



## Appeal Decision

Inquiry held on 8-10 April and 2 May 2014; unaccompanied site visit made on 7 April 2014 and accompanied site visit made on 2 May 2014

**by Pete Drew BSc (Hons), Dip TP (Dist) MRTPI**

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

**Decision date: 25 June 2014**

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**Appeal Ref: APP/W0530/A/13/2207961**

**Land to the west of Cody Road, Waterbeach, Cambridge CB25 9LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 [hereinafter "the Act"] against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Manor Oak Homes against South Cambridgeshire District Council.
  - The application, Ref S/0645/13/FL, is dated 22 March 2013.
  - The development proposed is erection of 60 dwellings (Class C3), including affordable housing, access, car parking and associated works, open space, landscaping and a children's play area.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 60 dwellings (Class C3), including affordable housing, access, car parking and associated works, open space, landscaping and a children's play area on land to the west of Cody Road, Waterbeach, Cambridge CB25 9LS in accordance with the terms of the application, Ref S/0645/13/FL, dated 22 March 2013, subject to the conditions set out in the attached *Schedule of Conditions*.

### Procedural matters

2. I have been appointed to deal with 2 appeals on nearby, but not contiguous, sites and held 2 Inquiries on consecutive dates to consider the respective appeals. The second appeal was made by Persimmon Homes East Midlands against the decision of South Cambridgeshire District Council to refuse an application to grant outline planning permission for residential development of up to 90 dwellings on land north of Bannold Road, Waterbeach. The appeal [Ref: APP/W0530/A/13/2209166] was heard at an Inquiry held between 13 and 15 May 2014. The decision in respect of that appeal is being issued on the same date as the decision in this appeal as the issues are very similar.
3. Two Planning Obligations dated 10 April 2014 have been submitted in this appeal. The first [Document 14] is between all relevant interests in the land and Cambridgeshire County Council, the headline summary of which is that:
  - i) £127,680 is offered as a contribution towards early years education facilities;
  - ii) £4,366.92 is offered as a contribution towards libraries and lifelong learning;
  - iii) £146,160 is offered as a contribution towards primary education facilities;
  - iv) £6,000 is offered as a contribution towards real time passenger information to the south bound bus stop on Cody Road;
  - v) £11,400 is offered as a contribution towards strategic waste infrastructure facilities;

- vi) £1,899.80 is offered as a contribution towards the cost incurred in the negotiation, preparation and execution of the deed; and,
  - vii) specified off site highway works are offered, comprising upgrading of the south bound bus stop or the north bound bus stop in the event that such an upgrade to the former has already been executed.
4. The second [Document 15] is between all relevant interests in the land and South Cambridgeshire District Council, the headline summary of which is that:
- i) £30,366.88 is offered as a contribution towards the provision of and improvements to indoor community facilities;
  - ii) £66,887.35 is offered as a contribution towards off-site sports facilities;
  - iii) £20,000 is offered as a contribution towards the future maintenance of the on site public open space which will be provided on the appeal site;
  - iv) £94,764.92 is offered as a contribution towards off-site public open space;
  - v) £69.50 per house and £150 per flat is offered as a contribution towards the provision of household waste receptacles;
  - vi) £4,250 is offered as a contribution towards the cost incurred in the negotiation, preparation, execution and monitoring of the deed; and,
  - vii) 24 of the dwellings provided shall be affordable housing units, which comprises 17 affordable rented units and 7 shared ownership units.
5. At the Inquiry I questioned, by reference to Part I of the appeal form, whether all parties with an interest in the appeal site were signatories to the Planning Obligations. I was advised that the other party on whom notice was served at that stage has no interest in the appeal site and was served notice because of their interest in the land over which the proposed drainage outfall would run. The Council is satisfied that all parties with an interest in the appeal site are signatories and whilst I have not seen title I intend to proceed on this basis. I shall return to consider whether the contributions meet the legal tests below.
6. During the conditions session at the Inquiry the Appellant expressed concern about a suggested condition put forward by the Council [Document 18], as a result of which it offered a further Unilateral Undertaking. This was submitted by the Appellant in the timetable agreed at the Inquiry and the Council has confirmed that it has no issues with the manner in which it is drafted. The Unilateral Undertaking [Document 21], dated 15 May 2014, offers the sum of £2,500 as a contribution towards off-site works to complete the footpath links between the appeal site and the existing Cam Locks development to the west.
7. Paragraphs 1.5 and 1.8 of the agreed Statement of Common Ground sets out the basis upon which the Council were minded to refuse the application, based on reports to the Council's Planning Committee in October 2013 and March 2014. This rationale informs my approach to the main issues.

### **Main Issues**

8. In the light of all that I have heard I consider that there are 4 main issues in this appeal. The first is whether relevant policies for the supply of housing are out-of-date. The second is the effect of the proposed development on the character and appearance of the area. The third is whether it is justifiable to dismiss the appeal on the grounds of prematurity having regard to advice in the Planning Practice Guidance ["the Guidance"]. The fourth is whether, having regard to the Development Plan [DP] and the presumption in favour of sustainable development in the National Planning Policy Framework ["the Framework"], this is a suitable and sustainable location for this scale of

residential development. I acknowledge that this represents a revision from those circulated at the Inquiry, but the substantive issues have not changed.

### **Planning policy**

9. The DP includes the Core Strategy DPD [CS] and the Development Control Policies DPD [DCP], which were adopted in January 2007 and July 2007 respectively. Relevant DP Policies include CS Policies ST/2 and ST/5 and DCP Policies DP/3 and DP/7. The Framework has the presumption in favour of sustainable development at its heart and this has three dimensions: economic, social and environmental. Paragraph 11 confirms that applications, and by inference appeals, should be determined in accordance with the DP unless material considerations indicate otherwise. However the Framework is one such material consideration. I examine the Framework in greater detail below.
10. The examination into the South Cambridgeshire Local Plan 2011-2031 [LP], started with its submission to The Planning Inspectorate on 28 March 2014. In accordance with paragraph 216 of the Framework, account can be taken of emerging policies. However the weight to be attached to such policies will depend on: the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
11. It is common ground that all relevant policies and proposals, including S/4 and SS/5 which are relied upon in the putative reasons for refusal, are the subject of outstanding objections. Whilst some of those objections have been lodged by those who seek to progress this and other development schemes in the vicinity of Waterbeach this does not alter my view that there are significant unresolved objections outstanding. It remains in prospect that the Inspector appointed to undertake the examination might find that the emerging LP is unsound or recommend main modifications as a result of those objections or otherwise. On the limited information before me the unresolved objections appear to be significant because they go the principle of the policies at issue.
12. In relation to Policy S/4 the extent to which the emerging policy is consistent with the Framework<sup>1</sup> remains at issue between the parties and I shall examine this as part of my consideration of the third main issue, below. Although the strategy of planning for large scale development through the identification of a new settlement might represent the best way of achieving sustainable development, paragraph 52 of the Framework says this should be achieved with community support. However there are 431 objections, presumably all still unresolved, in relation to Policy SS/5, including what the Council has characterised to be "*a local campaign opposed to the new town*"<sup>2</sup>. For these reasons, applying paragraph 216 of the Framework but particularly having regard to the significance of the unresolved objections, I attach limited weight to the relevant policies and proposals of the emerging LP.
13. The Council advised in closing that the examination hearings are not likely to start before mid October 2014. Although I do not have the full picture, based on the limited information before me it would appear that the examination

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<sup>1</sup> Including paragraphs 52, 80 and 82.

<sup>2</sup> Source of quote: page 327 of the bundle appended to Mr Hyde's proof [page 73, Appendix 25].

could be quite lengthy. The Local Development Scheme [LDS, Document 6] says that the examination will be undertaken during "Summer/Autumn 2014" but if the hearings do not commence until October there is likely to be some slippage in this timetable. The LDS anticipates adoption of the LP during "Spring 2015" but, given the need to consult on any modifications that are recommended, this would appear to be optimistic in the circumstances.

## **Reasons**

### **(i) Housing supply**

14. The Framework says: "To boost significantly the supply of housing, local planning authorities should: ...identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5 % (moved forward from later in the plan period) to ensure choice and competition in the market for land"<sup>3</sup> [*my emphasis*]. I assess the Council's housing supply in this context.

### **The relevant housing requirement**

15. The Guidance says<sup>4</sup>: "*Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. ...Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested*".
16. Applying this advice I consider that the "starting point" is the CS, which I accept to be the most up-to-date, extant and tested housing requirement for South Cambridgeshire. Figure 4.7 of the Annual Monitoring Report [AMR] indicates the annual requirement that would be necessary during the remainder of the plan period, taking account of past and forecast completions. The main parties agree that when considered against the CS the Council cannot demonstrate a 5-year housing land supply. Although the figures differ, reflecting different assumptions, and do not include the "City Deal" which I examine below, it is clear that the magnitude of the shortfall, even on the Council's most optimistic figure<sup>5</sup>, must lead to a finding that it cannot show a 5-year supply of deliverable housing sites on this basis.
17. However, even if I take the position as at April 2013, which is a question I shall return to, it is evident that the CS plan period would be a maximum of 3-years. The Council also points out that the projections and forecasts supporting the CS were not for the current housing market area, do not specifically consider the development needs of the District and were prepared in a different economic climate. I accept that the Guidance contains an important caveat and that in this case significant new evidence, in the form of the Cambridge sub-regional Strategic Housing Market Assessment [SHMA], which I turn to below, has been prepared. In all of these circumstances I attach only moderate weight to the housing land supply calculation based on the CS.

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<sup>3</sup> Source of quote: paragraph 47, principally the second bullet-point.

<sup>4</sup> Source of quote: paragraph reference 3-030-20140306.

<sup>5</sup> 2.6 years supply using the 'Liverpool' method with a 5 % buffer [DR40].

