



Ministry of Housing,
Communities &
Local Government

Mrs Kate McGill
Nathaniel Lichfield & Partners
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NE1 1RF

Our ref: APP/F4410/W/17/3169288
Your ref:

05 February 2019

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY HALLAM LAND MANAGEMENT (JONATHAN COLLINS)
LAND TO THE EAST OF MERE LANE, EDENTHORPE, DONCASTER
APPLICATION REF: 15/01278/OUTM**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Frances Mahoney DipTP PGDipTP MRTPI IHBC who held a public local inquiry on 5 to 7 September, 12 – 13 September and 9 – 12 January 2018 into your clients appeal against the decision of Doncaster Metropolitan Borough Council to refuse your application for planning permission for residential development (Use Class C3) with open space, landscaping and associated access, in accordance with application ref: 15/01278/OUTM dated 18 May 2015.
2. On 8 March 2017, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

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

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

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6. In this case the development plan consists of saved policies from the Doncaster Unitary Development Plan (UDP) adopted in 1998, and the Doncaster Council Core Strategy 2011-2028 (CS) adopted May 2012. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR13.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'). The revised National Planning Policy Framework was published on 24 July 2018, and unless otherwise specified, any references to the Framework in this letter are to the revised Framework.

Emerging plan

8. The emerging plan comprises a new Local Plan which will cover the period to 2032. This plan has not yet progressed to the Examination stage. In addition, the Edenthorpe Neighbourhood Plan is currently at a draft stage. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. As the emerging Local Plan and the Edenthorpe Neighbourhood Plan are still at an early stage, any objections are not yet fully resolved and its policies are still subject to change, the Secretary of State considers that they carry limited weight.

Main issues

Accordance with the Development Plan

9. The site is located within a Countryside Protection Area (CPA) as defined by the UDP and in a Countryside Protection Policy Area (CPPA) as defined in the CS. For the reasons given in IR263-266, the Secretary of State agrees with the Inspector that, while UDP Policies ENV 2 and ENV 4 aim to protect the countryside, they do not ensure that sufficient land is available of the right sort in the right place and at the right time to support growth and meet the needs of present and future generations. He agrees with the Inspector in IR269, that CS Policy CS3 identifies the appeal site as part of the CPPA and seeks to develop the protectionist stance of UDP Policies ENV 2 and ENV 4 whilst recognising the importance of urban extensions to the growth and regeneration strategy. He further agrees with the inspector at IR270 that the lack of identified development allocations in the context of CS Policy CS3 Part B) 1 means that, reading this part of the policy in its purest form, the appeal proposal is not a new urban extension development allocation and so Part B) 1 of Policy CS3 is not applicable.
10. Core Strategy policy CS3 Part C identifies the appeal site as lying within an indicative Green Wedge. The Secretary of State agrees with the Inspector at IR272 that this policy does not exempt areas identified as being within a Green Wedge from development. The Secretary of State agrees with the Inspector at IR 279 that UDP policies ENV 2 and ENV 4 are not in line with the direction of travel of local and national policies, particularly in reference to the CPA, which is an historic designation, and is out of date. The Inspector further considers in IR 279, and the Secretary of State agrees, that the Council has relied on saved UDP policies, as the policy development of the CPPA has not evolved. The Secretary of State concludes that these saved UDP policies are the most important for determining this application, given the Development Plan presently places the appeal development site within the CPA and by definition within the 'Countryside'.

11. As a result and for the reasons given in IR 263-279, the Secretary of State considers that UDP Policies ENV2 and ENV4 are the most important policies for determining this application, and are out of date, and that the tilted balance in favour of sustainable development as stated in paragraph 11 of the Framework applies.

Landscape and Green Wedge

12. For the reasons given in IR280-295, the Secretary of State agrees with the Inspector's conclusion (IR295) that the proposal would change but not harm the landscape character of the area and would maintain separation between settlements, and therefore Core Strategy CS17 would not be compromised. The Secretary of State also agrees with the Inspector (IR290) that Green Wedges are currently subject to uncertainty in application and definition, and that Green Wedges do not preclude development.

