121; 124].
318. Perhaps the most similar of the above decisions to the present appeal is that relating to the North East Sector, Crawley where outline planning permission was granted on 16 February 2011 for a similar sized scheme. This case had an extended history with the application having been submitted in 1998 and the Inquiry held in 2009. The appeal was determined in accordance with the SEP and it was clear that much of the housing provision would be over the longer term. However an important difference is that in the present appeal an alternative housing requirement has been put forward in the form of the Option 1 figure. This will necessarily be pertinent to the relative weight to be afforded to the abolition issue because PPS 3 makes quite clear that local authorities must make provision for a continuous supply of housing for at least 15 years in order to meet the needs of their areas. If the need for housing is not to be addressed through the SEP the alternative advanced by WCC needs to be credible and robust [26; 48; 124].

### ***Option 1***

319. Option 1 advances a lower annual housing requirement of 185 dwellings for the non-PUSH part of the district. In July 2010 the Government's Chief Planner advised that such a figure could be used as an alternative although he made clear that if it was the figures should be capable of being defended if challenged. This has subsequently been confirmed by the Minister who has made clear that any alternative target must be based on a rigorous and defensible evidence base [118; 129; 179; 260].

320. It is of note that WCC do not appear to have formally adopted the Option 1 figure as an alternative to the SEP for decision making. Furthermore there is no evidence that the Option 1 requirement is going to be used in the CS. It appears that WCC only intend to use it in the event of a policy vacuum between revocation of the SEP and adoption of the CS. Nevertheless the Option 1 figure is the only alternative put forward to the Inquiry and it has been included as a housing target in the AMR and this is a formally approved council document [31; 129; 135].

#### Local derivation

321. One reason why the Option 1 figure is supported by WCC and objectors is that it is believed to have been locally generated in comparison with the SEP target which is deemed to have been centrally imposed. If this is the case it would accord with the Government's localism agenda which seeks to make local communities accountable for the decisions that they take. Option 1 was put forward by the regional planning body (SEERA) as the appropriate housing requirement in its consultation draft of the SEP. The membership of SEERA included representatives of the relevant local authorities so it is not unreasonable to expect that it had a degree of local accountability. However much of the work undertaken in deriving the quantum of housing needed in the South East region was done on a sub regional basis. Whilst there was consultation on various spatial options these were not specific to the district level. It was only once the sub regional distribution had been decided by SEERA that more detailed consultation exercises were undertaken [29; 133; 134].

322. In the case of the "Rest of Hampshire", which includes the non-PUSH part of Winchester district, the overall housing requirement was 16,000 dwellings over a 20 year period. The relevant consultation was done by Hampshire County Council (HCC) and involved stakeholders and local residents. Nevertheless, this consultation was limited to 2,000 of those 16,000 dwellings because the remainder were on sites within towns or already earmarked for housing. Following the consultation the preferred option was to share the development amongst the districts and for the non-PUSH part of Winchester this amounted to 185 dwellings per annum. So whilst there has been some local input in the derivation of the Option 1 figure this should not be overstated [29; 133; 134].

#### Justification

323. In order to be credible the Option 1 figure must be supported by robust evidence. However, it was thoroughly examined through the SEP Examination in Public and the Panel concluded that for various reasons it was not credible. This was partly because SEERA had proposed a housing figure that was well below the most recent 2004-based household projections. In addition the Panel was concerned amongst other things that insufficient account had been taken of long term net migration trends. For the South Hampshire sub-region the Option 1 figure was supported but for the Rest of Hampshire an additional 245 dwellings per annum was recommended with an annual increase of 90 dwellings being apportioned to the non-PUSH part of Winchester district. Whilst environmental constraints and the conservation of the city's cultural heritage was recognised as important so too was its role in terms of an employment location with associated high levels of in-commuting. The economic case for a higher level of provision and the area's good accessibility



convinced the Panel that a greater number of houses should be allocated. The evidence base was tested through public examination and the Panel's conclusions on the reliability of the Option 1 figures should be given significant weight [28; 30; 130].

### **Alternative housing requirements**

324. The Appellant put forward a number of alternative housing requirement scenarios. These sought to demonstrate that the target in the SEP was the minimum that would be needed to meet the need for housing in the district. In Scenario B there is shown to be a static population with no net migration. Whilst this only indicates a requirement for 173 dwellings per annum in the non-PUSH part of the district it is highly unrealistic. This is because there is no account taken of past trends which show that the level of in-migration is considerably higher than the level of out-migration. If Scenario B were adopted there would be a deleterious impact on available labour supply and the economy of the district. Scenario D concentrates on meeting all affordable housing needs and the new market housing that would be required for this to happen. However this fails to take account of affordable housing provision from sources other than the private sector. It is in any event unrealistic to expect that such high levels of housing provision would be sustainable. In the circumstances Scenarios B and D can be discounted [51; 53; 57; 149].
325. Scenario A is a baseline projection with modest economic growth of 128 jobs per annum and an annual requirement of 556 dwellings within the district. This aligns well with the CLG 2008-based household projections which show a projected level of household growth in Winchester equivalent to 555 dwellings per annum between 2008 and 2026. Migration is apportioned in accordance with existing population split resulting in 387 of the 556 dwellings in the non-PUSH part of the district. Scenario C is an economic growth scenario with 538 jobs per annum based on data from WCC's Employment Land Review. On the basis of data showing that 76% of jobs in Winchester are in the non-PUSH area a similar proportion were apportioned to this part of the district. The additional annual number of dwellings in the non-PUSH area to support these jobs would be 545 [52; 142; 143].
326. Neither Scenario A nor Scenario C take account of the SEP strategy to apportion more housing growth to the PUSH part of the district. Whilst it is reasonable that the scenarios take place in a "no SEP world" there is no indication that WCC is intending to reverse the established strategy of concentrating growth in the PUSH area. That being the case whilst there is a higher population and more employment in the non-PUSH area it is reasonable to expect that as a matter of policy more of the housing will be directed to the PUSH area. Although the SEP does not advance a proportional split specifically if a similar apportionment to that adopted in Policy H1 were to be applied there would be an annual requirement in the non-PUSH area for 250 dwellings under Scenario A [51; 140; 141-143].
327. If a similar apportionment exercise is undertaken in respect of Scenario C the annual dwelling requirement for the non-PUSH area would be about 352 dwellings. However Scenario C is based on economic projections from the Winchester District Economic and Employment Land Study (ELS) undertaken in 2007 prior to the current economic downturn. It is acknowledged that the lower "baseline" projection was chosen but it seems probable, even taking a

long term view, that the economic growth that is envisaged to 2026 is too optimistic and that the housing requirement in Scenario C is thus too high. This seems to be confirmed by the lower annual growth figures in the recent Cambridge Econometrics employment forecasts for the South East region although the information available was not sufficiently detailed or complete to be able to draw convincing conclusions in relation to the job market in Winchester [54; 55; 145; 146; 147; 250].

328. Whilst there are therefore difficulties with each of the Appellant's scenarios the baseline Scenario A assumes modest job growth and even when more growth is directed to the PUSH area the annual requirement for the non-PUSH part of the district remains relatively close to the SEP requirement and certainly well above the Option 1 figure. There is thus no evidence at the present time that the housing requirement is likely to be materially lower than the SEP figure [32].

### ***Conclusion on Housing Requirements***

329. The housing requirement for the non-PUSH part of Winchester district of 275 dwellings per annum is established in the SEP which is part of the statutory development plan and supported by its evidence base. The Government's intention to abolish regional strategies through the Localism Bill has limited weight. WCC has decided not to continue with the SEP housing targets following abolition and has undertaken a further consultation exercise on its CS. This at present has not suggested any alternative requirement and WCC is therefore relying on its Option 1 figure. However this is significantly below the SEP figure and does not withstand scrutiny in terms of a credible evidence base. In my judgement it should be given very little weight. The degree to which it can be said to be locally derived is also doubtful. Further work by the Appellant whilst not convincing in terms of establishing a higher requirement does provide support for a housing target at around the same level as the SEP taking account of recent economic data. In the circumstances the conclusion is that the only robust figure at the present time is that in the SEP.

### **Housing Land Supply**

#### ***Short term (5 year)***

330. PPS 3 requires the planning system to deliver a flexible, responsive supply of housing land. It expects local authorities to be able to demonstrate continuous delivery of housing for at least 15 years. For the first 5 years this should be through the identification of deliverable sites and during the later period through a supply of developable sites. In order to ascertain whether such a supply exists it is clearly important to establish a housing requirement and for the reasons given in the previous section this is provided through the SEP.
331. The Annual Monitoring Report (AMR) includes WCC's assessment of its housing land supply situation. This is up to date and relies on a Strategic Housing Land Availability Assessment (SHLAA) which was produced in December 2010. The conclusion is that for the non-PUSH part of the district there is 4.2 years supply and this would worsen to 3.9 years in the period 2011-2016. On the Appellant's analysis the situation is even worse and amounts to a supply of only 3.2 years over the current 5 year period [61; 62; 152].

332. One of the reasons for the disagreement is the delivery expected from the Silver Hill site in central Winchester. This is a large piece of land in various ownerships and with a number of uses including the bus station. The site is allocated for development in the LP and there is a recent planning permission for 307 dwellings. It seems likely that compulsory purchase powers will be needed to assemble the site. Although WCC is agreeable in principle to such a course of action there seems to have been no formal decision to make a compulsory purchase order. In addition there is public opposition to the demolition of the antiques market within the site. Whilst a new investor is involved who has indicated willingness to implement the scheme the likelihood that even 100 of the dwellings will be delivered in the next 5 years is debatable [61; 153].
333. There is also some doubt about the deliverability of other SHLAA sites. In particular there is little indication that land at the Royal Hampshire County Hospital is available for 24 dwellings particularly as the National Health Service Estates Strategy has not identified it for disposal in its 5 year plan. The land at Winchester Cathedral Grounds is in a highly sensitive location not least because of its proximity to important heritage assets. The suitability of the site for 32 dwellings is questionable as was confirmed by my site visit. The land at Springvale Road, Kings Worthy was refused permission for 62 dwellings in 2009 on the grounds that such density would have an adverse effect on the character of the area. There also appear to be site assembly issues and delivery of this land for 58 dwellings seems unlikely [61].
334. WCC has accepted that several of the SHLAA sites may be over estimates in the light of decisions made after the SHLAA base date of July 2010. The practical difficulty of undertaking ad hoc updates is appreciated. However in order to gain a realistic picture of the supply situation it does not seem logical to ignore information that would have a significant effect on delivery. Of course the converse situation would also apply but in this case WCC did not present any evidence that there were recent additions that should be counted back into the supply. Mention was made by several objectors about "other brownfield sites" but for the most part there was no specific evidence about where these may be. Reference was made to city centre car parks and the Police Headquarters in Romsey Road. However other than the car parks already mentioned in the SHLAA there is no evidence of other sites that would either be deliverable or developable within the next 15 years. On several occasions objectors referred to the need to prioritise previously developed land. Whilst the former PPG 3 included a sequential test to this effect no such requirement is contained in PPS 3 [68; 155; 170; 183; 259; 261; 270; 274].
335. It is appreciated that the Appellant has other objections to WCC's housing land supply assessment including the methodology used in the SHLAA. I particularly share the concern about the small sites contribution in view of the way that the identification exercise was undertaken. The non-implementation rate of 3% also seems unusually low. For all of these reasons the 4.2 years supply proffered by WCC is considered to be overly optimistic and it is likely to be well below that level albeit probably not as low as suggested by the Appellant. Whilst I do not know what evidence the Alresford Inspector had before him he clearly also had serious concerns about the robustness of WCC's housing land supply assessment [61; 62; 154].

336. In terms of the Option 1 requirement the AMR shows that a 7.3 year supply of housing can be provided between 2010 and 2015 although on the Appellant's assessment this would reduce to 5.4 years. The housing trajectory shows that the appeal site would not be needed to contribute to the 5 year supply in terms of Option 1. However this is not an appropriate measure of the need for housing in the district for the reasons given in the previous section [151; 157; 184].

***Medium and Long Term (5-15 years)***

337. Any large scale housing development would be unlikely to be delivered within 5 years due to the time it takes to achieve the necessary reserved matters approvals and install up front infrastructure. It is therefore inevitable that the contribution from strategic sites will extend well into the medium or even long term and this is recognised in the SEP. The appeal proposal has an anticipated phased building programme of 10 years starting in 2013 and so on this timetable completion would not be until 2023 or year 13 of the 15 year housing trajectory. The medium to long term situation is therefore highly relevant as indeed it was in the Crawley appeal [28; 63; 158].

338. PPS 3 anticipates that longer term housing requirements will be addressed through local development documents and this is consistent with a plan-led system. WCC believes that even though the appeal site is required to meet short term needs on the basis of the current development plan it would only deliver a small number of its total quantum of houses during that period. The argument of both WCC and objectors is that by the time any houses are actually built on the ground there will be a new development plan system in place. Furthermore the new housing requirements will have been determined through a "bottom-up" exercise of public consultation which has already commenced [116; 117; 123; 158; 260].

339. However PPS 3 does not advocate a moratorium on housing development. In fact it requires quite the reverse. For the reasons given above the only robustly defensible housing requirement at the present time is contained within the SEP. The AMR shows clearly that the appeal site is relied on in the longer term to meet housing needs. Without it the shortfall would not only persist but also get steadily worse. It is therefore needed to provide an assured supply of housing in accordance with PPS 3. Even on the basis of Option 1 there would be a reliance on greenfield releases from 2016. Although these would only amount to about 700 dwellings over the 15 year period the only site that has been identified in the AMR to meet this requirement is the appeal site. Whilst windfall land is likely to continue to come forward within existing urban areas the extent of its contribution is unknown. This is why PPS 3 counsels against relying on it as a source of housing land supply. There will always be a proportion of the housing stock that is vacant at any time and there is no quantified evidence that long term vacancy is likely to be a significant source of supply [64-67; 246; 269; 270].

340. Following the announcement by the Coalition Government that it intended to revoke regional strategies WCC decided to stop work on its CS and start on a new period of consultation. The Blueprint process has sought to engage with local people and local organisations in the planning of their area. It aims to adopt a bottom-up approach that will eventually inform the CS. It is clear that the local community has put considerable time and effort into Blueprint but at

present it is at an early stage. Even though consultation responses have now been received it is evident that the issue of housing requirements and how they should be addressed has still to be resolved [18; 67; 127; 158; 185; 186; 193; 249; 266].