18. My colleague in the Toft appeal [Ref APP/W0530/A/13/2192228] gave reasons for finding that the housing land supply in the emerging Local Plan, based on the SHMA, "...contains a more up to date and thus more reliable assessment of housing need in the District..." than that contained in the CS; I agree. Although I recognise that the SHMA figure of 19,000 homes for the period 2011-2031 is the subject of objections and has yet to be tested through the examination process, I attach greater weight to it than I do to the CS figure of 20,000 homes for the period 1999-2016. The CS figure derives from the Structure Plan which was, in turn, based on the now revoked RPG6. It is not therefore an up-to-date, objectively assessed figure for housing need. Ultimately my view is reinforced by Mr Hyde's concession in cross-examination that if one requirement had to be used in this case, it should be that based on the SHMA.
19. As the Council submitted in closing the different requirements arising from the CS and the SHMA might lead to different 5-year housing land supply outcomes and that might place the decision maker in an invidious position as to whether a 5-year supply exists. I shall therefore proceed on the basis of an annualised requirement of 950 dwellings pa or 4,750 dwellings over a given 5-year period.

### **Base date**

20. The issue between the parties is whether the 5-year supply requirement should use a base date of 1 April 2013 or 1 April 2014. As a general rule I accept the Council's submission that a more recent base date is to be preferred but only where I can be confident that it captures information on actual progress over the previous year<sup>6</sup>. In this case I am concerned that I only have a partial data set rather than a full set of the figures for the full year, April 2013-March 2014. Amongst other things the "*March AMR update*" [Document 13] says the figure for housing completions records "...*predicted completions to 31/3/2014. These predicted completions are based on the housing trajectory in the plan where there is no better information and otherwise on what developers have told us are their actual completions and planned completions to 31/3/2014. This information was gathered between October 2013 and January 2014 for major sites and others down to sites of 9 homes*" [*my emphasis*]. In other words it is only for part of the accounting year and otherwise based on a prediction.
21. In cross-examination Mr Hyde referred to other ways in which the data set was incomplete by reference to Figure 4.7 of the February 2014 AMR. In particular the table records planning permissions granted for windfall sites between 1 April and 31 December 2013 rather than for the full year. These commitments have the effect of increasing the supply side but the flip side is that no account has been taken of any planning permissions that lapsed after 31 March 2013.
22. The base date of 1 April 2013 ensures the housing land supply requirement figure is based on known completions because the actual level of historic completions is published in the 2012-13 AMR. This is the most up-to-date figure of known completions and anything else is conjecture. Moreover the Appellant refers to Mr Roberts's Appendix DR44 to show the principle that the further ahead the projection, the less accurate it becomes. The Council's approach is therefore less robust since it projects further into the future. For these reasons I find the Appellant's approach is the most robust and reliable.
23. I appreciate that this approach does not then relate to the full 5-year period looking forward [2014-2019] but it plainly does relate to a 5-year period. I am

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<sup>6</sup> Or where, as in the concurrent appeal with which I am dealing, it is common ground that 2014 should be used.

unclear why the Council's approach would fail to comply with Regulation 34(3) of the Town and Country Planning (Local Planning)(England) Regulations 2012. I acknowledge the claim that the housing trajectories have been fairly reliable indicators of completions in the past, but I note from paragraph 4.11 of the AMR that there has been considerable variation over the 5-year period from 2008-2012. I have no reason to doubt that it mirrors the approach taken by Cambridge City Council but that does not validate the approach or make it right. It does not lead me to find that this is a sound evidence base on which to assess supply because it remains an estimate rather than an actual figure.

24. Although I acknowledge that this leads to an inconsistency with the approach that I have taken in the Bannold Road appeal, my decisions must be led by the evidence that has been presented in each case. For this reason there is a clear basis on which to distinguish the respective appeals.

***Shortfall recovery: Liverpool v Sedgfield***

25. In *Bloor Homes* [Document 1] it was held that the judgment as to whether to use the Liverpool or Sedgfield method was properly a matter for an Inspector to make and a Court would not interfere, subject to soundness of reasoning. The judgment expressly took account of paragraph 47 of the Framework, previously recited, and even though the judgment was handed down post-issue of the Guidance there was no reason for the Court to take it into account. The Council distil 4 factors from *Bloor Homes* to be: (i) the need to boost the supply of housing; (ii) the severity of the shortfall; (iii) the pattern and pace of housing provision planned for the Borough; and (iv) whether the Council was "*averse to boosting the supply of housing*"<sup>7</sup>. I comment on these below.
26. Dealing initially with the need to boost the supply of housing, my colleague in the Three Pots appeal [Ref APP/K2420/A/13/2202261] had both of the appeals<sup>8</sup> from Hinckley & Bosworth, which are relied upon by the Council, placed before him. I therefore regard it to be significant that he found the Sedgfield approach to be the "*most appropriate*" [DL13]. His observation that: "*...the Sedgfield approach has been generally considered by Inspectors to be the correct approach, as any accumulated backlog would be dealt with in the next 5 years*" [DL12], accords with my own. I consider that the Sedgfield approach aligns more closely with the Government's objective as expressed in paragraph 47 of the Framework: "*To boost significantly the supply of housing*". This view is consistent with that expressed in the joint Local Government Association and Planning Advisory Service publication "*Ten key principles for owning your housing number – finding your objectively assessed needs*"<sup>9</sup>.
27. I deal with the question of the buffer below but the Council acknowledges that there has been a shortfall in the initial years of the emerging LP period, from 2011, when assessed against the annual target set out in that plan. Whether that should be characterised as "*small*", as the Council submits, is somewhat subjective. Mr Hyde made the point under cross-examination that the deficit of 642<sup>10</sup> that has built up over the first 2-years of the emerging LP is significant in such a short period of time and represents the best part of a year's shortfall.

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<sup>7</sup> Source of quote: paragraph 112 of the judgment.

<sup>8</sup> Ref APP/K2420/A/12/2188915 and APP/K2420/A/12/2181080, at DR41, which were both subject of challenge, the latter of which gave rise to the *Bloor Homes* judgment and has therefore been quashed.

<sup>9</sup> See page 175 of the bundle appended to Mr Hyde's proof [Appendix 14].

<sup>10</sup> Calculated as 279 + 363 [See DR31 for derivation].

28. Although Mr Hyde conceded that there has not been a “*forward planning failure*” in the District, fewer houses have been built than planned for. This basic problem colours my approach to the strategic approach, which has meant that Cambridge City has been the focus of urban extensions on its periphery. Although there is evidence of joint working, exemplified by the identical date of submission of the respective Local Plans for examination, there is no joint DP; each District still needs to meet its own housing requirement. In this context there is force in the closing submission that the Council is doing nothing more than its statutory obligation as opposed to doing its best to boost the supply of housing. The pattern and pace of housing provision is unlikely to change in the short term because the spatial strategy evident in the CS is carried forward into the emerging LP. The Council does not appear to have proactively sought to boost the supply of housing, e.g. by bringing other allocated sites forward.
29. The Guidance says: “*Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible*”<sup>11</sup>. The cross-reference [“*Related policy*”] is to paragraph 47 of the Framework, which is not in the “*Plan Making*” section of the Framework [paragraphs 150-185]. On this basis I reject the contention that this aspect of the Guidance is exclusively concerned with plan making. As Mr Roberts conceded in cross-examination, it can also be relevant to applications and/or appeals.
30. The DCLG publication “*Land Supply Assessment Checks*” [2009] predates the Framework and the Guidance. For this reason although it does not recommend either approach as best practice this does not alter my view that the Sedgefield approach is to be preferred. The Council also contends that the Sedgefield approach is not appropriate for a District of 108 villages and no towns, but this is not a good reason not to boost the supply of housing. As the Appellant points out, it might present greater opportunities to address the outstanding need. For all of these reasons the Sedgefield approach is to be preferred.

***Has there been a persistent under-supply of housing in the District?***

31. The Framework says: “*Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land*”<sup>12</sup>. The Guidance says: “*The approach to identifying a record of persistent under delivery of housing involves questions of judgment for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing.... The assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle*”<sup>13</sup>.
32. The Council’s best case is set out in the table in Mr Roberts’s Appendix DR31. It shows that during the 14-year period 1999-2013 there was only a surplus in 4-years, namely 2003-4, 2005-6, 2006-7 and 2007-8. During the last 5-years of this period, namely from 2008-9 to 2012-13, annual housing delivery was significantly, i.e. not less than 505 units, below the DP target. Even in those years that the table shows as being in surplus, if the DP target is derived from the CS a surplus is only achieved in one year, namely 2007-8. Figure 4.7 of

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<sup>11</sup> Source of quote: paragraph reference 3-035-20140306.

<sup>12</sup> Source of quote: paragraph 47, second bullet-point.

<sup>13</sup> Source of quote: paragraph reference 3-035-20140306.