Best and Most Versatile Agricultural Land

13. The Secretary of State has considered the Inspectors analysis at IR301-305 and agrees with the Inspector's conclusion at IR305 that development of the grade 3a agricultural land would not adversely impact on the economic and other benefits of best and most versatile agricultural land.

Five Year Housing Land Supply

14. The Secretary of State notes that there is some dispute between the main parties as to whether the Council can demonstrate a five year housing land supply (IR318). While he notes that the applicant has used an alternative approach to calculate the figure, the Secretary of State considers that the standard methodology should be used, in line with the Framework. Using this, the Secretary of State considers that Doncaster Council's annual requirement is circa 600 homes per year, and that based on forecast levels of supply, they can currently demonstrate over ten years supply of housing land.

Other matters

15. The Secretary of State has also taken account of the Inspector's consideration of Biodiversity (IR296), Highways (IR297-299), Air Quality (IR300) and Accessibility (IR306-317). The Secretary of State is satisfied that these issues would not give rise to significant harmful impacts, and that the development is in an accessible location.

Planning conditions

16. The Secretary of State has given consideration to the Inspector's analysis at IR243-261, the recommended conditions set out at Annex A of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

17. Having had regard to the Inspector's analysis at IR262, the signed planning obligation, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR262 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework

Planning balance and overall conclusion

18. For the reasons given above, the Secretary of State considers that the appeal scheme is within the CPA and is in conflict with Policies ENV 2 and ENV 4 of the development plan and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
19. As Policies ENV 2 and ENV 4 are considered to be the most important for determining this application, and are also considered to be out-of-date, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
20. The appeal site is washed over by the CPA, but no evaluation has been made of the quality or value of sites in this designation. In addition, the CPA is linked to historic objectives in the UDP of twenty years ago. The updating and translation of the CPA into the CPPA is expected to form part of the emerging Local Plan, and has yet to happen. Therefore, while the scheme conflicts with UDP Policies ENV 2 and ENV 4, and the Secretary of State considers this to weigh against the scheme, he gives limited weight to this conflict, as the policies cannot be considered to be up to date. He considers that no other adverse impacts that would weigh against the scheme have been identified.
21. The Secretary of State considers that the provision of housing, along with transport and accessibility improvements and improved access to open and green space are all benefits that attract moderate weight in favour of the development.
22. The Secretary of State concludes that the identified harm does not significantly and demonstrably outweigh the benefits of the scheme, and considers that there are no protective policies which provide a clear reason for refusing the development proposed.

Formal decision

23. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for a residential development (Use Class C3), with open space and landscaping and associated access in accordance with application reference 15/01278/OUTM, dated 18 May 2015.
24. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

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

27. A copy of this letter has been sent to Doncaster Metropolitan Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Andrew Lynch

Authorised by the Secretary of State to sign in that behalf

Conditions

- 1) The development to which this permission relates must be begun not later than whichever is the later of the following dates: -
 - i) The expiration of three years from the date of this permission or
 - ii) The expiration of two years from the final approval of the reserved matters for the first phase (as agreed in Condition 3 (Phasing Plan)).
- 2) Approval of the details of the appearance, landscaping, layout, access and scale for each phase (hereinafter referred to as reserved matters) shall be obtained in writing from the Local Planning Authority before the commencement of any works within a phase to be agreed. Development shall thereafter be implemented in accordance with the approved plans.
- 3) The development and all reserved matters applications shall broadly accord with the following parameters:
 - i) The Parameters Plan (Ref: 5428-L-02-Rev P)
 - ii) The point of vehicular access as shown on the Parameters Plan (Ref: 5428-L-02-Rev P)
 - iii) A minimum of 12.5ha of public open space including formal and informal play areas
 - iv) A footpath within the site connecting the south western corner of the housing area to Mere Lane
 - v) Key surface drainage infrastructure
 - vi) A temporary construction corridor through the open space to facilitate access for vehicles during the construction process
 - vii) Key areas of the public realm to be the subject of a lighting design strategy taking into account the terms of condition 11.