341. It is likely to be some time before the CS is published for consultation prior to submission for examination. WCC's expectation that this will be later in the year seems unduly optimistic especially with the duty to co-operate with other nearby local authorities which is likely to be strengthened prior to the enactment of the Localism Bill. There is no evidence that a cross-boundary assessment of needs or impacts has yet been undertaken. In the circumstances the CS has very little weight. Furthermore it is insufficiently advanced to support an objection to the appeal proposal on grounds of prematurity taking account of advice in *The Planning System: General Principles* and PPS 3. That position was accepted by WCC at the Inquiry. However its further claim that the appeal development could pre-empt the possible option of a higher level of development north of Winchester did not sit very comfortably with that acknowledgement. Such an outcome seems highly unlikely and this was also conceded by WCC at the Inquiry. Whatever the eventual requirement in the CS turns out to be the fact remains that no such evidence based figure has been derived. For the foreseeable future the only reliable housing figure is that in the SEP [30; 31; 40; 41; 67; 128; 158; 260].
342. The prematurity argument was however advanced by SBF and other objectors. They considered that the release of the appeal site at this time would prejudice consultations with the community and pre-empt the assessment of local housing need and how it should be met. In support of this position they referred to a decision by the Secretary of State where permission was refused for housing development at Dunsfold Park, Cranleigh. However this is not comparable not least because that site had been specifically discounted in the RS because the Panel considered that it would be of a scale that would unbalance the spatial strategy and it was within designated countryside in the relevant local plan. In the present case the appeal site has long been seen as a potential reserve site both in the SP under Policy H4 and in the LP under Policy MDA.2 [25; 31; 40; 41; 128; 187; 189-191; 194-198; 249; 262; 280].

### **Housing land supply against housing requirements – PPS 3**

343. WCC does not dispute that a 5 year housing land supply cannot be demonstrated in terms of development plan requirements and the extent of the shortfall is a matter of considerable concern. In the circumstances Paragraph 71 of PPS 3 is engaged and this in turn refers to the provisions of Paragraph 69. The appeal development would achieve high quality housing with a good mix including 40% affordable units. It would use land effectively and efficiently and its suitability for housing is implicit in its identification as a reserve site [33].
344. Although the majority of the contribution made by the site would not go towards meeting the 5 year shortfall LP Policy MDA.2 does not require a short term view to be taken and neither does PPS 3. Paragraph 71 does not make any comment about the extent of the 5 year shortfall or any requirement that Paragraph 69 only relates to schemes where all the provision is made within the 5 year period. In any event Paragraph 71 refers to the "policies in this

PPS" and that includes the need to make provision for continuous housing delivery for at least 15 years. The spatial vision for the area and the need and demand for housing are issues addressed by the development plan. The site is relied upon to deliver the housing requirements in the SEP and in the circumstances the appeal proposal complies with Paragraph 69 of PPS 3 [43-45; 107; 108; 160].

### Affordable housing

345. There is a significant need for affordable housing in the district as identified in the Strategic Housing Market Assessment. The evidence shows that affordable units are being supplied on some smaller sites in Winchester district and SBFG referred to a recently approved scheme in Kingsworthy. However the unmet need remains substantial and will continue to increase year on year. Even if grant funding were to be available this is unlikely to be sufficient to resolve the problem. The appeal scheme does not rely on grant funding but nevertheless includes 40% affordable housing which accords with the LP policy requirement and would amount to 800 units [56; 59; 170; 172; 173; 250; 256; 265; 266; 267; 269; 270; 271].
346. Delivery would take place throughout the development period and one of the Planning Obligations allows a variation of between 35% and 45% in each phase subject to an overall total of 40%. The tenure mix would be as agreed with WCC to meet local needs and the provision would not rely on grant funding. No evidence has been provided that the affordable housing would not be viable or would be incapable of delivery. Indeed there is a representation from a Housing Association who is willing to undertake that role. The affordable housing provision represents a considerable benefit of the proposal and is not denigrated by the likelihood that in the longer term the backlog of unmet need is unlikely to materially improve [56-59; 161; 250; 270; 279; 282; 306].

### The Winchester District Local Plan Review (LP)

347. Policy MDA.2 has its origins in Policy H4 of the Hampshire County Structure Plan Review (SP), which made clear that greenfield reserve sites would only be released where, as a result of monitoring, there was a compelling justification to do so. At the time that the SP was adopted the housing requirement was somewhat uncertain as the regional guidance (RPG9) had not been finalised. The purpose of Policy H4 was to ensure that countryside resources were protected from unjustifiable development whilst making provision in the event that further land was needed to meet future housing requirements. One such reserve site was land north of Winchester [23; 96; 97].
348. It is quite clear from the way that Policy MDA.2 is written and its provenance that the land release is not just a question of timing. The question to be asked is *whether* it is needed not *when* it is needed and monitoring is a crucial part of the process. The SP policies were discarded as a consequence of the approval of the SEP but LP policies, including Policy MDA.2 have been "saved" and will remain in place until they are replaced by the Local Development Framework. As Policy MDA.2 was generated at a time when the SP was still in existence it still refers to the "strategic planning authorities". However there is no dispute that this reference no longer has any meaning and that whether or not there is

a “compelling justification” is a task for the decision maker, formerly WCC and now the Secretary of State [95; 98; 103].

349. Paragraph 70 of PPS 3 is only relevant where there is a 5 year supply of deliverable sites. This can only be demonstrated using the Option 1 target and for the reasons already given this is not a credible alternative. Much time at the Inquiry was taken in considering whether, in the context of Paragraph 70, the Policy MDA.2 reserve site was an “allocation” or not. However as there is no up to date five year supply it seems unnecessary to address this issue further [36; 109; 110].
350. Policy MDA.2 has a number of detailed development control criteria to be considered. Whilst WCC takes no issue with these matters other objectors, including Save Barton Farm Group (SBFG), do not consider that the appeal proposal complies. These are further addressed under Considerations 2-5 below [35; 94; 163].

### **Conclusion**

351. For the reasons given above it is concluded that the appeal proposal is necessary in order to provide an assured supply of housing and meet both short and longer term housing requirements established in the SEP. It also makes a valuable contribution to the considerable level of affordable housing need in the district. It is further concluded that these factors are of sufficient weight to provide the “compelling justification” for the release of the reserve site under LP Policy MDA.2. This conclusion is not premature in advance of the emerging CS. The development accords with Policies H1 and H3 in the SEP, saved Policy H.5 in the LP and PPS 3.

### **CONSIDERATION TWO: WHETHER THE DEVELOPMENT WOULD BE ACCESSIBLE TO A RANGE OF TRAVEL MODES AND WOULD PROMOTE SUSTAINABLE TRAVEL CHOICES**

352. The appeal site is about 2 km from the city centre with its shops and associated services and also close to employment opportunities, leisure facilities, schools and the university. The railway station is not far away and the LP Inspector recognised this as a highly sustainable location. There is therefore considerable potential to promote modes of travel other than the private car in accordance with national and local planning policy. At the Inquiry WCC did not pursue its putative reason for refusal regarding accessibility and opportunities to reduce reliance on car travel. An alternative proposal for a sustainable transport design was put forward by Winchester Action on Climate Change. However this appeal relates to the scheme submitted by the Appellant and it is in this context that the consideration must be based [3; 10; 72; 251].
353. The appeal proposal includes a number of measures to encourage modal shift. Whilst there is no doubt that new residents would still use their cars for some journeys it is not unreasonable to suppose that in this case they would take advantage of other means of travel. Indeed the congestion that exists at the City Road junction would provide a good reason for leaving the car at home when making a local journey. Some objectors argued that residents living on the appeal development would be no more likely to abandon their cars than those living within the existing suburbs. This is not necessarily the case. The development would include a relatively high proportion of social housing and

also small units where residents may not have the same opportunity to access car travel as the settled community. More importantly the scheme provides the chance to plan for modal choice in a way that does not exist at present. Furthermore some of the measures to encourage sustainable travel, including the new bus service, would also be available to existing residents and so there is the potential for a wider benefit to ensue [258].

### **Bus and rail travel**

354. The new bus service would run at frequent intervals between the site and the city centre and railway station that many would find it an attractive option for their journeys to school, work, shopping and leisure. Whilst there are likely to be fewer buses in the evenings a regular service would be maintained and this would also serve the park and ride "light". The bus service would be subsidised through staged payments to HCC. It would commence operation at an early stage of the development once sufficient units had been built to support it. The subsidy should be sufficient to allow time for the service to become self supporting with the last payment in the later stages of the development. The expectation is that the bus service would break even by Year 8 and thereafter be self supporting<sup>43</sup> [71; 304].
355. Due to the constraints on the road layout between the appeal site and the City Road junction there is limited scope for improvements to aid bus movement. Nevertheless a contribution is included within the Planning Obligation towards measures in the emerging Winchester Town Access Plan. One such measure includes an inbound bus and cycle lane along Andover Road between the railway bridge and Worthy Lane [74; 304].
356. The southern part of the site is about 1 km from the railway station. This offers good services to destinations including London, Portsmouth, Southampton, Reading and Birmingham. Whilst some trains may be overcrowded at peak times this is a problem that needs to be resolved by the train operator and is not unique to Winchester [10; 274].

### **Walking and cycling**

357. The site offers the opportunity to walk and cycle and it is adjacent to a number of established cycle routes and public footpaths which also provide links to the adjoining countryside. The most direct route to the city centre would be via Andover Road. As objectors pointed out there is not a continuous footway along its eastern side and there are also some narrower stretches. However my site visit confirmed that this is a reasonable walking route and appeared to be quite well used notwithstanding the uphill gradient in a northerly direction [72; 218; 252; 289].
358. Evidence was given by several local residents about the difficulties and dangers of cycling. The most direct route would be via Andover Road and through the City Road junction. The traffic and congestion at peak periods would undoubtedly put some potential cyclists off although the provision of the new bus lane, which would also serve as a cycle way, would provide a dedicated route on the section leading down to the traffic lights. It is acknowledged that the uphill journey back to the site is not a particularly

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<sup>43</sup> This was said by Mr Tighe in answer to questions by Mr Gillham.



inviting option not least because of the width of the carriageway. Nevertheless from what I saw and heard it is evident that local people do choose to cycle to and from the city along Andover Road and this would also be an option available to new residents [ 73; 217-219; 252; 271; 274].

359. Some mentioned the need to provide a bridge for pedestrians and cyclists over the railway at the point on the eastern side of the appeal site where the footpath along the central ridge originally crossed the line. However this is considered unnecessary. There would be a route further to the south through the underpass and this would also link to a new cycleway and footway across the land to the east of the railway. It would provide a pleasant journey connecting to the existing cycle route on Worthy Road and an alternative, if longer, route into the city centre. There is no specific provision for a crossing point over Worthy Road at this point to link up with the cycle route on the eastern side of the road. However there is no reason why this should not be provided from the non motorised users contribution in one of the Planning Obligations which is aimed in part towards improving cycle infrastructure [ 11; 220; 271; 289; 304].
360. The proposal also includes its own Local Centre with a supermarket, shops and services. There would be a new primary school, sports and recreation facilities and a community hall and health centre. The B1 and other commercial uses would offer employment opportunities although the floorspace would be limited and there is no guarantee that people living on the new development would work there too. Nevertheless these elements provide new residents with the chance to carry out some day to day activities within the site itself and to reduce the number of car journeys made accordingly [ 15; 199].

### **Travel plans**

361. PPG 13 makes clear that travel plans are an important tool in the delivery of sustainable transport objectives and that they should be submitted alongside planning applications that are likely to have significant transport implications. In this case a Framework Travel Plan has been provided which sets out broad objectives, targets and initiatives to encourage alternative travel choices and the reduction in car journeys. This has been agreed with HCC. It includes such things as a car club, provisions for car sharing, secure cycle storage and travel vouchers. It also includes the new bus service with frequent bus stops and on and off-site pedestrian and cycle improvements. The Framework Travel Plan is within one of the Planning Obligations and contains requirements to produce and implement detailed school, retail and residential travel plans. There is in addition a Travel Plan Bond to ensure that the measures in the travel plans are properly carried out [ 74; 304; 308].
362. It is important to the successful implementation of any travel plan to ensure effective monitoring and to that end the Planning Obligation includes for the appointment of a Travel Plan Co-ordinator for a minimum 10 year period. This individual would be responsible for ensuring the effectiveness of the travel plans with progress reports throughout the monitoring period after which time it is reasonable to anticipate that the travel plans will become self supporting as patterns of behaviour become established. Targets for each travel plan are set out in the Framework Travel Plan itself.

363. The evidence shows that in Winchester there is a considerable commuting imbalance with many more people travelling into the city for work than residents travelling to employment elsewhere. Whilst undoubtedly some of those living at the appeal site would do the same it is not unreasonable to expect that at least some would be present in-commuters who are seeking to benefit from moving closer to their place of employment. This would result in a shorter journey and the opportunity to undertake it by modes other than the car [71; 256].
364. For all of the reasons given above it is concluded that the appeal development would be accessible to a range of travel modes and would promote sustainable travel choices. It would thus accord with relevant development plan policies, including Policies SP3, T1 and T2 in the SEP, saved Policies T.1, T.3 and T.5 in the LP and the principles in PPG 13 which promote sustainable transport choices and accessibility [20; 21; 24; 25].