- the AMR cites the annualised requirement of the CS to be 1,176 per annum over the same period from 1999 to 2013 and confirms the historic completions over the period from 1999 to 2013. I acknowledge that the CS was only adopted in 2007 but the AMR confirms that the base date of the CS was 1999.
33. In the circumstances I am far from convinced that it would be appropriate to attach weight to the annual targets for the period 1999 to 2007, shown in DR31, which are said to derive from earlier Local Plans. The published AMR is given as one source for the table at DR31 and as it appears to be the primary evidence base for housing completions and targets I attach it greater weight. The Council has a duty to publish the AMR under Regulation 34 of the Town and Country Planning (Local Planning)(England) Regulations 2012, which it has interpreted in this way, i.e. against the CS base date. On this basis I attach significant weight to this published source. The CS itself says that an AMR has to be produced and that a key aspect of monitoring will be the number of houses<sup>14</sup>. Amongst other things my attention has been drawn to CS Policies ST/10 and ST/11, which aim to achieve a "*continuous high level of dwelling production throughout the Plan period*" and bring forward sites for development where monitoring suggests that policies and allocations are not being met, respectively. These adopted policies therefore provide no basis for reverting to lower targets in superseded plans in order to avoid delivery, quite the reverse.
34. The Appellant offers another approach that would achieve a similar result. It is said that at the point where the CS was adopted, January 2007, the target should have been the overall housing provision (20,000) less completions at the point of adoption (6,131) annualised over the remainder of the plan period. The Appellant submits that even applying the Liverpool method that this would have resulted in an annual target over the remainder of the plan period, to 2016, of 1,541 per annum. Regardless of which approach is adopted I reject the Council's claim that the table at DR31 is the '*best available evidence*'.
35. I acknowledge DR31 collates housing completions with other data, including the capacity of sites with planning permission; I accept that there appears to be no obvious correlation between this and the number of completions. There is some relationship between GDP growth and completions although I would not agree that it is '*obvious*'. For example the table shows that the biggest increase in GDP was in 2000-2001, at 4.4 %, but that year there was still a deficit, even against the 1993 Local Plan target, which would have been much greater if assessed against the CS target. The largest deficit is recorded in the table to be in 2012-2013, at -589 but, in contrast to the period 2008-2010, the table shows that was the third year in a row in which there was growth in GDP. In any event, applying the quoted advice from the Guidance, a long-term view of the situation, since 1999, takes account of such fluctuations in the economy.
36. On any reasonable analysis, taking account of economic factors, I therefore conclude that there has been a *record of persistent under delivery of housing* in the District of South Cambridgeshire. The Council's own published AMR shows that the historic completions only exceeded the CS target in 1 year out of 14 and on any analysis that is persistent. Even if I had been persuaded that the Council had exceeded the DP target in 4-years I would still regard that to be a *record of persistent under delivery*.

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<sup>14</sup> Paragraphs 4.4 and 4.9 of the CS, respectively on pages 245 and 247 of the bundle appended to Mr Hyde's proof [Appendix 18].



37. This conclusion is consistent with the approach of my colleague in the Three Pots appeal and the position recorded in paragraphs 48 and 49 of *Cotswold DC v SSCLG and others* [2013] EWHC 3719 (Admin). In both cases under-delivery in 50 % or more of the years in the periods considered were found to comprise persistent under delivery; Lewis J. did not interfere with that finding.

### **Reliance on City Deal**

38. The Framework defines deliverable as: *"To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable"*<sup>15</sup>.

39. During the course of the Inquiry I was provided with further evidence of the Greater Cambridge City Deal [Documents 7.1-7.4], including a joint letter to the Chief Secretary to the Treasury welcoming the offer. That letter confirms that under the deal 1,000 additional units on rural exception sites would be delivered by 2031. However I am not persuaded that it would be reasonable to assume that 150 of those homes would be deliverable in the current 5-year supply period. On the limited information before the Inquiry it is far from clear whether any suitable sites have been identified, still less whether they would be *available now*, in order to be considered to be deliverable. Amongst other things the draft Minute records that the County Council and University, as major landowners, *"may"* find some exception sites. There is no basis for categorising these sites as windfall sites<sup>16</sup>. This novel arrangement for this area cannot, by definition, provide: *"compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply"*, as required by paragraph 48 of the Framework.

40. The draft Minute underlines that there remains considerable uncertainty about the scheme, particularly at this early stage. Matters to be resolved include joint governance, which might take approximately one year and appears to require primary legislation. The letter to the Treasury underlines the lack of certainty, including with regard to financing provisions, e.g. *"...if we receive the full £500m"* [*my emphasis*]. This goes back to the question of deliverability in terms of viability, which might depend on the availability of public subsidy. For these reasons I agree with the Appellant that there is a lack of certainty about the principle and timing of the City Deal and, as a consequence, there is no sound basis to take it into account in the current 5-year housing land supply.

### **Reliance on Cambridge City Council**

41. The Council has prepared a number of calculations based on various assumptions, including joint figures taking account of the housing supply situation in Cambridge City Council's administrative area. The District surrounds the City and the adopted strategy, CS Policy ST/2, has sought to allocate housing on the edge of Cambridge as the first preference. Both Councils submitted their respective Local Plans on the same date for joint examination by one Inspector and although this is evidence of joint working it is, by definition, not a joint DP. Pending revised governance arrangements arising from the City Deal, the fact is that the 2 Councils comprise separate Local Planning Authorities. Paragraph 47 of the Framework is directed to each

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<sup>15</sup> Source of quote: footnote 11 of the Framework.

<sup>16</sup> The Glossary to the Framework defines these as: *"Sites which have not been specifically identified as available in the Local Plan process. They normally comprise previously-developed sites that have unexpectedly become available"* [*my emphasis*].

Local Planning Authority, e.g. *"their housing requirements"*. Since it is clear that each Local Planning Authority must demonstrate its own 5-year housing land supply, to adopt a different approach here would be without precedent. It is telling that the Council has been unable to identify a single decision of an Inspector or the Secretary of State which adopts the joint approach which it has advanced at this Inquiry. In my view this speaks volumes.

### ***Housing land supply calculations***

42. For the above reasons I consider that the Appellant's calculation in Table 3 of Mr Hyde's proof is to be preferred. On the supply side this excludes the figures given in the February 2014 AMR for planning permissions granted between 1 April and 31 December 2013 but as it is a calculation at the end of March 2013 that is justified. I conclude that the Council has 3.51 years supply of housing. It is material to note that on the Council's own figures, adopting the Sedgefield methodology, but based on the position at 31 March 2014, including predicted completions to that date, it cannot show a 5-year housing land supply. With a 20 % buffer the Council calculates 3.9 years supply. Even using the Liverpool method, with a 20 % buffer, the Council calculates 4.4 years supply. I have given reasons why I do not accept the assumptions that underpin these figures but they tend to reinforce my conclusion in this matter.

### ***Relevant policies for the supply of housing***

43. The Framework says: *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites"*<sup>17</sup>. The Appellant identified 3 policies to be relevant policies for the supply of housing, namely CS Policies ST/2 and ST/5, and DCP Policy DP/7. In response to my question as to whether the Council agreed it provided a note [Document 10] that identified those policies. However it contains a caveat that: *"It should be noted that to the extent that they address matters not directly relevant to the supply of housing, those elements of policy can properly attract weight"*.
44. Dealing with CS Policies ST/2 and ST/5 there appears to be no dispute that these exclusively comprise policies for the supply of housing. To the extent that it might be said that CS Policy ST/5 includes a relevant requirement for larger scale development to deliver financial contributions that does not appear to be in dispute in this appeal and is a matter I turn to in due course. However in closing it was said that DCP Policy DP/7 (2) lists criteria that are broadly consistent with the Framework. I accept that but it does not alter my view that DCP Policy DP/7 is, primarily, a policy for the supply of housing. Whilst worded positively rather than negatively DCP Policy DP/7 (1) appears to be similar to Policy EV2, which was at issue in *South Northamptonshire Council v SSCLG and Barwood Land* [2014] EWHC 573 (Admin)<sup>18</sup>. Ouseley J. held *"Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and location of development"* and that *"...the policy clearly falls within the scope of the phrase [in paragraph 49 of the Framework]"*<sup>19</sup>. My view is reinforced by the fact that this site is outside of the development framework and hence the criteria in DCP Policy DP/7 (2) do not apply to the appeal site.

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<sup>17</sup> Source of quote: paragraph 49.

<sup>18</sup> See summary of EV2 at paragraph 38 of the judgment on page 479 of the bundle appended to Mr Hyde's proof [Appendix 31].

<sup>19</sup> Source of quotes: paragraphs 47 and 48 of the judgment, respectively, on page 481 of the bundle appended to Mr Hyde's proof [Appendix 31].

45. On the first issue I conclude that relevant policies for the supply of housing, namely CS Policies ST/2 and ST/5, and DCP Policy DP/7, are out of date.

**(ii) Character and appearance**

46. The Statement of Common Ground records that the main parties agree the following points. The appeal site is enclosed by built development on 3 sides. The recently completed residential development at Cam Locks is situated to the west and the party boundary is formed by a mixture of mature trees and hedging. The residential properties at Nos 31-45 Bannold Road are located to the south and a timber close boarded fence augmented by trees and vegetation is present along the party boundary. To the north lies Waterbeach Barracks, which has now been relinquished by the Ministry of Defence [MoD]; the former married quarter housing is currently being refurbished for the open market and the first phase has been released. The party boundary is formed by a concrete post and wire fence and a number of mature trees. The appeal site is contained on its eastern boundary by Cody Road with agricultural land to the east.
47. DCP Policy DP/7 (1) only permits development for agriculture, horticulture, forestry, outdoor recreation and other uses which need to be located in the countryside. In cross-examination Mr Hyde, on behalf of the Appellant, conceded that the proposal is for development outside of the village framework of a type not permitted under the policy, which is an inevitable concession, but it needs to be seen in the context of my finding that it is not up-to-date.
48. In pursuit of its claim that the proposed development would result in a loss of a visually important open buffer which presently separates Waterbeach from the Barracks, the Council point to the comments of 2 previous Inspectors. In an appeal decision [Ref T/APP/W0530/A/86/044894/P4], dated 12 August 1986, the Inspector dismissed a scheme for 5 dwellings on a site to the north-east of the junction of Bannold Road and Cody Road. The Inspector found "*Waterbeach is a varied and characterful village which has succeeded in absorbing a large number of new houses without losing its compact and attractive appearance. It is separated from Waterbeach Barracks by a strip of arable land only some 200 m wide and the barracks itself is as extensive as a large village. It seems to me highly desirable that a wedge of open land should be retained between the 2 settlements to prevent their coalescence. Bannold Road, with its grass verges, mature trees and generally rural appearance forms a natural northern boundary to the village providing open views of farmland with the barracks beyond... If the appeal site were...to be built on this would further reduce the visual impact of the green wedge... Cody Road forms a distinct boundary to development on the northern side of Bannold Road and I consider it appropriate that the village envelope should exclude all the land to the east of this road*"<sup>20</sup>. The 2004 Local Plan Inspector found that the current appeal site "*...is a green field arable site immediately to the [east of what is now Cam Locks]. The land is open to Cody Road and much more visible from the east. In my view there is far less case for developing this site and I do not support the objector's request that it be allocated for residential development*"<sup>21</sup>.
49. I accept that both Inspectors had to form judgments about the importance of the undeveloped area between the village and the Barracks and that their conclusions about that underlie both decisions. The appeal decision was made some 28 years ago and there have been 2 material changes since that time.