The above parameters shall be illustrated in a composite Development Framework Plan to be submitted to and approved in writing by the Local Planning Authority prior to the submission of the first Reserved Matters application. The Framework shall include the extent of the phases of development, including the timescales for submission of details, commencement and implementation across the development (the Phasing Plan). The development and all reserved matters shall thereafter broadly accord with the approved Development Framework Plan and the Phasing Plan shall be adhered to during the overall construction period.

- 4) Application for approval of the reserved matters for the first phase of development (as identified in the Phasing Plan approved under Condition 3) must be made not later than the expiration of three years beginning with the date of this permission.
- 5) Prior to the submission of the first Reserved Matters a Design Guide shall be submitted to and approved in writing by the Local Planning Authority. The Design Guide will be applied to all subsequent Reserved Matters submissions for development. The Guide shall follow the principles established in the Design and Access Statement, dated July 2017 Update and the Development Framework Plan required by Condition 3. The Design Guide shall refer to and reflect the Council's current design guidance and cover the following key detailed design matters:

- a) Movement hierarchy and street types- the network of streets, footpaths and car free routes and how these integrate into existing networks, using street sections and plans to illustrate the hierarchy, including details of the verged and tree lined avenue to be created within the public highway along the principal routes and the footpath connecting the housing to Mere Lane within the site;
 - b) Urban design principles - how the development will create a permeable and secure network of blocks and plots with well-defined, active and enclosed streets and spaces;
 - c) Legibility strategy - how the scheme will be easy to navigate using gateways, views, nodes and landmarks for orientation;
 - d) Residential character areas - the different areas of housing within the site and details of the key characteristics of each zone in terms of layout, scale, siting, appearance, and landscape;
 - e) Architectural appearance, building details and materials- informed by a local character appraisal;
 - f) Open space character areas - the function, appearance and design principles for each key area of open space;
 - g) Vehicle and cycle parking - including details of allocated and visitor parking strategies in line with the Council's parking standards;
 - h) Hard and soft landscape - including street surfacing, junction treatments, street furniture, signage, management and maintenance, + boundary treatments - details of front, side, rear and plot division boundaries for each street type / character area;
 - i) Building for Life Statement - how BFL principles are to be met by the development (applicable to residential areas);
 - j) The layout of the proposed development shall be based on the findings and recommendations of a tree survey in accordance with British Standards Institute 5837 (2012): Trees in relation to design, demolition and construction - Recommendations. The siting and design of the development platform, all proposed buildings, access roads, private drives and parking spaces shall be informed by the tree survey and shall give full regard to the root protection area and future growth of trees taking into account the aspect and topography of the site. The required tree survey shall be submitted to the local planning authority as part of the Design Guide illustrating the design response to the outcome of the survey. The position and proximity of the protected trees within Long Plantation shall be taken into account, accommodated and safeguarded.
- 6) Prior to the commencement of development in each phase (as set out in the Phasing Plan), details of the proposed external materials for the buildings in that phase shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
- 7) Prior to the commencement of development in each phase (as set out in the Phasing Plan) a scheme for the protection of all retained trees in that phase that complies with section 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the Local Planning Authority. Tree protection shall be implemented on site in accordance with the approved details (including a timetable for implementation) and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment,

machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details 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 prior written consent of the Local Planning Authority.