**CONSIDERATION THREE: WHETHER THE DEVELOPMENT WOULD GENERATE TRAFFIC THAT WOULD CAUSE UNACCEPTABLE CONGESTION OR UNDUE HARM TO HIGHWAY SAFETY**

365. There was a great deal of local objection to the appeal development on highway grounds. Such concerns were clearly deeply felt and people are understandably worried about the traffic implications of a development of this scale. Nevertheless this land is identified as a reserve housing site for 2,000 houses in the LP. Furthermore, in the 2005 appeal the Inspector did not support local objections on highway grounds. The main difference between this and the present proposal in highway terms is that a larger mitigation package is now proposed and Andover Road is now intended to be re-routed [23; 72].
366. At the Inquiry WCC did not pursue the putative reasons for refusal relating to highway issues. This is because the responsible highway authorities are satisfied that, subject to the mitigation measures proposed by the Appellant, there would be no unacceptable adverse impact on the safety or free flow of traffic on the local or strategic road network. A Statement of Common Ground (TSCG) was signed by the Appellant and HCC to this effect. That the responsible authorities have adopted such a position is a material factor of some weight. Whilst the mitigation package has evolved over time it is not considered that the nature of the application has fundamentally changed as alleged by SBF. Even if it has the appeal is against non determination and not refusal of planning permission. The Inquiry provided the opportunity for the proposal as it now stands to be thoroughly considered in a public arena and the evidence to be scrutinised [3; 71; 72; 201].
367. The trip generation, trip distribution and junction modelling that was used in the Transportation Assessment (TA) was agreed by HCC as confirmed in the TSCG. Despite concerns raised by some objectors about its efficacy there is no convincing evidence that its methodology is fundamentally unreliable or that it fails to adequately address the transportation issues associated with the appeal proposal. I did have some concerns that Park Road had been inadequately addressed especially as that street was mentioned in one of the putative reasons for refusal. However in oral evidence it was said that only a low level of traffic would be likely to use this route thus resulting in no safety or capacity issues. Furthermore, HCC had not identified the Park Road

junctions as requiring modelling. It is noted that part of the contribution relating to accessibility improvements could be used to improve pedestrian facilities at the rail bridge in Park Road<sup>44</sup> [71; 214].

368. The mitigation measures seek to alleviate the adverse impacts of the development and HCC and the Highways Agency are satisfied that they achieve this objective. This includes several junction improvements where the development would result in operation at or above capacity. However the development is not required to put right existing problems and deficiencies. Indeed one of the statutory requirements of Paragraph 122 of the CIL Regulations is that a Planning Obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related to the development in scale and kind. The following paragraphs address the main concerns raised by objectors [71; 73; 201].

### **Re-routing of Andover Road**

369. The main element of the proposal that was not present in the 2005 appeal scheme is the re-routing of Andover Road through the site. This would take all through traffic and the existing road, renamed Andover Walk, would be downgraded to provide local access only and a route for walking and cycling. Local objectors, including SBFG, were vehemently opposed to this aspect of the scheme. They questioned the wisdom of routing a main road carrying high volumes of traffic, including heavy lorries and emergency vehicles, through the new residential area with all the associated pollution and health issues. They believed that a shared surface with pedestrians and cyclists would be extremely dangerous. They considered that the route would be longer in terms of distance and time and would lead to frustration and delay and the tendency to use alternative routes instead [202-207; 252; 258; 265; 271; 272-274; 276; 278; 279; 283].
370. The B3420 is one of the main roads into the city from the north. Although it is also classified as a route for abnormal loads it has been subject to a Stage 1 Road Safety Audit and there is no evidence to demonstrate that the New Andover Road, as it would be called, could not be designed as a safe and effective route to satisfactorily carry the traffic assigned to it. A preliminary Design Code has been agreed with HCC that establishes such matters as the geometry of the new road, treatment of different sections of the corridor, junction spacings and landscape provision. A detailed Design Code would be provided at reserved matters stage. Many roads run through residential areas as indeed does the existing Andover Road itself. This is an outline proposal and there is no reason why New Andover Road should not provide an attractive landscaped route towards the city centre. It should also be possible to design high quality living environments that are adequately protected from unacceptable noise levels or pollution [73].
371. New Andover Road would be controlled by traffic signals at the new Harestock Road junction to the north and the new Stoney Lane junction to the south. The existing Well House Lane junction with Andover Road has a poor accident

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<sup>44</sup> This information was provided by Mr Tighe in answer to my questions. See also Documents *CD/ 1.6(b) Paragraph 9.1.2; CD/4.2, Paragraph 5.13.*

history and its removal under the appeal scheme would result in a safety improvement. The new route would be a little longer with lower traffic speeds. It is reasonable to suppose that journey times may slightly lengthen although in peak times there is likely to be little difference as traffic moves slowly along Andover Road under existing arrangements<sup>45</sup>. However the lower speed limits proposed along New Andover Road should result in a safer road environment. There is little evidence that significant queues would build along the new stretch of road or that drivers, including the emergency services, would find the route frustratingly slow [204; 252; 275].

372. Many objectors were concerned about the shared surface roadway running through the Local Centre. However this section of New Andover Road would be of sufficient width to accommodate heavy vehicles and would be subject to a 20 mph speed restriction. Whilst the carriageway and footway would be flush there would still be delineation between the two, including the use of defining surface materials. There is no convincing evidence that the arrangement would be dangerous and even though such shared surfaces may be a relatively new concept in this country this does not mean to say that the proposal is inherently objectionable [14; 73; 203; 252].

### **Park and ride "light"**

373. The park and ride "light" would be at the northern end of the appeal development and would have the capacity for about 200 vehicles. The aim is to intercept a proportion of existing trips coming from a northerly direction towards the city centre. Whilst objectors considered that it would be too small to be effective its purpose is not as a strategic facility to serve the city centre, hence its "light" terminology. It would therefore be served by the shuttle bus service and would not have its own dedicated transfer facility. The purpose is to take sufficient trips off the network to counterbalance the newly generated trips that would travel south into the city centre. The facility is primarily aimed at in-commuters and the modelling has assumed that 140 trips would be diverted into the park and ride during the morning peak. This does not seem unrealistic and as it would only represent about 70% of its capacity it would allow some entries earlier or later in the day [13; 74; 212; 253; 258; 264].

### **City Road junction**

374. Traffic travelling south to the city centre along Andover Road passes through the signal controlled City Road junction. There is no dispute that on several arms, including Andover Road, this junction is already operating either above or near capacity with consequent queues and delays during peak periods. At this point the road system is physically constrained and it is difficult to envisage how the capacity could be materially improved. The appeal scheme has sought to reduce the impact of additional traffic movements in a number of ways. With the operation of the park and ride "light" the transport modelling indicates that there would be little change to queuing in the morning peak but it would worsen considerably in the afternoon peak along Andover Road and City Road [74].
375. Objectors were sceptical that the park and ride would be as effective as anticipated and believed that the Appellant had underestimated the number of

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<sup>45</sup> This was confirmed by Mr Jenkins in answer to my questions.

new traffic movements likely to pass through the junction. However there is no reason why the park and ride should not be effective in capturing through traffic and HCC is confident in this regard. Furthermore no account was taken of potential modal shift from the implementation of the travel plans for example. Traffic levels fall off outside peak periods and the evidence does not indicate that the junction would be adversely affected at other times of the day. This was confirmed by my own observations on several occasions [74; 253; 258].

### **Bereweke Road junction**

376. The TA shows that this junction would operate above capacity at peak times with the development in place. There is an existing problem of queuing as right turning vehicles hold up the southbound traffic on Andover Road. In order to help remedy this situation a new ghost lane would be provided which would be sufficient to hold about 4 cars. This would undoubtedly ease a situation where at the moment a single vehicle waiting to turn right into Bereweke Road can cause tailbacks especially at peak times<sup>46</sup>. As well as providing appropriate mitigation the junction improvement is likely to provide a wider benefit [215].
377. Some objectors considered that with the ghost lane in place the right turn manoeuvre out of Bereweke Road would be more dangerous because it would require crossing two lines of traffic. In addition it was feared that cyclists travelling southbound along Andover Road would be at risk. However there would not be traffic at all times in the ghost lane and in any event this is not an unusual type of road layout. No evidence was provided that it is inherently dangerous or is likely to result in an unacceptable accident risk [215].

### **Well House Lane**

378. The TA shows that some eastbound development traffic would use the relatively narrow Well House Lane. In order to mitigate the impact several improvements are proposed. One of these is to close the junction of Well House Lane with Andover Road and replace it with a new signalised junction with New Andover Road. In addition the section between this junction and the railway bridge would be subject to a speed restriction of 40 mph. Shuttle signals would provide alternate one-way movement beneath the rail over-bridge. This would include an "all red" phase to allow pedestrians to walk safely under the bridge. These measures would improve safety and also ease the flow of traffic along this relatively narrow section which is also a cycle route [213; 254; 275].

### **Impact on residential streets**

379. It is inevitable that some traffic from the development would use residential streets and pass through nearby villages, including Headbourne Worthy. Local roads are therefore likely to become busier. However this is an inevitable consequence of this reserve housing site being developed. Nevertheless there is no evidence that the local road network is incapable of safely

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<sup>46</sup> Mr Tighe said in answer to a question by Mr White that the ghost lane would hold about 4 cars which would be an improvement bearing in mind that only one right turning vehicle causes a problem at present.

accommodating the additional traffic. HCC has identified some capacity issues at a number of junctions and funding would be provided through one of the Planning Obligations to contribute towards bringing the relevant improvements forward. This is a proportionate response that would mitigate the impact of the development in a satisfactory manner [209; 213; 253; 265; 268; 269; 271].

380. Some objectors consider that “rat runs” would be created as a consequence of New Andover Road. For the reasons already given it is not believed that this would be the case. If the capacity problems at the City Road junction are worse than anticipated in the TA drivers may try and divert along another route such as Harestock Road and onto Stockbridge Road to the west. However they are still likely to end up at the City Road junction albeit perhaps on a less congested approach. Furthermore the TA has not taken account of the impact of the travel plans and other measures to encourage modal shift that the appeal development would promote [209; 210; 214; 253; 258; 265].

### **The strategic road network**

381. The Highways Agency has confirmed that it is satisfied that the development would cause no adverse impact on the strategic road network. This takes account of the travel plan measures and is subject to an additional lane being provided on the southern side of the over-bridge at Junction 9 of the M3 and an additional queue warning sign on the A34. These safety and capacity measures would be implemented by means of a planning condition. [71; 302]
382. An objector considers that the widening on the southern side of the over-bridge would prevent a shared foot and cycleway being provided as part of the National Cycle Network. However the correspondence from the Highways Agency does not indicate acceptance of the scheme in fact it raises significant safety concerns. Neither WCC nor HCC who are said to be promoting the scheme have objected to the mitigation measures proposed [254].

### **Pollution**

383. WCC has raised no objection on these grounds as confirmed in the SCG<sup>47</sup>. Objectors were concerned about the effects of increased congestion and additional vehicular traffic on pollution and air quality both within the development itself and also within the city centre and surrounding residential areas and nearby villages. They point to the health problems associated with particulates in exhaust emissions which lead to asthma, cardiac complaints and lung disease. The air quality modelling in the ES included a number of scenarios both with and without development for exhaust emissions and particulates [206; 207; 251; 252; 255].
384. The assessment shows that with development in place there would be an increase in the annual mean concentration of both NO<sub>2</sub> and PM<sub>10</sub> in a number of the modelled locations although some properties on Andover Road would experience an improvement following the provision of Andover Walk. PM<sub>10</sub> levels are not shown to exceed the UK standard even in the city centre. In a number of places the NO<sub>2</sub> levels would exceed the UK standard although in

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<sup>47</sup> No witness was provided by the Appellant on this issue and thus there was no opportunity for cross-examination on the matter. In the absence of any alternative analysis I have relied on information provided in the ES (*Document CD/1.1, Chapter 8 and Appendix 8*).

most cases the difference with and without development would be of minor significance. This takes no account of the potential for modal shift and WCC is satisfied that adverse impacts could be adequately mitigated with the implementation of the travel plans and park and ride "light". In the absence of an alternative analysis there is no reason to defer from this conclusion.

## **Conclusion**

385. The appeal development would inevitably generate traffic that would have an impact on the local and strategic highway network. Roads would become busier and this would also result in a degree of associated pollution. However there is a comprehensive mitigation package which includes measures to encourage modal shift. Whilst no-one can be forced to abandon their car in favour of an alternative travel mode the likelihood that this will happen is enhanced in the case of the appeal scheme on account of the accessibility of the site. It is not unreasonable to expect that the development would be an attractive option for those who currently commute in to Winchester for work. If that is the case then there is likely to be a reduction of in-commuting trips. Whilst some of those people may still drive to their place of employment others would take advantage of the opportunities to travel on foot, cycle or bus. Traffic modelling took no account of such changes in commuting patterns or indeed of the modal shift through implementation of the travel plans. However both of these have the potential to reduce car borne trips and thus the consequent impact on the surrounding highway network.
386. For all these reasons it is concluded that the development would not result in traffic generation that would cause unacceptable congestion or undue harm to highway safety. The appeal scheme would therefore accord with relevant development plan policies, including Policy CC7 in the SEP and saved Policies T.2 and T.5 in the LP [21; 24; 71].

## **CONSIDERATION FOUR: WHETHER THE DEVELOPMENT WOULD DELIVER A BALANCED AND SUSTAINABLE COMMUNITY WITH AN ENERGY EFFICIENT, HIGH QUALITY AND SOCIALLY INCLUSIVE DESIGN THAT MEETS THE NEEDS OF ITS LOCAL AREA**

387. The proposed development is supported by a Masterplan and it is clear from the evidence given at the Inquiry that this has been based on a thorough background analysis of the historic pattern of growth and form in Winchester and its suburbs. This has been acknowledged by CABE. There is a detailed Design and Access Statement (DAS) and although this is only an outline proposal there is no reason why the development should not be of a high quality that enhances its location and integrates well with its surrounding area. WCC considers that the development would be well planned and would meet its design aspirations. Planning conditions are proposed to ensure that the development that materialises on the ground accords with the supporting material that has been submitted [78; 85; 163; 287; 292].
388. The scheme would include 800 affordable housing units and the 40% provision would meet development plan requirements. This would not rely on grant funding and the mix of intermediate and social rented or affordable rented units has been agreed with WCC as addressing local needs. The affordable housing would be distributed across the whole development with each phase contributing between 35% and 45%. The affordable housing would also

include 40 extra care units. The market housing would include a mix of housing types and sizes. Although there would only be about 40% small units rather than the 50% required by saved LP Policy H.7 it was agreed in the SCG that the mix would reflect the more up-to-date assessment of housing needs that forms part of the CS evidence base<sup>48</sup> [21; 22; 59; 84; 161; 306].