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<sup>20</sup> Source of quote: paragraph 10.

<sup>21</sup> Source of quote: page 1122 of the SHLAA Site Assessment Proforma [KPC9].

- The first is the development of what is now Cam Locks. That built form is visible from Cody Road, particularly over the winter period, but even during the accompanied visit, when the mature hedgerow was in full leaf, the houses were still evident. However I acknowledge that the second Inspector did anticipate this change and take it into account when making the comments that he did.
50. The second arguably more significant change is that the Barracks, or at least that part of the Barracks served off Cody Road<sup>22</sup>, have been relinquished by the MoD and are being refurbished as market housing. In terms of their character and appearance I consider that the refurbished houses are indistinguishable from the "*varied and characterful*" remainder of the village. I consider that the refurbished houses<sup>23</sup> belie their origins. The Appellant draws comparison to, amongst others, Waddelow Road. However Park Crescent, to the south of Bannold Road, has a far more institutionalised feel, including a gate beside the entrance, and yet those houses are wholly within the settlement boundary.
51. In these circumstances I reject the claim that all of the findings made in 1986 remain pertinent today. In particular, the idea of the former Barracks and the village being "*2 settlements*" no longer applies. Mrs Pell-Coggins agreed in cross-examination that the sole reason why the former Barracks was outside of the settlement boundary was because of its military use, but that rationale for considering it separate has fallen away. The refurbished dwellings served off Cody Road are wholly dependent on Waterbeach for access and the residents are likely to use many of the services and facilities in the village, including the shops, school and GP surgery. Physically<sup>24</sup> and functionally this part of the former Barracks is now part of the village and, on the balance of probability, present and future occupiers of refurbished houses would regard themselves to be residents of the village of Waterbeach. I find no basis for concluding that this part of the former Barracks has a separate and distinct identity.
52. When viewed in this way the "*highly desirable*" separation that underpinned the Inspector's rationale in 1986 is now much less important. Indeed there is an argument that better integration would achieve the "*strong, vibrant and healthy*" community that the Framework alludes to. Otherwise the separation evident on the ground might represent a metaphor for something more. The first Inspector refers to Cody Road as forming a distinct boundary, making a distinction between the land to the west and east of the road. Although the second Inspector saw "*less case*" for developing the appeal site that comment needs to be seen in the context of the housing need at that time<sup>25</sup> and policies which then prevailed, including the emphasis on previously-developed land.
53. It is in this context that I turn to consider the site's visual importance. Views from Cody Road, such as that at issue between the main parties, are of low visual sensitivity because of the transient nature of any receptor. The Council disagrees because it says existing houses in the former Barracks have an outlook in this direction. That might be correct but that is not the specific view at issue<sup>26</sup>. Nevertheless I consider that the magnitude of change on Cody Road

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<sup>22</sup> Noting that access remains restricted to some areas of the barracks, including the officer's mess, there might be a distinction to be drawn in other cases and hence the qualification. The area served off Cody Road includes Capper Road, Kirby Road, Fletcher Avenue and Abbey Place.

<sup>23</sup> At the time of my inspection the refurbishment was in progress along Capper Road and Kirby Road; the condition of the houses along Fletcher Avenue gave an indication of what those houses were like before the refurbishment.

<sup>24</sup> By virtue of the road link and pedestrian footway via Cody Road if nothing else.

<sup>25</sup> DR31 records that the 2004 Local Plan annual target was 753 dwellings per annum, which is the lowest for the period for which data is provided.

<sup>26</sup> Photograph 2 in Appendix 2 to the evidence of Mr Pearce.

- would be high adverse, which is defined as causing a significant deterioration, because whereas there is now an open field with built development around its periphery there would be a brick wall and a view dominated by houses<sup>27</sup>. However it is relevant that Cody Road is not a through route but effectively a cul-de-sac that serves the dwellings on Capper Road, Kirby Road, Fletcher Avenue and Abbey Place. There is no public right of way through the Barracks. This is material because, as Mr Pearce says, the sensitivity of visual receptors depends on the expectation and occupation or activity of the receptors.
54. Although the Council also took issue with views from Bannold Road<sup>28</sup>, my site inspection revealed that views of the appeal site from these vantage-points would be less significant and so I have no reason to dispute the assessment. In particular at the time of my accompanied site inspection views of the appeal site from location 5 were largely obscured by, albeit deciduous, vegetation.
55. Cody Road is the key public vantage-point in which the appeal site might be said to provide a setting for the village and/or the former Barracks, as referred to in the putative reason for refusal, but this role is limited because the site is surrounded on 3-sides by built forms. The existing development establishes a clear relationship between those areas rather than a barrier, which is the sense in which the Council appear to use the word buffer. So whilst the appeal site is open, as in undeveloped, I question whether it fulfils the role of a buffer. Even if this might be wrong it is not a *visually important* open buffer as it is not sufficiently visible in the wider context but mainly seen from a no-through road [*my emphasis*]. The visual impact assessment demonstrates the limited extent of public views of the appeal site, aside from those in close proximity to the boundaries. The view towards the site from Cody Road is limited and enclosed. The view from the public open space looking east provides only glimpsed views of the appeal site and, during the summer, the hedgerow is an effective screen.
56. In broad landscape terms, distinct from the policy based approach evident from the CS, I accept that the site is visually contained within the envelope of the village. This view is consistent with Boyer Planning's description of it, for largely unrelated reasons, as: "...an enclave of undeveloped land within the framework of the existing village"<sup>29</sup>. A passer-by, walking along the pavement on Cody Road, would at present see a field enclosed by built development on 3-sides and would not perceive separate settlements. Development of the site, in visual terms, will only result in the presence of built form coming closer to Cody Road. The Village Capacity Study, from 1998, identified the appeal site as a part of area No. 2, with "*Exposed edge, with rear garden and intermittent hedgerows*". This description would still be relevant if the appeal site was to be developed and so there would be no unacceptable impact on character.
57. In these circumstances the proposition that coalescence between the village and former Barracks would be undesirable is not justified. As I have noted, in terms of linking the communities it would be advantageous. In physical and landscape terms there is a clear and inevitable relationship between them. Development up to Cody Road would merely continue the pattern of coalescence that has taken place to the west of the appeal site over the years and so this would maintain, rather than harm, this characteristic of the village.

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<sup>27</sup> The front and/or side wall of Plot 60 would dominate this view with a view along the front of the other dwellings proposed along Cody Road on the left hand side of this vista, which would only have modest front gardens.

<sup>28</sup> Photographs 5 and 6 in Appendix 2 to the evidence of Mr Pearce.

<sup>29</sup> Source of quote: page 378 of the bundle appended to Mr Hyde's proof [page 19, Appendix 27].

58. In my view the Council's revision of this reason for refusal was recognition that it would be unable to substantiate the alleged non-compliance with DCP Policy DP/3 (2) (m). It must now be common ground that the development would not have an unacceptable adverse impact on the countryside and landscape character. Neither do I consider it would contravene DCP Policy DP/3 (2) (l) because the proposed development would not have an unacceptable adverse impact on village character. It would have no material impact on the historic core of the village and, as is evident from the 1986 appeal decision, the village is characterised by the variety of housing that has been developed throughout the post war era including, most recently, at Cam Locks. To the extent that there might be public views out from land within the village framework, e.g. looking north along Cody Road<sup>30</sup>, it is common ground that the impact would be low adverse, defined as a minor deterioration in the view, which is less than the policy test. Even when viewed from further along Cody Road the Council has not shown that the proposed development would have an *unacceptable adverse impact on village character*, which is a high policy test.
59. In view of this finding I attach limited weight under this heading to the findings of the Council's Strategic Housing Land Availability Assessment [SHLAA] 2012. The "*Site Assessment Conclusion*" that the site had development potential went on to set out a caveat that: "*This does not include a judgment on whether the site is suitable for residential development in planning policy terms, which will be for the separate plan making process*"<sup>31</sup>. It is clear that the Council's view was expressed in the putative reason, as modified, rather than the SHLAA.
60. On the second main issue I conclude that the proposed development would not harm the character and appearance of the area. By virtue of the fact that the scheme is proposed outside of the village development framework there would be a conflict with DCP Policy DP/7 (1) but for the reasons outlined above I find no conflict with DCP Policy DP/3 (2) and, in particular, criterion (l).

### **(iii) Prematurity**

61. The Guidance says: "*...arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both: a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination.... Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process*"<sup>32</sup>.

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<sup>30</sup> Photograph 4 in Appendix 2 to the evidence of Mr Pearce.

<sup>31</sup> Source of quote: page 1128 of the SHLAA Site Assessment Proforma [KPC9].

<sup>32</sup> Source of quote: paragraph reference 21b-014-20140306.