- 8) No development shall take place in each phase until a detailed hard and soft landscape scheme to cover the public realm consistent with the Development Framework Plan (condition 3) and the Design Guide (condition 5) including a timetable for implementation and details of future maintenance for that phase has been submitted to and approved in writing by the Local Planning Authority. Hard landscaping details should include; street surfacing materials and materials for drives, footpaths and patios to individual paths. The scheme shall include a soft landscape plan; a schedule providing details of the species, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock – Specification for Trees and Shrubs Part One and planting distances of trees and shrubs; a specification of planting and staking/guying; a timescale of implementation; and details of aftercare for a minimum of 5 years following practical completion of the landscape works. Thereafter the landscape scheme shall be implemented in full accordance with the approved details/timetable and the Local Planning Authority notified in writing within 7 working days to approve practical completion. Any soft landscaping which fails to achieve independence in the landscape or that is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.
- 9) Prior to the submission of any reserved matters application, an archaeological evaluation of the application area will be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this field evaluation stage, a mitigation strategy, including a timetable for implementation, for any further archaeological works and/or preservation in situ shall be submitted to and approved in writing by the local planning authority and then implemented.
- 10) Prior to submission of the first reserved matters application for the development of the site, a site wide drainage plan shall be submitted to and approved in writing by the Local Planning Authority. The drainage plan shall include details of the proposed sequence of development across the entire site, the extent of the development phases /plots, including reference to the type and extent of development envisaged and include timing information (by reference to any date, the commencement or completion of development of any phase or provision of any element or to any other applicable trigger point) for:-
 - a) Strategic foul water drainage features including the points of connection to public sewer, sewerage, pumping stations and any other necessary infrastructure. A pumped discharge of foul water into the public sewer shall not exceed 10 (ten) litres per second in total for the whole development;

- b) Surface water drainage features including SUDS, sewerage and outfalls plus any other necessary infrastructure identified as part of a surface /storm water management plan. Any off-site implications for surface water run-off should be considered. The details shall include:
- i. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, the points and rates of discharge and the measures taken to prevent pollution of the receiving groundwater and /or surface waters;
 - ii. a timetable for its implementation; and
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime .

The discharge of surface or foul water for each phase shall not commence until the approved scheme for that phase has been implemented in accordance with the approved details. The whole scheme shall be maintained in working order in accordance with the approved management and maintenance plan.

- 11) On the submission of reserved matters for each phase, a lighting design strategy for the public realm within that phase specifically relating to bats shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- likely presence and location of bats based on survey baseline data in relation to the proposed development;
- mitigation measures along with technical specifications to reduce /eliminate the impacts of lighting spill on bats.

The development for that phase shall be carried out in accordance with the approved strategy.

- 12) Prior to the commencement of construction on a phase a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP for each phase shall include:

- + A risk assessment of the potentially damaging construction activities in relation to wildlife and habitats;
- + A method statement for the protection of reptiles and other terrestrial fauna that may be encountered on site;
- + Measures to protect the adjacent Local Wildlife Site, Long Plantation;
- + The use of protective fencing, exclusion barriers and wildlife safety measures;
- + An assessment of the risks posed to groundwater quality during the construction phase, including foundation works;
- + The implementation of mitigation measures designed to protect groundwater;
- + Details of the size and design of any site compounds, including how any potentially polluting materials will be stored to minimise the risk of pollution;
- + Pollution incident management plan.

The development on that phase shall thereafter be constructed in accordance with the approved CEMP.

- 13) No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved in writing by the Local Planning Authority.
- a) The Phase 1 desktop study, site walkover and initial assessment must be submitted to the Local Planning Authority for approval in writing. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
 - b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved in writing by the Local Planning Authority prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the Local Planning Authority for approval in writing.
 - c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved in writing by the Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.
 - d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written prior notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease and the Local Planning Authority notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the Local Planning Authority for approval in writing. The associated works shall not re-commence until the reports have been so approved by the Local Planning Authority.
 - e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation

detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved in writing by the Local Planning Authority.

- 14) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the Local Planning Authority prior to any soil and soil forming material being brought on to site.
- 15) No development shall take place in each phase until a scheme including an acoustic fence, if deemed necessary, to protect residents in the proposed dwellings in that phase from road traffic noise along the A630 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in line with the recommendations of the noise assessment, reference 14/0085/R01, submitted with the application. All works which form part of the approved scheme shall be completed before occupation of any of the dwellings within that phase, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.
- 16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) The hours of construction operation including any piling activity;
 - ii) Contact details for a nominated person responsible for dealing with any complaints about construction activity;
 - iii) The location of site compounds;
 - iv) The parking of vehicles of site operatives and visitors;
 - v) Loading and unloading of plant and materials;
 - vi) Storage of plant and materials used in constructing the development;
 - vii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) Measures to control noise and the emission of dust and dirt during construction, including wheel washing facilities;
 - ix) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - x) Management and timing of deliveries.
- 17) No phase of development shall commence until a Construction Traffic Management Plan (CTMP) for that phase of development has been submitted to and

approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction phase. The CTMP shall contain information relating to (but not limited to):