389. The Masterplan indicates that the housing layout would take account of the topography and orientation of the site on the southern side of the ridge. The planning application was accompanied by a Renewable Energy Assessment whereby various options for renewable energy provision were considered. The recommended outcome was a Combined Heat and Power (CHP) Plant and Photovoltaic Panels. The heat source for the CHP Plant would be natural gas but the evidence suggests that adaptations could be made in the future to allow conversion to biomass fuel subject to issues of sustainability and viability. It is not unreasonable to expect that the CHP Plant would not become operational until there are a sufficient number of dwellings to support it [7; 13; 255; 298].
390. There are no specific saved LP policies relating to sustainable energy but Policy NRM11 in the SEP states that in the absence of local targets at least 10% of energy should be from decentralised and renewable or low carbon sources. It also encourages the use of CHP technology through Policy NRM12. The development would achieve Code for Sustainable Homes Level 4 and a BREEAM rating of "very good". Whilst some objectors consider that higher levels should be achieved there is no policy requirement to do so at the present time. Nevertheless the opportunity to achieve higher levels in the future should not be sidestepped and the planning conditions encourage such an eventuality [21; 255; 292; 298].
391. One matter about which CABI has fundamental concerns is the loss of historic association through the downgrading of Andover Road and there is also local objection on this ground. Although the Roman road would remain in place there would be some change in terms of function and also in visual terms of a tree lined entrance to the city. On the other hand Andover Walk would continue to provide local access and would become a quieter route for people to enjoy through walking and cycling. In addition there is no reason why New Andover Road should not provide an attractive entrance to the city in its own right although it is appreciated that it would not have the historical dimension. The alternative of providing a new focus along the existing alignment as suggested by CABI would necessitate a fundamental change to the Masterplan and design vision. Whilst it may help provide a higher level of connectivity with the existing residential area to the west it would have practical difficulties due to the position of existing houses and the avenue of trees which are an important defining feature [10; 163; 258; 271; 272; 274; 287].
392. The sustainable location of the appeal site has already been addressed as have the opportunities for travel by modes other than the private car. The new Local Centre would be well positioned in terms of the residential area it is intended to serve. It would be astride the New Andover Road and with the use of a shared surface with 20 mph speed restriction it is intended to function as a village street. It would become the focus for daily activities and it would

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<sup>48</sup> This information is in the SCG (*Document CD/4/1, Paragraph 8.7*).



provide services and facilities within relatively easy reach of those living and working on the site. There is no reason why it should not provide a vibrant heart to the new development as envisaged in the Masterplan and DAS. There would be a small supermarket but the Retail Impact Assessment accompanying the planning application confirms that it would be appropriate in size to a Local Centre and would not adversely affect the viability of other centres. There is no reason to disagree with this conclusion [7; 14; 299].

393. The development would also provide a new primary school, which would be delivered by the developer at a relatively early stage in the development. One of the Planning Obligations includes the mechanism through which an additional form could be delivered if this is justified in terms of pupil numbers. The Henry Beaufort secondary school to the west of the appeal site is in close proximity and has some existing capacity. There is also the space for an extension to provide further school places and this would be delivered by means of a contribution from the developer through one of the Planning Obligations. The village green would allow space for expansion or relocation of the school in the future should this be required. The scheme would also include a community centre, a medical centre and a children's nursery. Whilst these are intended to meet the needs of new residents there is no reason why they should not be available to the established community as well and thus confer a wider benefit. Delivery of these facilities would be controlled through the Planning Obligations and planning conditions [81; 222; 265; 299; 300; 305].
394. Although the proposal does not have a large employment element the new primary school, shops and associated uses would offer job opportunities along with the new B1 floorspace. There would also be construction jobs and the evidence suggests that for every new house built there are 4 indirect jobs created [86; 87].
395. The development would provide parks, open spaces, sports and recreational grounds which would meet WCC's standards and requirements and have been welcomed by Sport England. There would also be new allotments which would encourage residents to grow their own food and have been welcomed by the Winchester New Allotment Society. A Landscape and Open Space Strategy would establish the arrangements for implementation and future maintenance through a planning condition and the phasing of provision and long term management is covered by one of the Planning Obligations. This would address the comments of Sport England. The village green between the village centre and Henry Beaufort school would provide a connection with the residential area to the west and would allow existing residents to benefit from the shops and facilities in the new Local Centre [81; 282; 289; 296; 305].
396. It is also proposed that land to the east of the railway line, which is controlled by the Appellant, will be used for informal recreation and dog walking and managed as a biodiversity area. The implementation and management of this area would be controlled through a planning condition and the provision for public access across this land is dealt with in one of the Planning Obligations. Natural England and Hampshire and Isle of Wight Wildlife Trust are satisfied that this land would satisfactorily deflect recreational pressure on designated sites [241; 286; 288; 295].
397. Whilst some objectors have mentioned hard pressed services including insufficient capacity at local hospitals this was not a matter raised by WCC and

no evidence was given to this effect from the statutory provider. For all of the above reasons it is concluded that the appeal development would deliver a balanced and sustainable community with an energy efficient, high quality and socially inclusive design that meets the needs of its local area. The proposal therefore accords with relevant development plan policies, including Policies SP3, H3, H4, NRM11 and NRM12 in the SEP and saved Policies RT.4, H.5 and CE.11 in the LP. It complies with relevant provisions in PPS 1, PPS 3 and PPS 4 [20; 21; 22; 24; 25].

#### **CONSIDERATION FIVE: WHETHER THE DEVELOPMENT WOULD CAUSE UNACCEPTABLE HARM IN TERMS OF DRAINAGE OR FLOODING**

398. Many objectors, including SBF, objected to the scheme on flooding and drainage grounds. Nevertheless the identification of this land as a reserve housing site for 2,000 houses in the LP means that there can be no objections in principle to its development on these grounds. Furthermore, in the 2005 appeal neither the Inspector nor the Secretary of State supported local objections on flooding issues [69; 75; 78; 223-234; 270; 272-274; 277; 279].
399. The planning application was accompanied by a Flood Risk Assessment (FRA) in accordance with PPS 25. This shows that apart from the southern dry valley the appeal site is within Flood Zone 1. No development is proposed in the higher risk flood area and therefore it is unnecessary to further consider the Sequential or Exception Tests in PPS 25. The proposal includes a Sustainable Drainage System (SuDS) which seeks to reproduce the existing hydrological regime and relies on infiltration. It would be designed to accommodate a 1:100 year flood event plus a climate change allowance of 30%. Objectors have contended that the flood prevention measures would be inadequate and point to recent floods which are said to have been of a higher magnitude akin to a 200 year event. Whilst the Environment Agency is satisfied with the scheme as it stands the evidence to the Inquiry was that the design of the SuDS was such that a more extreme storm could be satisfactorily accommodated [7; 75; 76; 225; 226; 234; 273; 285].
400. The effectiveness of a SuDS system will depend on the effectiveness of its long term management and maintenance and in the past problems have arisen through the number of agencies involved and the definition of responsibilities. It is appreciated that the arrangements put in place in the Flood and Water Management Act relating to SuDS are not yet in force and that public spending cutbacks could limit the involvement of public authorities. Nevertheless, a planning condition would require that a detailed drainage strategy is submitted and approved prior to the commencement of development. This would not only require a programme for implementation but also the arrangements for subsequent management and maintenance of the SuDS during the lifetime of the development. It would be the responsibility of both the Appellant and WCC to ensure that the strategy is effective in perpetuity [76; 229; 297].
401. Another concern is that in times of heavy rainfall increased surface water runoff could lead to increased flood risk to the city centre which is downstream from the site. SBF referred to a document produced by the Environment Agency in 2002 which addressed issues of flooding downstream. However this is a historic document that was produced before both the LP Inquiry and also the 2005 appeal. Furthermore it must be reiterated that the Environment Agency is content with the scheme subject to conditions. The SuDS has been

designed to deal with all surface water from the appeal site with no outfall to the River Itchen. As mentioned above the evidence suggests that a more extreme flood than the 100 year design event could be accommodated. In the circumstances there is no reason to conclude that the development would result in undue increases in the water levels of the River Itchen or endanger the city centre [75; 76; 224; 227; 228; 285].

402. The River Itchen runs to the east of the site and is a Site of Special Scientific Interest and a Special Area of Conservation. However the Environment Agency and Natural England are satisfied that there would be no detriment to the water quality of the river in terms of discharge of treated effluent or water abstraction. The development could be accommodated within Southern Water's existing licence arrangements. There is no requirement for an Appropriate Assessment under the Habitat Regulations and Natural England has raised no objections on ecological grounds. There is no conflict with nature conservation policies in the development plan [10; 24; 35; 76; 230; 232; 233; 285; 286].
403. Southern Water has confirmed that the Harestock waste water treatment works to the north of the appeal site would accommodate the sewerage from the first 1,000 dwellings and that planned capacity improvements would accommodate the remainder of the development. Objectors pointed out that the Harestock waste water treatment works is in a dry valley that has a high flood risk and that the 2000 floods put it out of action for about 2 weeks. The scheme includes on-site pumping stations which would also have some storage capacity and in a prolonged emergency there would also be the option to remove sewage by tanker from the appeal site. There is thus no reason why the development would necessitate sewage being dumped within the dry valley as feared by SBFG although this would ultimately be a decision for Southern Water as the statutory provider [11; 75; 76; 230; 231].
404. The comments by SBFG about the need for a new waste water treatment plant are noted but there is no evidence that this would be required in order for the sewage disposal from the appeal development to be dealt with satisfactorily. Whilst recognising the considerable fears and concerns of local people the evidence indicates that the development would not give rise to undue adverse impacts as a result of flooding or drainage issues. This is supported by the lack of objection from the regulatory authorities, including the Environment Agency, Southern Water and Natural England. For all of the above reasons I conclude that the development would not cause unacceptable harm in terms of drainage or flooding and would accord with relevant development plan policies and the guidance in PPS 25 [232].

## **CONSIDERATION SIX: WHETHER ANY PERMISSION SHOULD BE SUBJECT TO PLANNING CONDITIONS AND PLANNING OBLIGATIONS**

### **Planning conditions**

405. The planning conditions that have been suggested by the main parties and other consultees are set out in Annex C. Justification has been provided in Paragraphs 291-302 and there are also references to specific conditions where relevant in my Conclusions. It is considered that the conditions are reasonable, necessary and otherwise comply with the provisions of Circular 11/95: *The Use of Conditions in Planning Permissions*. I recommend that they

are imposed if the Secretary of State decides to allow the appeal and grant planning permission for the proposed development.

406. A condition has been suggested in a representation from an adjoining land owner that access should be allowed to the agricultural land north of Well House Lane. However the proposed junction improvements with Well House Lane do not appear to interfere with any such right of access and a condition would therefore be unnecessary [280].

### **Planning Obligations**

407. There are two Planning Obligations by Agreement which include a variety of provisions as set out in Paragraphs 301-303 above. These have been referred to in the previous sections of the Conclusions and are required to mitigate adverse impacts, meet the needs of the development and enable the scheme to go ahead. The Planning Obligations were discussed in detail at the Inquiry. I am satisfied that both of them are fit for purpose and that their provisions meet the tests in Circular 05/2005: *Planning Obligations*.
408. Three of the tests have now been made statutory through Paragraph 122 of the Community Infrastructure Levy Regulations (2010). This states that a Planning Obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. In this case it is concluded that the requirements have been met and the various obligations have therefore been taken into account in my conclusions and recommendation. However if the Secretary of State disagrees and does not consider that one or more of the obligations contained within either of the Planning Obligations does not meet the statutory requirements of the Regulations then there is a release clause in relation to that particular obligation.
409. A number of the provisions in the Planning Obligations are subject to triggers which are linked to dwelling occupation. These relate to the construction of the primary school and community centre; the payment of the secondary school contributions; the payment of the transport contributions; the payment of the bus subsidy contributions; the undertaking of the junction improvements and road works; and the construction of New Andover Road [304; 305].
410. The primary school would be built by HCC and funded by the developer. It should be available prior to the occupation of 250 houses or 2 years whichever is the sooner. Whilst an objector considered that the facility should be available from day one this would not be reasonable given that it is intended to meet the primary education needs of new residents. Clearly a sufficient number of pupils would be required in order for the school to operate viably. Furthermore there is provision for an additional form should this be required following monitoring. A recalculation of requirements would be undertaken at an appropriate stage and despite the concerns of SBFG the provisions in this regard are acceptable to the local education authority who is signatory to the legal agreement [305].
411. The community centre is intended to be available for use by the occupation of 800 units and again this is not unreasonable as there would need to be a sufficient number of new residents to provide support for the facility. Whilst

the concern of SBFSG about the level of the cultural services contribution is noted this is considered to be proportionate by both HCC as library provider and WCC as signatory to the legal agreement. There is a requirement for an Affordable Housing Masterplan Strategy which sets out the arrangements for provision and implementation. There are suitable safeguards to ensure that in each phase of the development affordable homes are provided apace with market housing [264; 306; 307].

412. The various junction improvements, road works, transport contributions and construction of New Andover Road would be undertaken prior to the occupation of 650 houses. The park and ride would also be provided by this time through a planning condition and the bus service would be operating as well. This means that by a relatively early stage in the development a considerable amount of infrastructure would have been provided. This means that a considerable amount of value would be left in the site if the developer were to run into financial difficulties part way through the build. This is the main reason why HCC would not require Bonding in this case. HCC is satisfied that the temporary junction arrangements with Andover Road, some early transport contributions and the early introduction of the bus service would provide sufficient mitigation of highway impacts in the early stages of the development [71; 308].
413. I conclude that any planning permission that is granted should be subject to planning conditions and Planning Obligations which are necessary and proportionate for the reasons set out above. The proposal complies with Policy DP.9 and T.5 in the LP in this respect [24]

## **OTHER MATTERS**

### **Visual amenity, landscape and agricultural land**

414. The appeal site comprises good quality working farmland and many objectors point to its importance for food production. It is also within an area of open and attractive countryside that many describe as a "green wedge", it adjoins a Local Gap and it provides a valued part of the setting of the historic city of Winchester. The quality of the site as a recreational resource with a network of footpaths is clearly appreciated by those living nearby. The importance of the land locally to the wellbeing of existing residents was convincingly expressed by those who spoke at the Inquiry or submitted representations. These are valid points to raise so long as the site remains subject to countryside policies of restraint and indeed many were recognised by the LP Inspector himself [23; 69; 70; 94; 112; 168; 182; 183; 237-240; 243-245; 248; 249; 257; 262; 263; 268; 269; 271-274; 276; 277; 279-281].
415. However I have concluded under Consideration One that there is a "compelling justification" for the release of this land under the provisions of saved LP Policy MDA.2. In such circumstances subject to satisfying the various development control criteria the countryside objections no longer apply. Whilst the concern by some objectors that release of the appeal site would result in further land to the north or east being developed is understandable it has no support in existing development plan policy [244; 280].
416. The CHP Plant would be a substantial building with a flue stack rising to some 19 metres in height. The Landscape and Visual Impact Assessment (LVIA) in the ES indicates that the adverse impacts could be mitigated to some degree

by the design and it was confirmed at the Inquiry that the building would be sited to the north of the ridgeline and that the flue would be below the height of the mature beech trees. Nevertheless, the construction would be highly visible and visually harmful from a number of locations and this point is made by several objectors [16; 239; 271].