62. The first point to make is that the fact that the appeal is being pursued in the context of an emerging LP cannot itself render the proposal to be premature. The point is evident from my colleague's decision in Malpas, Cheshire [Appeal Ref APP/A0665/A/13/2193956], when he said: "...*the pursuance of residential schemes in the face of emerging but unadopted development plan documents cannot, in itself, render the proposal premature*"<sup>33</sup>; I agree.
63. Mr Roberts, for the Council, agreed in cross-examination that criterion a), above, is not met. The development proposed is not so substantial, and its cumulative effect would not be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of development that are central to the emerging LP. Neither in my view is b) met. The appeal was lodged in October 2013, around 5 months before the emerging LP was submitted for examination, and had this Guidance [*seldom be justified*] been extant at that time it is open to question as to whether this putative reason would have been advanced. I have already expressed doubts about the timetable for its adoption in the LDS and given the quantum and nature of the objections I cannot characterise the emerging LP to be at an advanced stage. It might be subject to significant changes, in the form of main modifications, before adoption, assuming it is found to be sound.
64. In these circumstances the Council focussed on the words "*but not exclusively*". There is an argument that this is a reference to the application of "*both*" a) and b) but even if this is right this would not assist the Council here because I have given reasons why both a) and b) would not be met. The inference appears to be that some other circumstances should be applied, what was referred to as the exceptional case, but it is not clear what that might be. It would not be appropriate to impose what would amount to a moratorium on development pending consideration of, in particular, LP Policy S/4. The Inspector makes this clear in the Malpas decision when he responds to the suggestion by saying it would: "...*not reflect Government advice in the Framework, and such a course of action would result in housing supply falling further and further behind*"<sup>34</sup>. Although a copy of the advice that was extant when the appeal was lodged was submitted<sup>35</sup>, which was current when the decision in Malpas was made, this does not assist; paragraph 17 referred to refusing planning permission on the grounds of prematurity where there is a phasing policy but that does not apply. In light of the Guidance I find that no circumstances exist in this appeal that justify a deemed refusal of planning permission on the basis of prematurity.
65. Nevertheless the Appellant has made extensive submissions under this heading following what the Council has called "*forensic archaeology conducted in cross examination*"<sup>36</sup>. There is a balance to be struck between taking account of these material considerations and avoiding overstepping the mark by treading into territory that is properly within the remit of the examination Inspector. I make the following observations without prejudice to the LP examination.

***Would there be prejudice to the outcome of the plan-making process?***

66. The Council advanced a putative refusal reason on the grounds of prematurity. On this basis the Council needs to indicate clearly how a grant of planning permission would prejudice the outcome of the plan-making process. Mr Roberts, for the Council, was clear that in his view the new town proposal

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<sup>33</sup> Source of quote: paragraph 111 [page 288 of the bundle appended to Mr Hyde's proof [page 17, Appendix 23].

<sup>34</sup> Source of quote: paragraph 109 [page 288 of the bundle appended to Mr Hyde's proof [page 17, Appendix 23].

<sup>35</sup> Document 11.

<sup>36</sup> Source of quote: paragraph 27, Document 19.

- would ultimately be included in the LP that would be adopted. Implicit to this view is that the outcome of the plan-making process would not, in this respect, be prejudiced. In substance the delivery of Policy SS/5 in relation to the area shown on Inset Map H would not be prejudiced by allowing this appeal.
67. Policy SS/5 (6) says an Area Action Plan [AAP] will be prepared for the area shown on the Policies Map. The Key and annotation on Inset Map H confirm that the area concerned excludes that part of the former Barracks accessed via Cody Road, i.e. Capper Road, Kirby Road, Fletcher Avenue and Abbey Place. This area is also proposed, on Inset No 104 [Map 2 of 2], to be outside of the settlement boundary for Waterbeach. As I have already noted the sole access to this part of the former Barracks is via Cody Road; I have given reasons why it is physically and functionally part of the village. There appears to be nothing in the emerging LP that would lead me to find that status would change. On this basis it is difficult to see how the proposed Green Belt extension could be said to separate the village from the new town. The only contiguous boundary between the proposed Green Belt and the new town would be along the northern boundary of the appeal site. However there appears to be no plan to close Cody Road at this point and so this "*direct road access*", as per Policy SS/5 (3), would be inconsistent with achieving clear separation at this point.
68. The Council has not considered the proposed Green Belt extension against the purposes of the Green Belt set out in paragraph 80 of the Framework. It was submitted for the Appellant that this was a "*serious error*" and it is surprising, especially when others had already questioned whether the proposed extension complied with these purposes<sup>37</sup>. The objective appears to be separation but the second bullet-point, which is perhaps the most relevant to this aim, relates to "*neighbouring towns merging into one another*". The Council maintained at the Inquiry that the District comprises 108 villages with no towns and it follows that Waterbeach is, as it stands, a village. As such the proposed Green Belt extension would not appear to meet this or any other purpose in paragraph 80.
69. In the absence of having tested the proposed Green Belt extension against the purposes in paragraph 80 of the Framework, the Council instead relies on the "*established purposes of the Cambridge Green Belt*"; the only relevant one is to: "*Prevent communities in the environs of Cambridge from merging into one another*"<sup>38</sup>. However I have already given reasons why that part of the former Barracks served by Cody Road should be seen, physically and functionally, to be part of the village of Waterbeach, rather than being a separate community. On this basis it is difficult to see how Policy S/4 is consistent with this purpose.
70. In a similar vein paragraph 52 of the Framework invites Councils to "*consider whether it is appropriate to establish Green Belt around or adjoining any such new development*". However the proposed extension to the Green Belt would principally lie between that part of the former Barracks served by Cody Road and the village rather than being around the new town. As I have noted the only point at which the proposed Green Belt would directly adjoin the new town would be along the northern boundary of the appeal site and it is only to this very limited extent that it could be said to adjoin the new development. On this basis it is difficult to see how Policy S/4 is consistent with this advice either.

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<sup>37</sup> RLW/DIO representation on the consultation Local Plan, dated 11/10/2013, paragraph 4.29 [page 378 of the bundle appended to Mr Hyde's proof [page 19, Appendix 27].

<sup>38</sup> Source of quotes: paragraph 2.29 of the Proposed Submission South Cambridgeshire Local Plan.



71. Paragraph 82 of the Framework requires “*exceptional circumstances*” to be shown in order to justify the establishment of new Green Belts. I acknowledge that one example given is a new settlement, but Councils still need to satisfy the criteria set out. The Audit Trail<sup>39</sup> reveals these criteria were considered<sup>40</sup> and reasons given why the criteria were met. Dealing with each in turn:
- i) the Appellant submits that normal planning and development management policies would be adequate, but I accept that they might not be if, at any point, there was an absence of a 5-year supply of housing. The reference to paragraph 86 of the Framework, whether a village should be ‘*washed over*’ by Green Belt, is different and does not assist in circumstances where the land is open and undeveloped. However this is not, in itself, a demonstration of the necessity for the extension to the Green Belt [see point iv) below]. As Mr Hyde observed the logical consequence of that argument is that one would expand the Green Belt to include all sites at risk of release;
  - ii) the change in circumstance that led officers to propose the designation was the new town. Although extensive representations were made with regard to the evolution of the policy, this is the key point that I take from those submissions;
  - iii) it is not unreasonable for the Council to argue that the designation would have no adverse consequences for sustainable development as other sites might come forward in the absence of a 5-year supply;
  - iv) there was no Green Belt study or assessment and, crucially, I have already had cause to criticise the Council in its application of Green Belt purposes, which goes to the necessity for the Green Belt in this location. Although Mr Roberts’s proof refers to openness I consider this does not go to necessity for Green Belt in this geographical location. This argument, and the absence of implication for adjoining local plans, was not expressly addressed in the Audit Trail; and,
  - v) based on my earlier rationale I disagree that the designation would ensure separation between the village and new town, which is the key reason given in Mr Roberts’s proof, which was reinforced in closing.

To this extent it is difficult to see how Policy S/4 is consistent with the fourth and fifth bullet-points of paragraph 82.

72. My view that the Council has not demonstrated the necessity for the Green Belt extension in this location is reinforced by the prospect that it might be possible to achieve the objective in Policy SS/5 (3), to maintain the identity of Waterbeach as a village close to but separate from the new town, in another way, via the AAP, which better aligns separation with no direct access. Policy SS/5 (1) is clear that whilst the new town of 8,000-9,000 dwellings is proposed: “*The final number of dwellings will be determined in the Area Action Plan*”. In this regard it is material that the promoters of the new town have sought to argue that the capacity of the Major Development Site, as defined in the emerging LP, should be increased to 10,000 dwellings, based on a density of 40 dwellings per hectare<sup>41</sup>. This appears to be based on a Development Framework Plan that makes allowance for almost 150 hectares of open space<sup>42</sup>.

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<sup>39</sup> Page A48, Draft Final Sustainability Appraisal (March 2014) at Appendix DR 18 to Mr Roberts’s proof.

<sup>40</sup> I acknowledge the Appellant’s submission that this was done retrospectively, after the Members decision was made in June 2013, but that does not alter the designation or the terms of the submission LP.

<sup>41</sup> RLW/DIO representation on the consultation Local Plan, dated 11/10/2013, paragraphs 4.34 and 4.14, respectively [pages 378 and 376 of the bundle appended to Mr Hyde’s proof [pages 19 and 17, Appendix 27].

<sup>42</sup> I do however acknowledge that this area appears to extend beyond the Major Development Site on Inset H, see page 388 of the bundle appended to Mr Hyde’s proof [Appendix 27].