- + Volumes and types of construction vehicles;
- + Identification of delivery routes;
- + Identification of agreed access point;
- + Contractors method for controlling construction traffic and adherence to routes;
- + Size, route and numbers of abnormal loads;
- + Swept path analysis (as required);
- + Construction Period;
- + Temporary signage;
- + Measures to control mud and dust being transferred to the public Highway; and
- + Timing of deliveries.

18) Notwithstanding the submitted plans, prior to the commencement of development, drawings illustrating the general arrangements for access and egress and carriageway re-alignment shall be submitted to the Local Planning Authority for approval in writing, and shall include as appropriate:

1. A design for a roundabout related to the current arrangements of the A630, suitable to accommodate the whole development hereby permitted and/or,
2. A design for a roundabout suitable to accommodate the whole development hereby permitted on the basis that the A630 is dualled as part of the West Moor Link Dualling scheme.

Such details shall be accompanied by a scheme setting out the timing/timetable and delivery of the proposals and the transition between them, as is necessary to ensure their implementation, removal and replacement or amendment as the case may be, to accommodate the development safely and in accordance with the current or future arrangements for the A630.

No development shall take place until written approval to such details and such delivery scheme has been given by the Local Planning Authority. The development shall be carried out in full accordance with the approved drawings and scheme of delivery.

19) No development shall commence until a scheme of works (including timing relative to dwelling occupation) in accordance with the Highways Statement of Common Ground dated December 2017 prepared by Croft Transport Solutions has been submitted to and approved in writing by the Local Planning Authority to deliver the highways improvement works at the following junctions in general accordance with the associated plans, adjusted where necessary to take into account any works that have already been undertaken. The scheme of works shall then be implemented in accordance with the approved plans and to the approved timings. The junctions and associated plans are as follows:

- *Junction 1 - A630/Hatfield Lane - Plan 22A.*
- *Junction 2 - A630/West Moor Lane/Yorkshire Way - Plan 24.*
- *Junction 4 - Mill Street/Church Street/Nutwell Lane - Plan 28.*

- *Junction 5 - A18 Leger Way/Armthorpe Road - Plan 29.*
- *Junction 6 - A18 Thorne Road/A18 Leger Way/Leger Retail Centre - Plan 25.*
- *Junction 7 - A18 Thorne Road/A630 Wheatley Hall Road/Ogden Road - Plan 20A.*
- *Junction 8 - A630/A18 Thorne Road/Sainsbury's Access - Plan 16A.*

20) Prior to the occupation of the first house in each phase as set out in the Phasing Plan, that part of the site within the phase to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

21) Prior to the occupation of the first dwelling hereby permitted a Travel Plan along with a scheme for its implementation both in the short and long term, as well as the means for monitoring shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be based on the submitted Framework Travel Plan and shall include a timetable for implementation and provision for monitoring and review. All measures contained within the approved Travel Plan shall be implemented in each relevant phase in accordance with the timetable and scheme of monitoring and review.

22) Prior to the commencement of work on a particular identified phase of development (condition 3), details of electric vehicle charging provision, along with a timetable for installation, for the dwellings in that phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Each dwelling in any particular phase shall not be occupied until the approved connection for that dwelling has been installed and is operational. The approved infrastructure shall thereafter be retained.



Report to the Secretary of State for Housing, Communities and Local Government

by Frances Mahoney DipTP PGDipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Date: 1 November 2018

TOWN & COUNTRY PLANNING ACT 1990

DONCASTER METROPOLITAN BOROUGH COUNCIL

APPEAL BY HALLAM LAND MANAGEMENT (JONATHAN COLLINS)

Inquiry commenced on 5 September 2017

Land to the east of Mere Lane, Edenthorpe, Doncaster

File Ref: APP/F4410/W/17/3169288

File Ref: APP/F4410/W/17/3169288**Land to the east of Mere Lane, Edenthorpe, Doncaster**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Hallam Land Management (Jonathan Collins) against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 15/01278/OUTM, dated 18 May 2015, was refused by notice dated 18 November 2016.
- The development proposed is residential development (Use Class C3) with open space and landscaping and associated access.