417. The appeal site is located to the west of the South Downs National Park which was not designated at the time of the 2005 appeal or when the LP Inspector reported in 2006. The LVIA concludes that whilst the developed site would be seen from viewpoints in the National Park for the most part there would only be a slight adverse impact. This is mainly due to the distances involved so that the site only occupies a small proportion of the overall view. However more substantial adverse impacts are recorded from a few closer locations in the Abbots Barton area on the western edge of the National Park. From here the development would be noticeable for those using the public footpaths in the Itchen Valley or driving along this section of the A34 [7; 10; 260].
418. The ES indicates that the visual impacts could be reduced through the design process and this would include the landscape strategy. Natural England does not raise specific objections in terms of the National Park but does suggest protecting and strengthening characteristic landscape features. The proposal includes the retention of the distinctive belt of mature beech trees along the main ridge. The proposed mitigation would reduce the visual harm although it would not eliminate it altogether [13; 286].

### **Residential amenity**

419. The appeal proposal is in outline form with matters such as appearance and layout reserved for later consideration. Whilst there would be a change in the outlook for those living close to the site boundaries there is no reason why new dwellings should not be designed and orientated to ensure that existing living conditions are not unduly compromised. Those who would be affected would have the opportunity to comment on the details when they are submitted at reserved matters stage. The new footpath/ cycleway between the appeal site and Worthy Road would be relatively close to the rear boundaries of residential properties in Colley Close and Courtenay Road. These are at present relatively open. I see no reason why appropriate measures should not be taken to ensure that the living conditions of these residents are not unduly diminished. This could be controlled through the condition relating to the layout and management of the ecological land to the east of the railway [10; 283; 295].
420. There is likely to be a beneficial effect on the noise environment of those living along Andover Walk which would be closed to through traffic as a result of the development. During construction there would inevitably be adverse impacts and these would be likely to continue for a considerable period of time. However, a planning condition would require a Construction Management Plan to be approved and implemented and this would contain good practice measures to limit the disturbance and inconvenience that inevitably arises when building works are undertaken, especially on this scale. There would be controls on the hours of construction, the erection and maintenance of security hoardings and the emission of dust and dirt. Furthermore one of the Planning Obligations requires a Construction Route Management Plan which would also include provisions for monitoring and review [272; 283; 294; 304].

## Effect on Local Democracy

421. It is clear that there is much local opposition to the appeal development. This is demonstrated by the oral and written representations of the local Member of Parliament, local councillors, community organisations and individual objectors. The Coalition Government is committed to decentralising power to the local level and making local communities accountable for the decisions that affect their areas. Central to this has been the intended abolition of the regional tier of planning which includes the SEP. WCC has decided to stop work on its CS and re-consult through the Blueprint exercise. It is understandable that there are many who believe that any decision to allow the appeal proposal now would fly in the face of local democracy and undermine the very process of localism that the Government is advocating [90; 167; 171; 174; 187; 248; 266; 281-283].
422. Nevertheless it should not be forgotten that WCC is the policy making authority and it is charged with considering the needs and requirements of all of its population and not just the objectors to this appeal. Furthermore it will not be able to make policy in a vacuum. In the absence of a higher level strategy it will be duty bound to co-operate with other local authorities. Whilst it is the case that the Localism Bill makes provision for a neighbourhood level of planning it will be for WCC to make decisions about the level of housing and its distribution across the district. Most objectors consider that this should not be in the form of a large housing development in one place as advocated in the appeal scheme but by incremental growth of small scale developments on existing brownfield sites within the city and existing settlements. However the present evidence base does not support such an outcome even on the Option 1 housing figure as was concluded under Consideration One [26; 67; 158; 246; 256; 263; 265; 277; 281].
423. There could be a potential benefit to the local community arising from payment by the Government of the New Homes Bonus. It would be for WCC to decide how to spend the funding in line with local community wishes [86; 164].

## Changes since the 2005 planning appeal

424. This was one of the matters on which the Secretary of State wishes to be informed. It has been addressed at various places in the Conclusions section of my Report and the main changes are summarised below [8].
- 424.1 The policy context is quite different. The 2005 appeal was determined on the basis of RPG9 and SP Policy H4 and there was no supply deficit found in terms of the housing requirement. Whilst a similar amount of affordable housing was proposed the Inspector concluded that there was no "compelling justification" for the release of the site and the Secretary of State agreed. The present scheme is in accordance with development plan policy and a "compelling justification" for the release of the reserve site has been demonstrated [80].
- 424.2 The decision was made in the context of PPG 3. Although PPS 3 was in draft form and the Secretary of State afforded it "very little weight". The present scheme draws considerable support from this guidance [80].
- 424.3 The present proposal includes the re-routing of Andover Road and the creation of New Andover Road and Andover Walk. For the reasons given in Paragraphs 369-372 and Paragraph 390 this is considered to be

acceptable. There is also a more substantial and innovative package of highway and transport mitigation measures but in any event the 2005 appeal did not fail on highways issues. Taking account of more recent statutory requirements it is likely that the present appeal contains a great deal more supporting information and illustrative detail than the 2005 scheme [12; 71].

- 424.4 The South Downs National Park has been designated and for the reasons given in Paragraphs 417 and 418 there would be some adverse visual impact on a limited number of viewpoints within the Park.
- 424.5 The Localism Bill is progressing through Parliament and proposes to remove the regional tier of planning and return decision making to the local level. At present the weight it can be afforded is limited.

## OVERALL CONCLUSIONS AND PLANNING BALANCE

425. The appeal proposal is EIA development and the planning application was accompanied by an Environmental Statement (ES). The ES was adequately publicised in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (The Regulations). Under Paragraph 3 of The Regulations, planning permission cannot be granted for EIA development unless the environmental information has been taken into account. This includes not only the ES but also the written and oral evidence to the Inquiry. The environmental information as a whole was thorough and comprehensive. I am therefore satisfied that the evidence in the EIA is fully adequate for a reasoned assessment of the likely environmental impacts of the development and how they may be mitigated. This environmental information has been taken into account in my consideration of this appeal and my recommendation to the Secretary of State.
426. For the reasons given above the appeal development would comply with the provisions of the development plan and PPS 3 in terms of housing provision. There is no other credible alternative housing option to meet the need for housing in this part of the district. The scheme would also be in accordance with the Government's recent Ministerial Statement "*Planning for Growth*". Housing development is an important economic driver and the appeal scheme would contribute to local jobs both directly and indirectly as concluded under Consideration One. Conversely if sufficient housing is not delivered there is a very real danger that the local economy will suffer. If as WCC suggest the Ministerial Statement is only concerned with growth in the short term it would only be relevant to small scale projects. There is nothing in the Statement to suggest that this is the case [87; 165; 246]
427. It has been concluded under Consideration One that the appeal proposal meets the short and longer term need for housing in accordance with the housing requirement in the development plan. In addition it makes a substantial contribution to the need for affordable housing. These factors provide the "compelling justification" for the release of this reserve site under saved LP Policy MDA.2. This policy also has a number of detailed "development control" criteria but neither WCC nor the 2005 appeal Inspector raised objections on these grounds. Objectors have raised a number of issues which relate to detailed matters. However taking account of the conclusions to Considerations Two to Five the appeal scheme is considered to satisfy the policy criteria. The



only exception relates to the requirement for an Appropriate Assessment but this has been found to be unnecessary by the relevant authorities.

428. The proposal accords with Paragraphs 69 and 71 of PPS 3. The Appellant contended that as this guidance was more recent than the LP it would override the need to demonstrate a “compelling justification” in saved Policy MDA.2. However Paragraph 69 refers to the spatial vision for the area and in the absence of a compelling justification approval of the appeal scheme would have resulted in the unnecessary loss of a countryside resource and would have been contrary to policies in both the development plan and PPS 7. This would not have accorded with the spatial vision for the area [37; 47; 99; 100].
429. Whilst tourist income is clearly important to the economy of Winchester as SBFG contends there is no reason why this development should discourage those wishing to visit the historic city of Winchester. The scheme also offers wider benefits to those living in adjoining residential areas. These include the new bus service, the facilities offered by the Local Centre and the junction improvement at Berewecke Road and Well House Lane. The New Homes Bonus could be seen as a benefit insofar as it would provide new funding for projects of importance to the local community [86; 164; 246].
430. The appeal scheme would however have a number of disadvantages. There would be some adverse visual impacts including of the CHP Plant and also from viewpoints within the South Downs National Park. There would be a loss of historical association and visual detriment through the downgrading of Andover Road. The period of construction would result in prolonged disruption and inconvenience to the established community and in-commuters. Local roads would become busier and the City Road junction in particular would become more congested especially in the afternoon peak. There would also be an increase in pollution in some areas. Whilst these adverse effects would be reduced through mitigation they are unlikely to be eliminated. In addition there would undoubtedly be a perception by many objectors that the process of local democracy has been sidestepped and that the Localism agenda of the Coalition Government has been disregarded bearing in mind the intention of the Government to revoke RS. These are all matters that count against the appeal scheme.
431. Nevertheless the conformity of the appeal proposal with the development plan and PPS 3 in terms of housing provision and its contribution to growth are in my opinion matters of overriding and determinative importance. They are not outweighed by the negative factors either individually or when taken together. In the circumstances I conclude that the appeal should succeed and if the Secretary of State agrees I commend the planning conditions that are set out in Annex C to this Report.

## **RECOMMENDATION**

432. **That the appeal is allowed and planning permission granted subject to the conditions in Annex C.**

*Christina Downes*

INSPECTOR

## **ANNEX A: APPEARANCES**

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

Mr Michael Bedford of Counsel

Instructed by Mr H Bone, Head of Legal Services to Winchester City Council

*He called*

Mr N Green BA, MRTPI, Dip  
Urb Des, IHBC

Planning Consultant representing the Council

### **FOR THE APPELLANT:**

Mr Peter Village of Queen's Counsel  
Miss Philippa Jackson of Counsel

Instructed by Macfarlanes LLP

*They called*

Mr M Adams BA(Hons),  
DipArch, MA(UDR)

Managing Partner of John Thompson & Partners

Mr D Tighe CEng, BSc,  
MICE, DipTEng

Director of Transport Planning Associates

Mr M Spry BSc, DipTP,  
MRTPI, MIED

Director of Nathaniel Lichfield and Partners

Mr T Clements BA(Hons),  
MCD, MRTPI

Planning Director of RPS Planning

Mr G Walker BEng, CEng,  
MICE, MICIHT

Associate of Parsons Brinckerhoff Ltd

### **FOR THE SAVE BARTON FARM GROUP (SBFG):**

Mr G Blackman

Chairman of SBFG

Mrs C Slattery

Planning representative of SBFG

Mr I White

Member of SBFG

Professor R Jung

Member of SBFG

Mrs A Gossling

Member of SBFG

### **FOR HCC:**

Mr S Jenkins BSc, MSc, MCIHT

Strategic Transport Group

### **INTERESTED PERSONS:**

Mr S Brine MP

Member of Parliament for Winchester and Chandler's Ford

Mrs J Porter

HCClor (Itchen Valley Division)

Ms P Dickens

HCClor (Winchester Westgate Division)

Mr K Wood

Winchester City Councillor (Sparsholt Ward)

Mr I Tait

Winchester City Councillor (St Michael Ward)

Ms J Jackson

Winchester City Councillor (Littleton and Harestock Ward)

Ms E Berry

Winchester City Councillor (St Barnabas Ward)

Mr D Pearcey

Chairman of Headbourne Worthy Parish

Mr M Slinn	Council
Ms K Macintosh MBE	Chair of Winchester Action on Climate Change Transport Group (WinACC)
Mr C Gillham	Member of WinACC Built Environment Group
Mr C Napier	Member of Winchester Friends of the Earth
Mr M Carden	Chairman of Hampshire Branch of the Campaign to Protect Rural England
Mr H Cole	Vice Chairman of City of Winchester Trust
Mr P Davis	Consultant speaking on behalf of the City of Winchester Trust
Mr J Thomas	Member of City of Winchester Trust
Mr J Beckett	Chairman of Winchester City Residents Association
Mr B Porter	Member of SBFG
Mr K Storey	Local resident
Mrs V Bruty	Local Resident
Mr G Bruty	Local resident
Mrs McKinlay	Local resident
Mr M Charrett	Local resident
Mr R Bickley	Local resident
Mr A Trimmer OBE	Local resident
Mr J Gumbel	Local resident
Ms J Martin	Local resident
Mr R Marsh	Local resident
Mr P di Gleria	Local resident
Mr P Slattery	Local resident
Mr R Pascual	Local resident
Mr R Corser	Local resident
Mr M Wright	Local resident

## **ANNEX B: DOCUMENTS**

### **CORE DOCUMENTS**

#### **CD/01 APPLICATION DOCUMENTS**

- CD/1.1 Environmental Statement
- CD/1.2 Design and Access Statement
- CD/1.3 Planning Statement
- CD/1.4 Flood Risk Assessment
- CD/1.5 Sustainability Checklist Statement
- CD/1.6 Transport Impact Assessment
- CD/1.6a Technical Note 4 (New Andover Road corridor)
- CD/1.6b Technical Note TN04A providing further details of the New Andover Road Corridor
- CD/1.6c Technical Note 5 (public transport strategy)
- CD/1.6d Technical Note 5A (public transport strategy)
- CD/1.6e Technical Note 6 (trunk road impact)
- CD/1.6f Technical Note TN07 Trunk Road Impact Addendum
- CD/1.6g Technical Note TN08 in relation to the operation of the Stockbridge Road Corridor;
- CD/1.6h Technical Note TN09 in relation to the operation of the Stockbridge Road Corridor
- CD/1.7 Travel Plan
- CD/1.7a Travel Plan Revision D
- CD/1.8 Renewable Energy Assessment
- CD/1.9 Retail Impact Assessment
- CD/1.10 Public Consultation Assessment