73. The Appellant submits that in the absence of studies which will inform the AAP it is impossible for the Council to argue that provision of a buffer to the north of the former Barracks cannot be accommodated except by harming the quality of future development; I agree. Policy SS/5 (6d) says that the AAP will consider the relationship and interaction with the village. Paragraph 3.37 of the supporting text says of the Major Development Site: *"This does not mean the whole of the area will be developed. Large parts of it will remain undeveloped and green after the settlement is complete to provide open spaces within the new town and a substantial green setting for the new town...and Waterbeach village"*. Although the disposition of open space might need to be revised from that illustrated on the promoter's *Development Framework Plan*, I agree with the Appellant's submission that there would appear to be plenty of scope to provide a green, open buffer within the land allocated for the new town. So, whilst I respect the Council's objective to maintain the identity for the village, which reflects concerns raised by the local community, I am not persuaded that this outcome could not be achieved without the proposed Green Belt extension. To the contrary, it might be better to align separation with no road access.
74. For these reasons the Council has not clearly shown how a grant of planning permission would prejudice the outcome of the plan-making process. First it is clear that the proposal for the new town, Policy SS/5 read with Inset Map H, would, in substance, be unaffected by a grant of planning permission. Second I have given reasons why the objective underpinning the proposed Green Belt extension could be accommodated in another way, without causing prejudice to the outcome of the plan-making process. It might be a matter that could be properly and reasonably delegated to the AAP, which the LDS says the Council is not scheduled to commence work on until *"Winter 2017/18"*<sup>43</sup>. A grant of permission would not prejudice the outcome of that plan-making process.
75. The Appellant submits that no weight should be given to draft LP Policies S/4 and SS/5 in relation to the proposed designation of land at Cody Road as Green Belt. However these policies are material to my decision and although I have expressed concerns about the degree to which the former is consistent with the Framework, this tends to reinforce my earlier view that it would be appropriate to attach limited weight to these emerging policies. To apply no weight might suggest they are not material but they are; the fact is the Council maintains that the appeal site should be designated as an extension to the Green Belt. However this rather minor concession does not alter my overall findings. On the third main issue I conclude that dismissal of the appeal on the grounds of prematurity would not be justified, having regard to advice in the Guidance.

***(iv) Is it a sustainable location for this scale of residential development?***

***The Development Plan approach to sustainability***

76. Paragraph 2.7 of the CS says: *"The Strategy is one of concentrating development on Cambridge through a number of urban extensions to the city and at the new town of Northstowe... The strategy also allows for limited development to meet local needs in Rural Centres and other villages"*. CS Policy ST/2 sets out this *"order of preference"* with *"...development in Rural Centres and other villages"* [*my emphasis*] being the last preference. Although I acknowledge that no distinction is made in CS Policy ST/2 between types of rural centres I consider that this does not assist the Appellant. CS Policy ST/5 includes Waterbeach but it is clear that the policy only permits residential

<sup>43</sup> Source of quote: Document 6, page 3.

development within the village frameworks of Minor Rural Centres, as defined on the Proposals Map. The appeal site is outside the village framework as so defined and hence I regard the debate between the parties as to whether the policy reference to an indicative maximum scheme size of 30 dwellings can be interpreted to permit 60 to be academic. The proposed development would not be policy compliant because the appeal site is not within the village framework.

77. A number of material considerations have been advanced. I acknowledge that the SHLAA concluded that the site had development potential. The summary of the SHLAA Assessment<sup>44</sup> found the appeal site had sustainable development potential and, using a traffic light system, classified it green, defined as a “*More sustainable site with development potential (few constraints or adverse impacts)*”. This included recognition that the appeal site could be accessed by sustainable transport modes such as walking, cycling and public transport.
78. That this is so is borne out by the Council’s own Services and Facilities Study<sup>45</sup>. It records that there is an hourly bus service between Cambridge and Ely from Monday to Saturday, inclusive, with a half-hourly service at peak times and a timetabled journey time of less than 25 minutes from the village to Cambridge. The train service from the village to and from Cambridge runs from 0700 to 2300 hours and appears to be hourly with a more frequent service to Ely at all times and to Cambridge in the morning peak. Journey times are short with a timetabled journey time to Cambridge of as little as 6 minutes. There is also an off-road cycle route parallel to the river which, by reason of the topography, provides a realistic alternative mode of travel. In addition cycling or walking are realistic ways of gaining access to the bus and rail network, as well as local services and facilities, including employment.
79. In terms of services and facilities, the village has a primary school and a GP, both of which are conveniently located close to the appeal site. There is no secondary school, although the Inquiry was advised that there is a bus service for students to gain access to Cottenham College. The village has a basic level of retail facilities, including a post office, bakery, butcher, newsagent, village store, pharmacy and hairdresser. Apart from the numerous public houses there appears to be a fairly limited range of other services and facilities, such as one garage, but there is significant employment both within and near to the village.
80. Questions of frequency aside, the fact that Waterbeach has a train service at all gives it a considerable advantage, in terms of choice of sustainable modes of transport, over many other villages in the District. I consider that this might not be adequately reflected in the Village Classification Report<sup>46</sup>, which ranks Waterbeach as joint second from bottom in the list of settlements on the basis of a scoring system set out in the report. However I am not in a position to undertake a revised form of comparative analysis, which is properly a matter for the Inspector undertaking the LP examination. So whilst Mrs Pell-Coggins conceded in cross-examination that the Village Classification Report was “*rather harsh*” and I have sympathy with the Appellant’s claim that it “*short-changes*” the village, particularly by reason of its good public transport links, it is unclear where that point goes. In comparative terms, even if Waterbeach was given a score for its public transport accessibility, it would still be a relatively poorly performing settlement when judged against the, albeit not entirely satisfactory, criteria set out in the Village Classification Report.

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<sup>44</sup> Appendix 4 to Mr Hyde’s evidence.

<sup>45</sup> Appendix 14 to Mrs Pell-Coggins’s evidence.

<sup>46</sup> Appendix 13 to Mrs Pell-Coggins’s evidence.

81. For these reasons I find a conflict with CS Policies ST/2 and ST/5 and the locational strategy which underpins them. In reaching this finding I appreciate that: i) paragraph 2.20 of the supporting text refers to the 30 dwellings as being a "guideline"; ii) the 2004 Local Plan designated the village as a Rural Growth Settlement with no numerical constraints on development; and, iii) criterion 3 of CS Policy ST/5 is met, but this does not alter this finding.

***The approach of the Framework to sustainability***

82. Turning to the Framework, paragraph 29 says the transport system needs to be balanced in favour of sustainable transport modes "...giving people a real choice about how they travel". In this context I attach significant weight to the view of the Highway Authority that: "*This development can be considered in a sustainable location with reasonable pedestrian/cycle and public transport links*"<sup>47</sup>. I have no doubt that in reaching this view the Highway Authority took account of the factors previously identified, including transport accessibility and the location of services and facilities. Moreover Mrs Pell-Coggins accepted in cross-examination that the appeal site is a sustainable location; I agree because prospective households would not be wholly dependent on the private car in order to meet their day to day needs. The Framework also says that in preparing Local Plans, Local Planning Authorities should support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. In this context, the fact that the Council has identified the village as a location for a large new town is not immaterial.
83. Although prospective occupiers would inevitably depend, to some extent, on the private car, it is worth noting that this is also likely to be the case, albeit to varying degrees, in all of the District's villages. My colleague in the Toft appeal found: "*Toft, in combination with Comberton, is capable of meeting a number of the day to day needs of its residents...*"<sup>48</sup>. This was a factor in his finding that the proposal would be a sustainable development, yet I note the CS says Toft is only suitable for infill; in other words that village is lower down the spatial hierarchy in the CS. In the context of the failure of the adopted strategy to deliver an adequate supply of housing, I consider the appeal site represents a sustainable development option. It is not the most sustainable option in terms of the locational strategy in the CS but it is a sustainable option that is deliverable and would help to meet the shortage of housing in the area.
84. The Framework explicitly recognises that development in rural areas is unlikely to offer the same opportunities for promoting sustainable modes of transport as is development in urban areas. However this is not reason in itself to focus all new development around Cambridge, because the "*sustainability*" of putting development in a particular location is about much more than just accessibility. In that real sense the CS is out-of-date with the approach in the Framework.
85. As I have already noted, paragraph 7 of the Framework says that there are three dimensions to sustainable development. In terms of the economic dimension, the Government has made clear its view that house building plays an important role in promoting economic growth. The proposed development would have give rise to a number of economic benefits. In the short term this would include the creation of jobs in the construction industry as well as the multiplier effect in the wider economy arising from increased activity. In the long term future occupiers of the proposed new houses would provide more

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<sup>47</sup> Source of quote: Transportation comments from the Highway Authority dated 28<sup>th</sup> August 2013.

<sup>48</sup> Source of quote: paragraph 24 of the Toft decision.

custom for the existing shops and services in the village thereby contributing to the local economy. The provision of housing in Waterbeach would help to meet the needs of businesses, e.g. on the nearby Cambridge Research Park, to house their employees, whilst also providing a realistic travel option by train to Cambridge to help support its important, wider economic role. The scheme would therefore contribute towards building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type was available in the right place at the right time to support growth.

86. Turning to the social dimension of sustainable development, the Framework places importance on widening the choice of high quality homes and ensuring that sufficient housing (including affordable housing) is provided to meet the needs of present and future generations. For the reasons identified in my consideration of the first issue, the proposal would be of clear benefit in these terms given the current shortfall in the District's housing supply. The proposed development would give rise to a high quality built environment. Accessible services that would meet many day-to-day needs of prospective occupiers exist in the village or can be accessed by sustainable modes of transport.
87. Finally in relation to the environmental role of sustainable development I have given reasons why the proposed development would not harm the character and appearance of the area. Paragraph 8 states that in order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. I conclude, notwithstanding my finding when tested against the locational strategy in the CS, that the proposal would comprise sustainable development.