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

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Procedural Matters

1. The Inquiry sat from 5 -7 September, 12 – 13 September 2017 and from 9 – 12 January 2018 with an accompanied site visit on 14 September 2017. The Closing submissions of the parties were submitted in writing and the Inquiry subsequently closed on 23 January 2018.
2. This appeal was recovered on 8 March 2017 under Section 79 and paragraph 3 of Schedule 6 of the above Act by the Secretary of State (SoS), because the appeal involves proposals for residential development over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities¹.
3. The planning application was considered by the Council on the basis that all matters were reserved other than the main point of access from the A630². However, as part of the appeal process the appellant company has requested that the proposal be determined on the basis of access also being a reserved matter³. This was in response to concerns relating to the impact on the future dualling of the A630. The Council has not opposed the access being a reserved matter. It is satisfied that, in principle, a suitable access arrangement is capable of being designed and can therefore be required by condition⁴. The appellant company has indicated that the access point would be situated on the southern side of the site along the A630⁵ but that the exact location of the access point would be best dealt with as part of the reserved matters, integrated into the design process. Based on the submitted evidence it seems to me that the reservation of the access details would secure greater control in determining the most appropriate access solution as part of the wider design process encapsulated in the reserved matters stage. I shall deal with the appeal on this basis.
4. The appellant company also seek that alternative plans be considered as part of the appeal process⁶. These plans⁷ along with a revised Design and Access Statement⁸ have been submitted by the appellant company following discussions with the Council and the refusal of planning permission contrary to officer recommendation. The alternative plans continue to show the provision of a green infrastructure corridor along the frontage of the site with built development set back from the A630 some 100-140 metres to the east of the

¹ Direction of recovery letter dated 8 March 2017.

² The original planning application was recommended by officers to be granted subject to conditions and a S106 agreement. See planning committee report dated 15 November 2016.

³ Statement of Common Ground (SofCG) Appendix 5.

⁴ Inquiry Doc 25 – Appendix 1 para 24.

⁵ Inquiry Doc 25 – Appendix 4.

⁶ The only plan for formal determination is the Site Location Plan (ref 5428-L-01 Rev B (CD1.3) – SofCG para 3.6 + Appendix 1.

⁷ Parameters Plan 5428-L-02-P, Indicative Layout 5428-L-03-G & Connectivity & Movement 5428-L-08-D.

⁸ CD2.16.

access point. To the west there is no change⁹. Consequently there would be an overall reduction in the overall residential developed area from 16.49 hectares to 15.34 hectares. This would likely reduce the number of dwellings to up to 600 units¹⁰. The frontage green space would in essence form a new community park which is apparent in the original design as is the school playing fields, and the footpath links, although the alternative does include a new footway/cycleway.

5. The original submitted plans, other than the location plan, were in the main for illustrative purposes only. These indicative plans and the Design and Access Statement offered a vision of how the development could be accommodated within the site but were not definitive. The appellant company relies on the detailed submissions set out in their Inquiry Note from the first day of the Inquiry in this respect¹¹. The proposed alternative plans do not change the application, they merely offer an alternative which the appellant company consider would better address the context and constraints of the appeal site. The number of units and the layout were never matters for determination and the proposed changes to what is an indicative scheme, in any event, presents a potential enlargement to the open space, an improvement in connectivity and has the potential for a reduction in the likely number of units proposed.
6. The appellant company outlined a process of consultation in Inquiry Note 1 which took place well in advance of the Inquiry¹². All the main parties, along with those who addressed the Inquiry were aware of the alternative plans and made comment in the context of them where appropriate. As such I am satisfied that there would be no prejudice to any interested party in accepting the alternative plans. Matters of detailed design and layout would be dealt with by condition in any case¹³.
7. As part of the appeal process on-going discussions between the Council and the appellant company produced a Highways Statement of Common Ground (December 2017) (HSofCG)¹⁴. This related to access and any traffic impacts of the proposed development¹⁵. It confirms that with modest off-site improvements the effects of the development will not be severe and that the West Moor link dualling (WMLD) will not be prejudiced by the development proceeding. It is agreed that conditions can address both the off-site improvements and the means of access to the site. In essence the areas of agreement centre on:
 - The proposal would not have a severe impact on the local highway network as a result of traffic generated by the development, subject to the implementation of minor off-site highway works;