#### **Drawings:**

##### *Supporting Plans:*

- CD/1.11 Barton Farm application boundary plan (RPS01 Rev 03)
- CD/1.12 Land Use Parameters Plan (PL01 Rev B)
- CD/1.13 Access Strategy (0710-64 Fig 4.1 Rev L)
- CD/1.14 Proposed Andover Road/Harestock Road Junction (0710-64 Fig 4.2 Rev I)

- CD/1.15 Proposed Andover Road/Wellhouse Lane Junction (0710-64 Fig 4.3 Rev K)
- CD/1.16 Proposed Andover Road/Harestock Road Junction (0710-64 SK51)
- CD/1.17 Proposed New Andover Road/Stoney Lane Junction (0710-64 Fig 4.4 Rev I)
- CD/1.18 Proposed New Andover Road/Stoney Lane Junction (0710-64 SK52)
- CD/1.19 Proposed Well House Lane Shuttle Signals (0710-64 Fig 4.5 Rev B)
- CD/1.20 Proposed New Andover Road (0710-64 Fig 4.6 Rev B; 4.7 Rev B and 4.8 Rev B)
- CD/1.21 Potential Andover Road/Berewecke Road Junction Improvements (0710-64 Fig. 4.9)
- CD/1.22 Proposed Andover Road Southern Corridor Improvements (0710-64 Fig 10.2 Rev A)

*Illustrative Plans:*

- CD/1.23 Masterplan (PL06 Rev B)
- CD/1.24 Developable areas (PL02 Rev C)
- CD/1.25 Residential densities (PL03 Rev A)
- CD/1.26 Indicative building heights (PL04 Rev A)
- CD/1.27 Phasing plan (PL05 Rev B)
- CD/1.28 Environmental Infrastructure Plan (224/P/1000 Rev C)
- CD/1.29 Biodiversity Management Plan for Land to the East of the Railway Line (Figure 1)
- CD/1.30 Park and Ride Indicative Layout (0710-64 SK50)

**Technical Notes**

- CD/1.31 Technical note on planning policy
- CD/1.32 Technical note on affordable housing
- CD/1.33 Technical note and supporting drawings on green infrastructure and landscape
- CD/1.34 Technical note on community infrastructure
- CD/1.35 Technical note and supporting drawings on ecology/biodiversity
- CD/1.36 Technical note on design

- CD/1.37 Technical note on renewable energy and environmental performance
- CD/1.38 Note in relation to the Local Centre Servicing Arrangements (Rev A)

### **Application Responses**

- CD/1.39 Written representations to the application
- CD/1.40 Questionnaire and consultation responses

### **CD/02 WINCHESTER CITY COUNCIL COMMITTEE AND CABINET PAPERS**

- CD/2.1 PDC 857 – Winchester Planning and Development Control Committee
- CD/2.2 CAB 2091 – Local Development Framework Update
- CD/2.3 CAB 2064 – Adoption of Interim Policy Aspirations
- CD/2.4 CAB 2060 – LDF Core Strategy Consultation
- CD/2.5 CAB 1944 – Core Strategy Preferred Option – Feedback on Consultation (Chapters 4-6)
- CD/2.6 CAB 2040 – LDF Update Cabinet Report
- CD/2.7 CAB 2039 – LDF Update on Evidence Studies
  
- CD/2.8 CAB 1908 – Core Strategy Preferred Option – Feedback on Consultation (Chapters 1-3)
- CD/2.9 CAB 1905 – Revised Local Development Scheme 2009
- CD/2.10 CAB 1823 – Recommended Core Strategy Preferred Option Document
- CD/2.11 CAB 1783 – Core Strategy Issues and Options. Feedback on Consultation

### **CD/03 RULE 6 STATEMENTS**

- CD/3.1 CALA Homes
- CD/3.2 Winchester City Council
- CD/3.3 Save Barton Farm Group

### **CD/04 STATEMENTS OF COMMON GROUND**

- CD/4.1 Statement of common ground on planning issues (Appellant and Winchester City Council)

- CD/4.2 Statement of common ground on highways and transportation issues (Appellant and Hampshire County Council)
- CD/4.3 Statement of common ground on education issues (Appellant and Hampshire County Council)
- CD/4.4 Joint Note on education (Appellant and Hampshire County Council)
- CD/4.5 Joint Note on Affordable Rented Housing (Appellant and Winchester City Council)
- CD/4.6 Joint Note on cultural facilities contribution (Appellant and Winchester City Council)
- CD/4.7 Joint Note on Affordable Housing (Appellant and Winchester City Council)

**CD/05 DEVELOPMENT PLAN**

- CD/5.1 The South East Plan (Regional Strategy)
  - CD/5.1a CALA High Court Judgment (Citation Number [2010] EWHC 2866)
  - CD/5.1b South East Plan Panel Report
  - CD/5.1c The draft South East Plan: Core Regional Policies
  - CD/5.1d The South East Plan Core Strategy: Draft for Consultation
  - CD/5.1e Regional Planning Guidance 9
  - CD/5.1f The Hampshire County Structure Plan Review (2001)
- CD/5.2 Adopted Winchester District Local Plan (Review 2006) (Saved Policies)
  - CD/5.2a Saving Direction of the Secretary of State (including accompanying letter from GOSE)
  - CD/5.2b WDLPR Inspectors' Report (Extracts)

**CD/06 GOVERNMENT STATEMENTS/ LETTERS**

- CD/6.1 Letter to Chief Planning Officer from Rt Hon Eric Pickles MP (27/5/10)
- CD/6.2 Letter to Chief Planning Officer from Government's Chief Planner (6/7/10)
- CD/6.3 Letter to Chief Planning Officer from Government's Chief Planner (10/11/10)
- CD/6.4 Written Statement: Revoking Regional Strategies (Rt Hon Eric Pickles MP) (6/7/10)
- CD/6.5 Written Statement: Regional Government (Rt Hon Eric Pickles MP) (22/7/10)

- CD/6.6 Written Statement: Localism Bill and Planning (Rt Hon Eric Pickles MP) (10/11/10)
- CD/6.7 Judgement dated 7 February 2011 by Mr Justice Lindblom in the High Court concerning a claim for judicial review by Cala Homes (South) Ltd of a statement made by the Secretary of State for Communities and Local Government (10 November 2010) and a letter of the same date by the Government's Chief Planner
- CD/6.8 Grounds of appeal by Cala Homes (South) Ltd to the Court of Appeal submitted in response to the dismissal of the above claim

## **CD/07 WINCHESTER CITY COUNCIL DOCUMENTS**

### **Supplementary Planning Documents**

- CD/7.1 Car Parking Standards Supplementary Planning Document
- CD/7.2 Affordable Housing Supplementary Planning Document

### **LDF Documents**

- CD/7.3 Core Strategy Issues and Options
- CD/7.4 Core Strategy Preferred Option Document
- CD/7.5 Local Development Scheme

### **General Documents**

- CD/7.6 Winchester District Community Strategy 2010 – 2020
- CD/7.7 Vision for Winchester (Winchester Town Forum)
- CD/7.8 The Future of Winchester Study (Final Report) (WCC)
- CD/7.9 Winchester City and its Setting (Landscape Design Associates)

### **Housing Needs**

- CD/7.10 Annual Monitoring Report
- CD/7.11 Strategic Housing Land Availability Assessment 2009/10 (WCC)
- CD/7.12 Strategic Housing Market Assessment Update (DTZ)
- CD/7.13 The Affordable Housing Viability Study (Adams Integra)
- CD/7.14 The Local Connections Housing Study (Adams Integra)
- CD/7.15 Winchester Housing Strategy
- CD/7.16 Central Hampshire and New Forest Strategic Housing Market Assessment (DTZ)
- CD/7.17 Winchester District Housing Needs Survey (David Couttie Associates)



CD/7.18 WCC Housing Strategy

CD/7.19 Sub Regional Policy Advice to SEERA - Central Hampshire and New Forest (HCC)

CD/7.20 Blueprint (see Council's website)

### **Environment**

CD/7.21 Habitat Regulations Assessment (Appropriate Assessment Screening) (WCC)

CD/7.22 Sustainability Appraisal (Enfusion)

CD/7.23 Winchester District LDF Transport Assessment (WSP)

CD/7.24 Winchester District LDF Transport Assessment (Stage 1) (MVA Consultancy)

CD/7.25 Winchester District LDF Transport Assessment (Stage 2) (MVA Consultancy)

CD/7.26 Green Infrastructure Technical Report (WCC)

CD/7.27 Strategic Flood Risk Assessment (Halcrow Group Limited)

CD/7.28 Climate Change Plan (WCC)

CD/7.29 Winchester Air Quality Action Plan (WCC)

CD/7.30 Hampshire Local Transport Plan (HCC)

### **Economic Prosperity**

CD/7.31 Update to Retail and Town Centre Uses Study 2010 (NLP)

CD/7.32 Retail and Town Centre Uses Study 2007 (NLP)

See: [www.winchester.gov.uk/EnvironmentAndPlanning/Planning/LocalDevelopmentFramework/Evidence/Base](http://www.winchester.gov.uk/EnvironmentAndPlanning/Planning/LocalDevelopmentFramework/Evidence/Base)

CD/7.33 Winchester District Economic and Employment Land Study 2007 (SQW Consulting)

CD/7.34 Winchester District Economic and Employment Land Study supplementary report 2009 (SQW Consulting)

See: [www.winchester.gov.uk/EnvironmentAndPlanning/Planning/LocalDevelopmentFramework/Evidence/Base](http://www.winchester.gov.uk/EnvironmentAndPlanning/Planning/LocalDevelopmentFramework/Evidence/Base)

## **CD/08 PLANNING INSPECTORATE**

CD/8.1 Planning Inspectorate Advisory visit to Winchester, Inspector's Advice Note (undertaken 24 - 28 August 2009)

CD/8.2 Advice for Inspectors

CD/8.3 Statement in respect of CALA Litigation

**CD/09 GOVERNMENT PUBLICATIONS**

- CD/9.1 National Household Projections (DCLG)
- CD/9.2 New Homes Bonus Consultation Paper (DCLG)
- CD/9.3 Manual for Streets 2: Wider Application of the Principles (CIHT)
- CD/9.4 Companion Document to Manual for Streets (HCC)
- CD/9.5 Open Source Planning – Green Paper (Conservative Party)
- CD/9.5a Programme for Government (Coalition Government)
- CD/9.5b Conservative Party Election Manifesto
- CD/9.5c Liberal Democrat Party Election Manifesto
- CD/9.6 Strategic Housing Land Availability Assessment: Practice Guidance (DCLG)
- CD/9.7 White Paper on Local Growth (Coalition Government)
- CD/9.8 Business Plan (DCLG)
- CD/9.9 Decentralisation and Localism Bill; an essential guide (DCLG)

**CD/10 CORRESPONDENCE RELATING TO RECOVERY**

- CD/10.1 Secretary of State Recovery letter and matters
- CD/10.2 Inspector's Pre-Inquiry Note
- CD/10.3 Response from WCC concerning the Environmental Statement
- CD/10.4 Agreed response between the Appellant and WCC concerning the viability of the affordable housing

**CD/11 PREVIOUS APPEAL**

- CD/11.1 Report to Secretary of State (Previous appeal) (DJ Mumford)
- CD/11.2 Decision Letter of Secretary of State

**CD/12 SELECT COMMITTEE EVIDENCE**

- CD/12.1 Select Committee Transcript
- CD/12.2 Select Committee Transcript

**CD/13 OTHER DOCUMENTS**

- CD/13.1 Building a Recovery: How Tackling the Housing Crisis can Rebuild Local Economies across the Country (HBF)
- CD/13.2 Witness Statement of David Morris (CALA 1)

CD/13.3 Witness Statement of David Morris (CALA 2)

CD/13.4 Third Party Correspondence

## INQUIRY EVIDENCE

### CALA/ APPELLANT'S EVIDENCE

CALA/1/1	Mr Clements' Proof of Evidence and Errata Sheet (paragraphs 8.30-8.38)
CALA/1/2	Mr Clements' Appendices and Errata Sheet (Appendix 9)
CALA/1/3	Appeal decision: <i>Land south of Queen Street, Woodend, Allerton Bywater</i> (2121119)
CALA/1/4	Extract from Chapter PT17 Inspector's Handbook
CALA/1/5/1	Housing land supply and requirements table (January 2011)
CALA/1/5/2	Housing land supply and requirements table (1/2/11)
CALA/1/6	Extract from Transcript – Day 1 of the Inquiry
CALA/1/7	"Where Shall We Live" consultation document
CALA/1/8	Mr Clements' Rebuttal proof of Evidence
CALA/1/9	NHS Hampshire Estate Strategy 2010-2015
CALA/1/10	Planning Officers Society Advice Note: <i>Planning Post RSS Revocation</i> (October 2010)
CALA/1/11	Appeal decision: <i>Former Sevalco Site, Severn Road, Avonmouth, Bristol</i> (2126342)
CALA/1/12	Appeal decision: <i>Farnborough Airport, Farnborough Road, Farnborough</i> (2118357)
CALA/1/13/A	Inspector's report: <i>Land at north east sector, Crawley</i> (2092933)
CALA/1/13/B	Secretary of State's "minded to" decision: <i>Land at north east sector, Crawley</i> (2092933)
CALA/1/13/C	Secretary of State's decision: <i>Land at north east sector, Crawley</i> (2092933)
CALA/1/14	Speech by Rt Hon Greg Clark (2/2/11)
CALA/1/15	Speech by Rt Hon Grant Shapps (12/10/10)
CALA/1/16	Speech by Rt Hon Grant Shapps (8/6/10)
CALA/1/17	Extract from Hampshire Chronicle concerning Silver Hill (8/1/11)
CALA/1/18	Appeal Decision: <i>Pumping Station, Spring Gardens, Alresford</i> (2133702)
CALA/2/1	Mr Tighe's Proof of Evidence
CALA/2/2	Mr Tighe's Appendices
CALA/2/3	Summary of development traffic flows at City Road

	junction
CALA/3/1	Mr Adams' Proof of Evidence
CALA/3/2	Mr Adams' Appendices
CALA/3/3	Note about the CHP plant
CALA/3/4	Mr Adams' powerpoint presentation
CALA/4/1	Mr Spry's Proof of Evidence
CALA/4/2	Mr Spry's Appendices
CALA/4/3	NHPAU Document: " <i>Impact of worsening affordability on demand for social and affordable housing: tenure choice and household information</i> "
CALA/4/4	NHPAU Document: " <i>Housing requirements and the impact of recent economic and demographic change</i> "
CALA/4/5	NHPAU Document: " <i>More homes for more people: advice to Ministers on housing levels to be considered in regional plans</i> "
CALA/4/6	NHPAU Document: " <i>How do housing price booms and busts affect home ownership for different birth cohorts?</i> "
CALA/4/7	UK Regional Press Release: " <i>Slow growth to 2015 will be accompanied by a widening of the North-South divide</i> " Cambridge Econometrics forecasts (28/7/10)
CALA/4/8	Press Release: " <i>New Students boost house prices in university towns</i> " (Lloyds TSB) (20/8/10)
CALA/4/9	Note to Inquiry: <i>Public Sector/ Private Sector Job Split</i>
CALA/4/10	Note to Inquiry about the conclusion of the West Midlands RSS Panel Report on affordability
CALA/5	Mr Walker's Proof of Evidence
CALA/6/1	Response to queries raised by SBFG on the draft S106 Agreement between the Appellant and WCC
CALA/6/2	Note on affordable housing provisions in the draft S106 Agreement between the Appellant and WCC
CALA/7/1	Opening Submissions of Mr Village
CALA/7/2	Closing Submissions of Mr Village
CALA/7/3	Court of Appeal Judgement between R (on the application of Erine Kides) and South Cambridgeshire District Council and Peter Stroude, Beazer Homes Central Ltd (July 2002).
CALA/7/4	High Court Judgement between the London Borough of Bromley and Secretary of State for Communities and Local Government and Castlefort Properties Ltd (November 2007)