### ***Application of the presumption in favour of sustainable development***

88. The Framework says that for decision taking the presumption in favour of sustainable development means that: "*where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted*"<sup>49</sup>. Footnote 9 to the Framework gives examples of the latter to be policies relating to land designated as Green Belt and locations at risk of flooding. The appeal site is not designated as Green Belt and although local residents have expressed concerns about flooding, the Statement of Common Ground records that all technical issues have been resolved between the main parties. Paragraph 6.1 (ii) thereof records that the Council's Drainage Manager has accepted the approach outlined within the revised Flood Risk Assessment and any other issues regarding surface water drainage have also been resolved. There is no technical evidence before the Inquiry, distinct from assertion, which would lead me to a contrary view. Although Councillor Hockney pointed out at the Inquiry [Document 17] that the Drainage Board raised concerns about the original application it is clear that those concerns have been overcome by the revised drainage scheme, which is now agreed.
89. In applying the presumption in favour of sustainable development it is necessary to undertake a balancing exercise that is skewed in favour of granting permission. I have identified the adverse impacts of the proposed development to include the fact that the development would take place outside the settlement boundary, but given that DCP Policy DP/7 is a policy for the

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<sup>49</sup> Source of quote: paragraph 14 of the Framework.

supply of housing this is not, in and of itself, a reason to refuse permission. Similarly my finding that the proposed development would conflict with the locational strategy in the CS was made having regard to the spatial strategy set out in CS Policies ST/2 and ST/5, which are also policies for the supply of housing that are not up-to-date. Noting again the view of the Highway Authority and the concession by Mrs Pell-Coggins, prospective households would not be wholly dependent on the private car in order to meet their day to day needs due, amongst other things, to realistic public transport options and local employment opportunities. The contributions that have been offered towards upgrading a bus stop and the provision of real time passenger information would further promote these options. I have also given reasons why I attach limited weight to the emerging LP at this time, even though I acknowledge that it seeks to designate the appeal site as Green Belt.

90. On balance I find that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme, which include the prospect of early implementation in order to meet the urgent housing need in the area. Although most of the other financial contributions constitute mitigation for, rather than a benefit of, the proposed development, the 40 % affordable housing that is offered is a material consideration in favour of the proposed development to which I attach significant weight. The design, including layout and landscaping, is acceptable and the contribution offered towards new footpath linkages with the recent housing at Cam Locks would facilitate legible pedestrian routes to neighbours. On the fourth main issue, taking account of the broader perspective of sustainable development that is evident from the Framework but not reflected in the DP, I conclude that this is a suitable and sustainable location for this scale of residential development.

## **Other Matters**

### ***(i) Consideration of the Planning Obligations and Unilateral Undertaking***

91. The Council provided a "*Planning Obligations Justification Statement*" ahead of the Inquiry, the contents of which were not challenged. Appended to the statement is a bundle of policy extracts and background documents that set out the basis for the quantum of contributions sought. Moreover both of the main planning obligations are, somewhat unusually in my experience at appeal, delivered as agreements rather than unilateral undertakings, which underlines that the respective Councils are content with the level of contributions offered.
92. If I were in any doubt as to the necessity for the specific sums sought, the basis for the respective contributions is set out in the Justification Statement. In the circumstances I am satisfied that provision of the Planning Obligations are compliant with paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy [CIL] Regulations 2010. Amongst other things DCP Policy HG/3, read with the Affordable Housing Supplementary Planning Document [SPD], which was adopted in March 2010, provides a clear basis for the level and mix of affordable housing. Although the statement refers to "36" I shall assume this is a typo, perhaps a reference to the concurrent appeal<sup>50</sup>. With this one anomaly there is a clear basis and audit trail for the sums sought.
93. The statement details the rationale for a sum of £3,000 for monitoring but not the costs, £1,250, incurred in the negotiation, preparation and execution of the deed. I note that a similar figure, £1,899.80, is offered as a contribution

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<sup>50</sup> See paragraph 2.7 of the statement for the land to the west of Cody Road; 40 % of 60 is 24, which is what would be delivered by the second planning obligation in this case.

towards the cost incurred in the negotiation, preparation and execution of the first planning obligation. Although the basis for these sums is not set out in the Justification Statement the basis for them is self-evident and, as such, I have no reason to interfere in the quantum that is agreed between the parties.

94. The Justification Statement says the developer should pay for the installation of two sections of footpath to create links to the Cam Locks development to the west of the appeal site, as shown on the submitted site plan. The submitted Unilateral Undertaking would appear to achieve this goal. The Council has not raised an issue with regard to the quantum of the contribution offered. Whilst the Justification Statement does not identify a figure I consider that £2,500 is a reasonable contribution towards the works necessary to achieve this objective, which is compliant with paragraph 204 of the Framework and Regulation 122 of the CIL Regulations 2010.

**(ii) Other material considerations**

95. I appreciate that allowing this appeal might make it more difficult for the Council to resist other applications for residential development on adjoining land that have recently been put forward, including S/2092/13/OL [Document 8]. However, noting the weight that I have attached to the variable housing supply situation, that is properly a matter for the relevant decision maker.
96. Concerns have been expressed that the upstairs rooms of house Nos 12-17 would face “*directly*” towards existing properties in Bannold Road, which would result in a loss of privacy<sup>51</sup>. However, as I was able to observe during my site inspection, the relationship would not be untypical of many residential areas. The properties along this part of Bannold Road enjoy quite long rear gardens and the resulting separation distance between existing and proposed dwellings would be adequate to maintain good living conditions. My view in this matter is reinforced by the Council’s stance in this matter<sup>52</sup>.
97. There has been a suggestion that the Officer’s Mess of RAF Waterbeach, which lies to the north of the appeal site, “...*may soon become a Listed Building*”<sup>53</sup>. However it is not so designated at the present point in time and in any event no claim is made that the proposed development would not, at a minimum, preserve the setting of the building. This factor does not weigh against the proposal. None of these material considerations nor any other matters raised in the written representations alter the overall conclusion to which I am drawn.
98. In the light of my finding that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme, and my similar conclusion in the Bannold Road appeal, I have also considered whether the combined impact of allowing both appeals would result in any change in the balance of benefits and adverse impacts. The effect of permitting both appeals would be to increase the weight on the “*adverse impact*” side of the balance, principally due to the identified conflict with the spatial strategy set out in the DP. However because CS Policies ST/2 and ST/5 are policies for the supply of housing that are not up-to-date it remains the case that, in applying the presumption in paragraph 14 of the Framework, the cumulative impacts of allowing both of these appeals would not significantly and demonstrably

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<sup>51</sup> Source of quote: Document 9.

<sup>52</sup> Paragraph 6.1 (iv) of the Statement of Common Ground records that there is no objection to the layout that has been submitted or the proposed design of any aspect of the development [my emphasis].

<sup>53</sup> Source of quote: Document 16.

outweigh the identified benefits. In reaching this view it is material that no case was advanced for the Council on this “combined” basis.

### **Overall conclusion**

99. I conclude that, as policies for the supply of housing in the DP are out-of-date and the Council cannot demonstrate a 5-year supply of housing land, the appeal should be allowed and planning permission granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Taking account of the identified benefits of the appeal proposal, I conclude overall that planning permission should be granted because other material considerations clearly outweigh the identified conflict with out-of-date DP Policies.

### **Conditions**

100. In advance of the Inquiry the Council put forward a list of 22 conditions, all of which are acceptable to the Appellant insofar as they relate to the development that I propose to grant planning permission. However I shall briefly test the suggested conditions against the advice in the Framework and the Guidance, having regard to the list of model conditions in Circular 11/95.
101. The first is the standard commencement condition, which is a requirement of the Act. The second identifies the approved plans, which is necessary in the interests of proper planning and for the avoidance of doubt. The third, requiring details of external materials to be agreed, is necessary to ensure a satisfactory appearance. The fourth, removal of permitted development rights, is necessary in order to avoid any possible adverse impact on neighbours’ living conditions. The fifth requires specified windows, which are on side elevations that look out over rear gardens of adjacent dwellings, to be fitted with fixed obscure glazing in the interests of neighbours’ living conditions. The sixth requires approval of details of the proposed garden sheds, together with their completion and retention, but as the rationale for the condition goes to cycle parking I shall add a clause to require the garden sheds to be available for this purpose.
102. The seventh, eighth and ninth conditions require details of boundary treatment, hard and soft landscaping, and implementation of the latter respectively, which are necessary in the interests of the finished appearance of the development. The tenth requires details of those trees that are proposed to be retained, which is necessary to achieve biodiversity and by reason of visual amenity but I shall revise that suggested to make reference to the current British Standard. The eleventh, bird nest boxes, is necessary to enhance biodiversity but I shall add a retention clause to ensure that they are not immediately removed.
103. The twelfth, archaeology, is necessary in order to comply with DP policy but I shall revise the suggested condition in the interests of precision. The thirteenth relates to land contamination, which is necessary in the interests of neighbours’ living conditions together with those of prospective residents, but I shall add a clause to require remediation, if necessary, to make it enforceable. The next requires implementation of the surface water drainage scheme that has been agreed with the relevant drainage bodies in order to prevent flooding. The next requires approval of a scheme of pollution control of the water environment, which is appropriate to reduce the risk of such pollution from oil etc.



104. The sixteenth and seventeenth require provision of the required visibility splays at the road junctions and driveways, respectively, which are necessary in the interests of highway safety. The eighteenth requires agreement of a traffic management plan during construction phase, which is also necessary in the interests of highway safety. The nineteenth requires the parking and turning areas to be laid out and thereafter retained for those purposes. The twentieth requires a travel plan to be submitted and approved, and whilst a revised plan is before the Inquiry it is for the Council to consider whether further details are required to discharge the condition. The final two suggested conditions agreed between the main parties require details of lighting and fire hydrants to be approved, which are necessary in the interests of minimising light pollution and ensuring an adequate water supply is available in emergencies, respectively.
105. At the Inquiry a further suggested condition was put forward by the Council [Document 18], which sought to deliver footpath links to the adjacent Cam Locks site in order to integrate the respective developments. Although such links are shown on the submitted site plan, amongst others, it must be right that the Appellant is only able to deliver those parts of the footpaths that are on land within the Appellant's control. In the circumstances I shall impose a condition to achieve this as distinct from the more wide ranging condition put forward by the Council at the Inquiry. This appears to be broadly in line with paragraph 2.36 of the "*Planning Obligations Justification Statement*", having regard to the terms of the Unilateral Undertaking that I have examined above.

*Pete Drew*

INSPECTOR

### ***Schedule of conditions***

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 7777 002 B, 7777 001 X, 7777 017 B, 7777 018 A, 7777 019 B, 7777 020 A, 7777 021 B, 7777 022 A, 7777 023 B, 7777 024 A, 7777 025 A, 7777 026 B, 7777 027 B, 7777 028 A, 7777 029 B, 7777 030 A, 7777 031 B, 7777 032 B, 7777 033 A, 7777 034 A, 7777 035 B, 7777 037 C, 7777 038, 7777 039, 5084 F E TPP 08, 5084/LM03 Rev J, 5084/PP04 Rev I, 5084/PP05 Rev I, 5084/PP06 Rev I, TA03 Rev C, TA04 Rev C and TA09 Rev B.
3. No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no development within Class A of Part 1 to Schedule 2 shall take place on Plots 1 to 26 and 39 to 60 unless expressly authorised by the Local Planning Authority following a grant of express planning permission.
5. Apart from any top hung vent, the proposed windows in the specified elevations of the dwellings hereby permitted shall be fixed shut and permanently glazed with obscure glass. The specified elevations of the dwellings concerned are: Plot 8 (first floor bathroom window in north elevation); Plot 12 (first floor bathroom window in east elevation); Plot 49 (first floor bathroom window in east elevation); Plot 53 (first floor bathroom window in south elevation); and Plot 57 (first floor bathroom window in south elevation).
6. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the designs and dimensions of the garden sheds on Plots 8 to 17, 39 to 44 and 50 to 53. The garden sheds shall be completed before any dwelling on each of these respective plots is occupied in accordance with the approved details and shall thereafter be retained and available for the parking of bicycles.
7. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before that dwelling or any dwelling on any adjacent plot is occupied in accordance with the approved details and shall thereafter be retained.
8. No development shall take place until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection during the course of development. The details

shall also include specification of all proposed trees, hedges and shrub planting, which shall include details of species, density and size of stock.

9. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. If within a period of 5 years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
10. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the first date of occupation of any dwelling within the site:
  - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998: 2010 "*Tree Work – Recommendations*" (or any equivalent standard replacing BS 3998: 2010).
  - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
  - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the Local Planning Authority.
11. No development shall take place until a scheme for the provision of bird nest boxes has been submitted to and approved in writing by the Local Planning Authority. The bird nest boxes shall be erected in accordance with the approved scheme before any dwelling is occupied and shall thereafter be retained.
12. No development shall take place until a programme of archaeological work has been undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
13. No development shall commence until:
  - i) The appeal site has been subject to a detailed desk study and site walkover in relation to contamination, to be submitted to and approved in writing by the Local Planning Authority.
  - ii) Following approval of i) above, a detailed scheme for the investigation and recording of contamination and remediation objectives (which

have been determined through risk assessment) must be submitted to and approved in writing by the Local Planning Authority.

- iii) Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation method statement) have been submitted to and approved in writing by the Local Planning Authority.
- iv) The works specified in the Remediation method statement have been completed and a verification report submitted to and approved in writing by the Local Planning Authority, in accordance with the approved scheme.
- v) If during remediation works any contamination is identified that has not been considered in the Remediation method statement then remediation proposals, together with a timetable, should be agreed in writing by the Local Planning Authority and the remediation as approved shall be undertaken within the timeframe as agreed.

14. The site shall be drained via a new surface water sewer to the Internal Drainage Board watercourse at Bannold Drove as set out in option 3 of section 5.3.11.1 of Flood risk Assessment reference R-FRA-Q6343PP-01C Revision D dated November 2013. Prior to the commencement of any development the details of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans prior to the occupation of any dwelling or in accordance with an implementation programme that has been agreed in writing by the Local Planning Authority.
15. No development shall take place until a scheme for the provision and implementation of pollution control of the water environment, which shall include foul drainage, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved plans prior to the occupation of any dwelling or in accordance with an implementation programme that has been agreed in writing by the Local Planning Authority.
16. Visibility splays shall be provided on either side of the junction of the proposed access road with the public highway prior to occupation of any dwelling. The minimum dimensions of the required splay lines shall be 2.4 m, measured along the centre line of the proposed access road from its junction with the channel line of the public highway, and 43 m in both directions, measured along the channel line of the public highway from the centre line of the proposed access road. The visibility splays shall be maintained clear from obstruction over a height of 600 mm and thereafter retained.
17. Visibility splays shall be provided on both sides of the driveway and/or parking space to each dwelling that exits directly on to the public highway prior to occupation of any dwelling. The minimum dimensions of the required splay lines shall be 2.0 m on each side of the driveway/parking space x 2.0 m along the highway boundary within the curtilage of the dwelling. The visibility splays shall be maintained clear from obstruction over a height of 600 mm and thereafter retained.
18. No construction works shall commence on site until a traffic management plan has been agreed with the Local Planning Authority in consultation with

the Highway Authority. The principle areas of concern that should be addressed are:

- i) Movements and control of muck away lorries (all loading and unloading should be undertaken off the adopted public highway).
- ii) Contractor parking, which should be within the curtilage of the site and not on street.
- iii) Movements and control of all deliveries (all loading and unloading should be undertaken off the adopted public highway).
- iv) Control of dust, mud and debris, which should not be deposited upon the public highway.

19. The dwellings hereby permitted shall not be occupied until parking and turning space has been laid out within the site in accordance with the layout shown on drawing No 7777 001 X. The parking and turning areas shall thereafter be retained for their authorised use.
20. The dwellings hereby permitted shall not be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented in accordance with the approved details.
21. No development shall take place until a lighting scheme, to include details of any external lighting of the site such as street lighting, floodlighting and security lighting, has been submitted to and approved in writing by the Local Planning Authority. This information shall include a layout plan with beam orientation, full isolux contour maps and a schedule of equipment of the design (luminaire type, mounting height, aiming angles and luminaire profiles, angle of glare) and shall assess artificial light impact in accordance with the Institute of Lighting Engineers (2005) '*Guidance Notes for the Reduction of Obtrusive Light*'. The approved lighting scheme shall be installed in accordance with the approved details before any dwelling is occupied, and thereafter maintained and retained in that condition.
22. No development shall take place until a scheme for the provision and location of fire hydrants to serve the development to a standard recommended by Cambridgeshire Fire and Rescue Services has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme before any dwelling is occupied.
23. No development shall begin until details of a scheme for the provision of public footpaths up to the western boundary of the appeal site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation of the works, which shall be carried out in accordance with the approved details.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Melissa Murphy of Counsel	Instructed by Head of Legal Services, South Cambridgeshire District Council.
She called:	
Karen Pell-Coggins MA MRTPI	Senior Planning Officer, South Cambridgeshire District Council.
David Roberts BA, MRTPI	Principal Planning Policy Officer, South Cambridgeshire District Council.

### FOR THE APPELLANT:

Craig Howell-Williams QC	Instructed by Januarys Consultant Surveyors, Cambridge.
He called:	
Mark Hyde BA (Hons), BTP, MRTPI, AIEMA	Planning Director, Januarys Consultant Surveyors, Cambridge.
Scott Pearce BA (Hons), Pg Dip, MA ArborA, MLI	Director, First Environment Consultants Limited, Oxfordshire.

### INTERESTED PERSONS:

Oliver Merrington	Local resident.
Councillor Peter Johnson	Local Councillor.

## DOCUMENTS

- 1 Transcript of *Bloor Homes East Midlands Ltd v SSCLG and Hinckley and Bosworth Borough Council* dated 19 March 2014, [2014] EWHC 754 (Admin).
- 2 List of appearances for the Council.
- 3 Opening statement on behalf of the Appellant.
- 4 Opening submissions on behalf of the Council.
- 5 Plan showing appeal site in the context of identified roads in the village.
- 6 South Cambridgeshire Local Development Scheme 2014.
- 7.1 (i) "Tweet Widget" regarding City Deal; (ii) Email dated 7 April 2014 setting out status of City Deal; (iii) Recommendations to Scrutiny and Overview Committee, dated 3 April 2014; and (iv) letter dated 4 April 2014 to Rt Hon Danny Alexander MP regarding Greater Cambridge City Deal.
- 7.4
- 8 Plan and decision notice [S/2092/13/OL] in respect of land to the east of Cody Road and north of Bannold Road.
- 9 Annotated plan submitted by Mr Merrington to the Inquiry.
- 10 Statement from the Council identifying policies for the supply of housing.
- 11 "The Planning System: General Principles" [ODPM, 2005], now cancelled.
- 12 The Town and Country Planning (Local Planning)(England) Regulations 2012.
- 13 March AMR update, submitted by the Council at the Inquiry.
- 14 Planning Obligation [County Council] dated 10 April 2014.
- 15 Planning Obligation [District Council] dated 10 April 2014.
- 16 Statement of Mr Merrington, which was submitted at the Inquiry.
- 17 Letter from Councillor Hockney, dated 1 May 2014, submitted at the Inquiry.
- 18 Additional condition suggested by the Council at the Inquiry.
- 19 Closing submissions on behalf of the Council.
- 20 Closing submissions on behalf of the Appellant.
- 21 Unilateral Undertaking, dated 15 May 2014, submitted by the Appellant.