**WCC/ COUNCIL'S EVIDENCE**

WCC/1	Mr Green's Proof of Evidence
WCC/2	Mr Green's Supplementary Proof of Evidence
WCC/3	Cabinet (LDF) Committee Report: " <i>Feedback on Blueprint Responses and Core Strategy Next Steps</i> " (23/2/11)
WCC/4/1	House of Commons Public Bill Committee: Localism Bill 15/2/11 morning (Hansard)
WCC/4/2	House of Commons Public Bill Committee: Localism Bill 15/2/11 afternoon (Hansard)
WCC/5	Cabinet Report on the Silver Hill regeneration project (November 2010)
WCC/6	Opening submissions of Mr Bedford
WCC/7/1	Letter from Berwin Leighton Paisner concerning the appeal on <i>Land at north east sector, Crawley</i> (2092933) (8/7/10)
WCC/7/2	Letter from Berwin Leighton Paisner concerning the appeal on <i>Land at north east sector, Crawley</i> (6/8/10)
WCC/7/3	Response by the Appellants, Taylor Wimpey UK Ltd and Beazer Homes (Reigate) Ltd, concerning the appeal on <i>Land at north east sector, Crawley</i> (12/8/10)
WCC/7/4	Response by Crawley Borough Council concerning the appeal on <i>Land at north east sector, Crawley</i> (13/8/10)
WCC/7/5	Response by Gatwick Airport Ltd concerning the appeal on <i>Land at north east sector, Crawley</i> (3/9/10)
WCC/7/6	Further response by the Appellants, Taylor Wimpey UK Ltd and Beazer Homes (Reigate) Ltd, concerning the appeal on <i>Land at north east sector, Crawley</i> (3/9/10)
WCC/8	PINS advice to Inspectors on the materiality and weight of a Bill before Royal Assent (18/2/11)
WCC/9	The Parliament Acts and the Salisbury-Addison Convention
WCC/10	The Salisbury-Addison Convention
WCC/11	Closing submissions of Mr Bedford
<b>SBFG/</b>	<b>SAVE BARTON FARM GROUP'S EVIDENCE</b>
SBFG/1/1	Mrs Slattery's proof of evidence
SBFG/1/2	Mrs Slattery's summary
SBFG/1/3	Mrs Slattery's Introduction
SBFG/1/4	Note regarding Policy H4 in the SE Plan and Policy MDA2 in the Local Plan
SBFG/2/1	Mr Loverseed's proof of evidence (delivered by Mr White)
SBFG/2/2	Mr Loverseed's summary (delivered by Mr White)

SBFG/2/3	Response to transportation statement of common ground
SBFG/2/4	SBFG question topics for Hampshire County Council
SBFG/3/1	Professor Jung's proof of evidence
SBFG/3/2	Professor Jung's summary
SBFG/3/3	Additional summary paper of flooding and drainage issues
SBFG/3/4	Environment Agency paper: " <i>Winchester MDA Strategic Flood Defence and Drainage Issues</i> "
SBFG/4/1	Mr White's proof of evidence
SBFG/4/2	Mr White's summary
SBFG/5	Queries relating to draft S106 Agreement between Appellant and WCC
SBFG/6	Comments on the draft Section 106 Agreements and draft planning conditions
SBFG/7	Comments on the joint Appellant/ WCC Notes on the cultural facilities contribution (Document CD/4/6) and education (Document CD/4/4)
SBFG/8/1	Opening Submissions of Mr Blackman (Chairman SBFG)
SBFG/8/2	Closing submissions of SBFG

**TP/ THIRD PARTY ORAL EVIDENCE TO THE INQUIRY**

TP/1	Statement by Mr S Brine MP
TP/2	Statement and attachments by Mr M Carden (City of Winchester Trust)
TP/3/1	Statement by Mr H Cole (City of Winchester Trust)
TP/3/2	Supplementary statement by Mr Cole (City of Winchester Trust)
TP/3/3	Statistical material provided by Mr Cole
TP/4	Statement by Mr B Porter (local resident)
TP/5	Statement and Attachments by Mr M Slinn (WinACC Transport Group)
TP/5/2	Supplementary statement by Mr Slinn (WinACC Transport Group)
TP/5/3	Closing statement by Mr Slinn (WinACC Transport Group)
TP/6	Statement by Ms K Macintosh (WinACC Built Environment Group)
TP/7	Statement by Mr K Storey (local resident)
TP/8	Statement by Mr J Beckett (Save Barton Farm Group)
TP/9/1	Statement by Mr C Gillham (Winchester Friends of the

	Earth)
TP/9/2	Traffic flows graph and Note on the peak hour by Mr Gillham
TP/9/3	Closing statement by Mr Gillham (Winchester Friends of the Earth)
TP/10	Statement by Mrs J Porter (Hampshire County Councillor)
TP/11	Statement by Mr J Thomas (Winchester City Residents Association)
TP/12	Statement by Mr G Bruty (local resident)
TP/13/1	Statement by Mrs V Bruty (local resident)
TP/13/2	Further comments by Mrs Bruty
TP/14	Statement by Mr C McKinlay (delivered by Mrs McKinlay)
TP/15	Statement by Mr M Charrett (local resident)
TP/16	Statement by Mr R Bickley (local resident)
TP/17	Ms P Dickens (Hampshire County Councillor)
TP/18/1	Statement by Mr C Napier (Campaign to Protect Rural England Hampshire Branch)
TP/18/2	Further statement by Mr Napier concerning the Dunsfold Park, Cranleigh appeal decision
TP/19	Statement by Mr A Trimmer
TP/20	Statement by Mr J Gumbel (local resident)
TP/21/1	Statement by Ms J Martin (local resident)
TP/21/2	Final remarks by Ms J Martin
TP/22	Statement by Mr R Marsh (local resident)
TP/23	Statement by Mr P di Gleria (local resident)
TP/24	Statement by Mr P Slattery (local resident)
TP/25	Statement by Mr R Pascual (local resident)
<b>WR/</b>	<b>THIRD PARTY WRITTEN LETTERS TO THE APPEAL</b>
WR/1	Letter from Josh Bruty (local resident)
WR/2	Letter from Ms C Bailey (Hampshire County Councillor)
WR/3	Letter from WinACC Built Environment Group
WR/4	Letter from Mrs R Brandon (local resident)
WR/5	Letters received prior to the opening of the Inquiry
WR/6	Correspondence with Mr S Brine MP
<b>ID/</b>	<b>INQUIRY DOCUMENTS</b>
ID/1	Council's letter of notification of the Inquiry and list of persons notified

ID/2/1-4	Documents relating to the attendance at the Inquiry by Hampshire County Council
ID/3/1	Note in response to Inspector's queries about Conditions in Document ID/7
ID/3/2	Planning conditions agreed between the Appellant and the Council
ID/4	Planning Obligation by Agreement – Transportation
ID/5	Planning Obligation by Agreement - Planning
ID/6	Site visit map and itinerary
ID/7	Inspector's Note – 24/2/11
ID/8	Inspector's Note – 1/3/11
ID/9	Letter closing the Inquiry in writing (11/3/11)

**PIC/ POST INQUIRY CORRESPONDENCE**

PIC/1	Minister of Decentralisation's statement "Planning for Growth"
PIC/2	Letter to the main parties inviting comments on the above
PIC/3	Letter in response dated 18/4/11 from RPS on behalf of the Appellant
PIC/4	Letter in response dated 19/4/11 from SBFG
PIC/5	Letter in response dated 20/4/11 from WCC



## **ANNEX C: CONDITIONS**

1. The development hereby permitted shall not be carried out except in substantial accordance with the Masterplan drawing number PL06 Rev B ("the Masterplan") the Land Use Parameters Plan drawing number PL01 Rev B, and the Design and Access Statement dated November 2009 (as updated in April 2010) ("the DAS"). The development hereby permitted shall be built out at an average density of 38.5 dwellings per hectare in respect of the net residential area.
2. The following drawings are authorised by this planning permission:

Supporting Plans	
RPS01 Rev 03	Application Boundary Plan
PL01 Rev B	Land Use Parameters Plan
0710-64 Fig 4.1 Rev L	Access Strategy
0710-64 Fig 4.2 Rev I	Proposed Andover Road/Harestock Road Junction
0710-64 Fig 4.3 Rev K	Proposed Andover Road/Well House Lane Junction
0710-64 SK51	Proposed Andover Road/Well House Lane Junction
0710-64 Fig 4.4 Rev I	Proposed New Andover Road/Stoney Lane Junction
0710-64 SK52	Proposed New Andover Road/Stoney Lane Junction
0710-64 Fig 4.5 Rev B	Proposed Well House Lane Shuttle Signals
0710-64 Fig 4.6 Rev B	Proposed New Andover Road
0710-64 Fig 4.7 Rev B	Proposed New Andover Road
0710-64 Fig 4.8 Rev B	Proposed New Andover Road
0710-64 Fig 4.9	Andover Road/Berewecke Road Junction Improvements
0710-64 Fig 10.2 Rev A	Proposed Andover Road Southern Corridor Improvements

Illustrative Plans	
PL06 Rev B	Masterplan
PL02 Rev C	Developable Areas Plan
PL03 Rev A	Residential Densities
PL04 Rev A	Indicative Building Heights
PL05 Rev B	Phasing
224/P/1000 Rev C	Environmental Infrastructure Plan
Figure 1	Biodiversity Management Plan
0710-64 SK50	Park and Ride Light Indicative Layout

### **Design Codes**

3. Prior to the submission of the first reserved matters application, a detailed design code for the development shall have been submitted to and approved in writing by the local planning authority. The detailed design code shall demonstrate how the objectives of the DAS will be met, and shall take account of the drawings referred to in Condition 2 above. No more than 1,000 dwellings hereby permitted shall be occupied until a review of the approved design code shall have been submitted to and approved in writing by the local planning authority to take account of changing circumstances and technologies. The development hereby permitted shall be carried out in accordance with the approved design code. The design code shall include the following:

- a) principles for determining quality, colour and texture of external materials and facing finishes for roofing and walls of buildings and structures including opportunities for using locally sourced and recycled construction materials;
  - b) accessibility to buildings and public spaces for the disabled and physically impaired;
  - c) sustainable design and construction, in order to achieve a minimum Code for Sustainable Homes Level 4 (or other such equivalent sustainability standard as may be agreed in writing by the local planning authority) for residential buildings and a 'very good' Building Research Establishment Environmental Assessment Method (BREEAM) rating for non residential buildings, maximising passive solar gains, natural ventilation, water efficiency measures and the potential for home composting and food production;
  - d) measures which show how energy efficiency is being addressed to reflect policy and climate change, and show the on-site measures to be taken to produce at least 10% of the total energy requirements of the development hereby permitted by means of renewable energy sources;
  - e) built-form strategies to include density and massing, street grain and permeability, street enclosure and active frontages, type and form of buildings including relationship to plot and landmarks and vistas;
  - f) principles for hard and soft landscaping including the inclusion of important trees and hedgerows;
  - g) structures (including street lighting, floodlighting and boundary treatments for commercial premises, street furniture and play equipment);
  - h) design of the public realm, including layout and design of squares, areas of public open space, areas for play, the allotments and cemetery;
  - i) open space needs including sustainable urban drainage;
  - j) conservation of flora and fauna interests;
  - k) provision to be made for art;
  - l) a strategy for a hierarchy of streets and spaces;
  - m) alignment, width, and surface materials (quality, colour and texture) proposed for all footways, cycleways, bridleways, roads and vehicular accesses to and within the site (where relevant) and individual properties;
  - n) on-street and off-street residential and commercial vehicular parking and/or loading areas;
  - o) cycle parking and storage;
  - p) means to discourage casual parking and to encourage parking only in designated spaces;
  - q) integration of strategic utility requirements, landscaping and highway design.
4. No more than 2000 dwellings shall be constructed on the site pursuant to this planning permission.

## **Reserved Matters and Implementation**

5. Approval of the details of the layout, scale, design and external appearance of any part of the residential development within each phase of the development hereby permitted and the landscaping associated with it ('the residential reserved matters') shall be obtained in writing from the local planning authority before that part of the residential development is commenced within that phase. The development shall not be carried out otherwise than in accordance with the approved details.
6. Approval of the details of the layout, scale, design and external appearance of any part of the non-residential development within each phase of the development hereby permitted and the landscaping associated with it ('the non-residential reserved matters') shall be obtained in writing from the local planning authority before that part of the non-residential development is commenced within that phase. The development shall not be carried out otherwise than in accordance with the approved details.
7. Application for approval of the residential reserved matters and non-residential reserved matters in respect of Phase 1 of the development hereby permitted (including the primary school) shall be made to the local planning authority before the expiration of 2 years from the date of this permission.
8. Application for approval of the residential reserved matters and non-residential reserved matters in respect of each subsequent phase of the development hereby permitted shall be made to the local planning authority before the expiration of 7 years from the date of this permission.
9. Phase 1 of the development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 1 year from the date of approval of the last of the residential reserved matters or the non-residential reserved matters (as the case may be) to be approved in respect of that phase, whichever is the later.
10. Subsequent phases of the development hereby permitted shall be begun either before the expiration of 8 years from the date of this permission, or before the expiration of 1 years from the date of approval of the last of the residential reserved matters or the non-residential reserved matters (as the case may be) to be approved in respect of that phase, whichever is the later.
11. Plans and particulars submitted pursuant to Conditions 5 and 6 above shall include the following details:
  - a) any proposed access road(s) including details of horizontal and vertical alignment;
  - b) the layout, specification and construction programme for (1) any internal roads not covered by (a) above, (2) footpaths, (3) parking, turning and loading/unloading areas (including visibility splays), (4) cycle parking areas, (5) cycle storage facilities and (6) access facilities for the disabled (7) individual accesses;
  - c) the positions, design, materials and type of boundary treatment (including all fences, walls and other means of enclosure) to be provided;

- d) details for all hard landscaped areas, footpaths and similar areas, including details of finished ground levels, all surfacing materials, and street furniture, signs, lighting, refuse storage units and other minor structures to be installed thereon;
  - e) contours for all landscaping areas, together with planting plans and schedules of plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment);
  - f) details of compliance with the principles set out in the design code as approved pursuant to Condition 3;
  - g) lighting to roads, footpaths and other public areas.
12. The particulars submitted pursuant to Condition 11(e) above shall include:
- a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter (when measured over the bark at a point 1.5 metres above ground level) exceeding 75mm, identifying which trees are to be retained and the crown spread of each retained tree;
  - b) details of the species, diameter (when measured in accordance with (i) above), approximate height and an assessment of the health and stability of each retained tree;
  - c) details of any proposed topping or lopping of any retained tree;
  - d) details of any proposed alterations in existing ground levels and of the position of any proposed excavation within the crown spread of any retained tree.

### **Construction management**

13. Before each phase of the development hereby permitted is commenced a Construction Management Plan in respect of that phase shall have been submitted to and approved in writing by the local planning authority. Construction of each phase of the development shall not be carried out otherwise than in accordance with each approved construction management plan. Each Construction Management Plan shall include the following matters:
- a) parking and turning for vehicles of site personnel, operatives and visitors;
  - b) loading and unloading of plant and materials
  - c) piling techniques;
  - d) storage of plant and materials;
  - e) programme of works (including measures for traffic management and operating hours);
  - f) provision of boundary hoarding and lighting;
  - g) protection of important trees, hedgerows and other natural features;

- h) details of proposed means of dust suppression and noise mitigation;
  - i) details of measures to prevent mud from vehicles leaving the site during construction.
14. No works in respect of the construction of the development hereby permitted shall be undertaken at the following times:
- a) Outside the hours of 0700 - 1800 on Mondays to Fridays (inclusive);
  - b) Outside the hours of 0800 - 1300 on Saturdays;
  - c) On Sundays and on public holidays.

### **Ecological Amenity Land**

15. Before the development hereby permitted is commenced, a scheme for the setting out and management of land to the east of the railway line (as shown edged in red on the drawing marked "Biodiversity Management Plan Figure 1") shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and shall include the following details:
- a) a programme for implementation;
  - b) land ownership and proposals for its future management and maintenance;
  - c) access arrangements to promote the provision of appropriate paths and the prevention of inappropriate access;
  - d) any proposed fencing;
  - e) provision of measures required for supporting stock and grazing regimes (such as water supply, stock handling facilities, and access points for machinery);
  - f) management protocols e.g. planting, grazing, cutting regimes, scrub control, specific measures for individual species and habitat features required for meeting biodiversity aims and mitigating recreational pressure;
  - g) dog and recreation control;
  - h) communication to site users, including site interpretation, literature, wardening;
  - i) proposals to monitor the ecological and recreational impact of use of the land. The results of monitoring will be presented (at specified intervals) to the local planning authority along with revised management plans reflecting any required changes to the management.

### **Landscape and Open Space Strategy**

16. Before the development hereby permitted is commenced a Landscape and Open Space Strategy (covering a period of 10 years or until completion of the development hereby permitted, whichever is the later), in respect of all the land within the red line as shown on the Masterplan, shall have been submitted to and approved in writing by the local planning authority. The development

shall be carried out in accordance with the approved Landscape and Open Space Strategy. The Landscape and Open Space Strategy shall include:

- a) a programme for implementation;
- b) long-term design objectives;
- c) long-term management responsibilities;
- d) proposals for advanced structure planting;
- e) maintenance schedules for all hard and soft landscape areas and open spaces (other than privately owned domestic gardens), and any associated features.

### **Tree protection**

17. The plans and particulars submitted in accordance with the Condition 13(g) above shall include:
- a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
  - b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
  - c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
  - d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site;
  - e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.
  - f) In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

### **Ecology**

18. Before the development hereby permitted is commenced a scheme to secure the completion of any ecological mitigation and enhancement measures required for the development shall have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved and shall be based upon the mitigation and enhancement measures contained within the Environmental Statement dated November 2009 and shall include a programme for implementation together with proposals for the following:
- a) three metre buffer zones of longer grass on the edge of formal playing fields that border natural green spaces to provide additional reptile/invertebrate/bat foraging habitat;

- b) buffer strips (approximately 2m in size) along the edges of the site border hedgerows to maintain their diverse nature;
- c) hedgerow and grassland management to maximise biodiversity benefit;
- d) natural green space (as indicated in Chapter 12 of the DAS) to provide a mosaic of habitats including woodland with suitable long-grass rides, balancing ponds with reed beds, swales and other wet grass habitats;
- e) corridors of animal movement provided around the site (including the existing ridgeline and dry valley), linked by a series of infiltration areas having a mosaic of short and long grass habitats, running perpendicular to the main corridors;
- f) woodpiles in appropriate locations created whenever vegetation is pruned or felled;
- g) works to ditches, swales, ponds and attenuation features in or along the boundary of the site.

### **Drainage and flooding**

- 19. The development hereby permitted shall not be carried out otherwise than in accordance with the Flood Risk Assessment dated May 2009.
- 20. Before the development hereby permitted is commenced a detailed drainage strategy shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the strategy shall be based upon the principle of sustainable drainage systems ("SuDS") as set out in Planning Policy Statement 25: Development and Flood Risk (or any revision or replacement of it) The development hereby permitted shall be carried out in accordance with the approved drainage strategy and shall include the following:
  - a) a programme for implementation;
  - b) proposals for the subsequent management and maintenance of the drainage system for the lifetime of the development including any arrangements for adoption by any public authority or statutory undertaker.
- 21. Before the development hereby permitted is carried out a scheme to dispose of foul and surface water shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a programme for implementation. The scheme shall be implemented as approved.

### **Contamination**

- 22. Before the development is commenced a scheme to deal with contamination shall have been submitted to and approved in writing by the local planning authority. This shall include a timetable for implementation. The scheme shall conform to BS10175:2001 *Investigation of Potentially Contaminated Sites - Code of Practice* and *Contaminated Land Reports 7 to 11* (and any replacement of them) and include the following matters, unless otherwise approved in writing by the local planning authority:
  - a) a desk top study and conceptual model documenting all the previous and existing land uses of the site and adjacent land;

- b) a site investigation report documenting the ground conditions of the site and incorporating any chemical and gas analysis identified as appropriate by the desk top study;
  - c) a remediation strategy detailing any measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such strategy shall include nomination of a suitably qualified person to oversee the implementation of the works.
23. Prior to the occupation of the development hereby permitted, a written verification report produced by the suitably qualified person approved under the remediation strategy shall have been submitted to and approved in writing by the local planning authority. The report must demonstrate that the remediation strategy has been implemented fully.
24. Development shall cease on site if, during any stage of the works, potential contamination is encountered which has not been previously identified. Works shall not recommence before an assessment of the potential contamination has been undertaken and details of the findings along with details of any remedial action required (including timing provision for implementation), has been submitted to and approved in writing by the local planning authority. The development shall not be completed other than in accordance with the approved details.

### **Archaeology**

25. No development in any phase shall take place unless and until an archaeological evaluation in respect of that phase shall have been carried out by a suitably qualified competent person in accordance with a specification previously submitted to and approved in writing by the local planning authority, such evaluation to be undertaken prior to any operations which may disturb or alter the level or composition of the land from its state at the date of this permission. For the purposes of this condition, the specification shall include proposals for a programme of further archaeological excavation and recording if archaeological remains are identified.

### **Sustainability**

26. The dwellings hereby permitted shall achieve Level 4 of the Code for Sustainable Homes. No dwelling hereby permitted shall be occupied unless a final Code Certificate has been issued for it certifying that Code Level 4 or above has been achieved.
27. The non-residential buildings hereby permitted shall achieve a BREEAM "very good" rating or above. No part of any non-residential building hereby permitted shall be occupied until a copy of a post-construction completion certificate, verifying that that building has achieved a "very good" rating, has been submitted to the local planning authority.
28. At least 10% of the energy supply of the development shall be secured from decentralised, renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement 1: *Planning and Climate Change* (December 2007)). Details of a timetable of how this is to be achieved across the whole site, including details of physical works on site, shall be submitted to the local planning authority prior to or accompanying the first reserved matters application which is submitted pursuant to Condition 7. The



development hereby permitted shall not be commenced until the details have been approved by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and subsequently retained as operational.

### **Commercial uses**

29. The retail food store hereby permitted shall not exceed 2,000 m<sup>2</sup> (gross floorspace).
30. The 'A Class' uses (A1, A2, A3, A4 and A5) hereby permitted shall not exceed 1,000 m<sup>2</sup> (gross floorspace). The individual units shall not exceed a maximum of 200 m<sup>2</sup> (gross floorspace).
31. No more than 1,000 dwellings within the development hereby permitted shall be occupied before the approved 'A Class' uses hereby permitted have been completed and are available for occupation.
32. The office use (Class B1(a)) hereby permitted shall not exceed 2,000 m<sup>2</sup> (gross floorspace).

### **Community uses**

33. Before the development hereby permitted is commenced, a scheme to secure the provision of a medical centre of not less than 660 m<sup>2</sup> (gross floorspace) within the Local Centre shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include the following details:
  - a) details of the operators to whom the medical centre will be offered;
  - b) the mechanism for securing the construction of the medical centre;
  - c) the proposed mechanism for the transfer or lease of the medical centre to the operator;
  - d) a programme for the construction and completion of the centre.

The identity of the selected operator shall be notified to the local planning authority within one month of selection. The scheme shall be carried out as approved.

34. No more than 800 dwellings within the development hereby permitted shall be occupied until the medical centre shall be provided in accordance with the approved scheme and is available for use.
35. Before the development hereby permitted is commenced, a scheme to secure the provision of a children's pre-school nursery within the Local Centre shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the scheme shall include each of the following details:
  - a) the operator to whom the nursery will be offered;
  - b) the proposed mechanism for the transfer or lease of the nursery to the operator;
  - c) a programme for the construction and completion of the nursery.

The identity of the selected operator shall be notified to the local planning authority within one month of selection. The scheme shall be carried out as approved.

### **Park and ride**

36. Before the development hereby permitted is commenced a scheme for the provision and future management of the proposed park and ride facility shall have been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) a detailed specification to include construction details, layout, lighting, CCTV, on and off-site drainage and on-site user facilities;
  - b) a location plan identifying the park and ride car park;
  - c) a programme for construction including proposed commencement and opening dates;
  - d) proposals for the future management (including opening and closing times, days of operation, and charges payable by users) and maintenance of the park and ride facility.

No more than 650 dwellings hereby permitted shall be occupied until the park and ride facility has been completed in accordance with the approved scheme. Following completion the park and ride facility shall be provided and operated for use by the public.

### **Noise**

37. Before the phase(s) of the development hereby permitted, which includes the proposed primary school and the Local Centre, is commenced a noise mitigation scheme in respect of the school and the Local Centre shall have been submitted to and approved in writing by the local planning authority. The scheme shall accord with the details set out within Section 9 of the Environmental Statement dated November 2009. The school and the Local Centre shall not be constructed otherwise than in accordance with the approved scheme.
38. Before any phase of the development hereby permitted, which includes a CHP plant or other energy production plant, is commenced a noise mitigation scheme in respect of any such plant shall have been submitted to and approved in writing by the local planning authority. The scheme shall demonstrate that the noise levels from any proposed CHP plant will not exceed 55dB LAeq 16 hour between 07:00 and 23:00 hours and 45dB LAeq 8 hour between 23:00 and 07:00 hours. Any plant shall not be constructed otherwise than in accordance with the approved scheme.
39. Before any phase of the development hereby permitted is commenced, a scheme identifying the Noise Exposure Categories (NEC) (as defined by Annex 1 to Planning Policy Guidance Note 24) within which the dwellings and related private gardens in that phase are located, shall have been submitted to and approved in writing by the local planning authority. The scheme shall include measures to mitigate noise in relation to any dwellings falling within NEC B and NEC C. No such dwelling shall be occupied until the approved scheme has been implemented in full. No private garden shall be located within NEC C.

## **Infrastructure**

40. The infrastructure which is approved pursuant to Conditions 5 or 6 above shall be provided in accordance with the approved details before occupation of any dwelling or building which is served by that infrastructure.

## **Highways and parking**

41. The number of car parking spaces for the non-residential development shall not exceed the standards set out in the HCC Parking Standard and Strategy 2002 (or any replacement requirement in force at the time of the reserved matters application).
42. The number of car parking spaces for the residential development shall comply with the requirements set out in the Winchester City Council Parking Strategy 2009 (or any replacement requirement in force at the time of the reserved matters application).
43. Before the development hereby permitted is commenced a scheme shall have been submitted to and approved in writing by the local planning authority in respect of:
- a) improvement works to Junction 9 of the M3, as shown in principle on drawing number 0710-04 SK49;
  - b) traffic queue warning signs to be installed on the A34 southbound approach to Junction 9 of the M3.

No more than 650 dwellings within the development hereby permitted shall be occupied until these works have been completed in accordance with the approved scheme and are available for use.