⁹ The original parameter plan showed a set-back of 80 metres to the east of the access point, whilst to the west it increased from 80-200 metres.

¹⁰ From between 600 and 650 units.

¹¹ Inquiry Doc 1.

¹² Inquiry Doc 1 para 3.3.9.

¹³ Reserved matters application required by condition.

¹⁴ Inquiry Doc 25 – Appendix 1.

¹⁵ There is no objection from Highways England or from the Council's Highways and Transportation Team (Highway Authority) and a contribution to the WMLD Scheme has been secured through the S106 agreement Inquiry Doc 18.

- The proposal would not have a detrimental impact on the WMLD Scheme; and
- The proposal can be satisfactorily accessed from the A630 with or without the WMLD Scheme.

As a result of this agreement the Council confirmed that they would not be offering any evidence in the defence of reason for refusal 4¹⁶. The accessibility of the site by non-car modes remains a matter of concern for the Council.

Edenthorpe Parish Council (Rule 6 Party) do not take issue with matters covered by the HSofCG, but centre their concerns on the general accessibility of the site, and the suitability and sustainability of the access arrangements. These matters will be addressed later in this report.

8. The parties refer to a planning appeal decision (APP/F4410/W/16/3158500 - The Dunsville decision¹⁷) issued in July 2017. This involved an outline proposal for the erection of 97 dwellings. Planning permission was granted but the Council subsequently challenged the decision. The chief concern was establishing that the Inspector's conclusions on the five-year housing land supply (5YHLS) were flawed, rather than necessarily securing a quashing of the decision itself. Therefore, the Council sought a declaration that the Inspector had fallen into error as an alternative to a quashing order.
9. The Council secured such an agreement that the Inspector had erred in respect of the key reason she gave for concluding it did not have a 5YHLS, and the SofS (and interested party) secured agreement that her flawed assessment of the 5YHLS did not by itself render her decision to grant planning permission invalid given that as paragraph 103 of her decision¹⁸ makes clear, she would have granted permission regardless of her conclusion on the presumption in favour of sustainable development (and thus the five-year supply). As a result the decision was not quashed. However, I have considered it in the context of a 'health warning' in relation to the matters found to be flawed¹⁹ as well as to a lesser extent other matters which the Council raised as other grounds in their initial challenge but were not adjudicated upon within the Consent Order²⁰.
10. Following the close of the Inquiry a revised National Planning Policy Framework (the Framework) July 2018 was issued and comments from the main parties were canvassed. Those received have been taken into account in the consideration of this appeal²¹. The references to the Framework in this report refer to the newly issued Framework.

¹⁶ Inquiry Doc 25 – Appendix 2 + Appendix 7.

¹⁷ CD 4.6.

¹⁸ CD 4.6 para 103 – includes Consent Order.

¹⁹ Inspector commenting that the Council's models assume that economic activity rates and employment rates will rise to exceed the national average in the future.

²⁰ Inquiry Doc 13 – whilst the decision may not be specifically reference within the reasoning section relevant aspects have been considered.

²¹ Inquiry Docs 38, 39, 40, 41 & 42.

The Site and Surroundings

11. The appeal site extends across an area of some 31.5 hectares of predominantly open, flat, agricultural land with only a few sparsely scattered trees, to the east of the Main Urban Area (MUA) of Doncaster, being the suburb of Edenthorpe, a well-established and mixed residential area (including a small caravan park). The appeal site is bounded to the south by the A630 (West Moor Link Road) connecting Doncaster with the M18 motorway and to the north and east by Long Plantation, a continuous curving belt of dense, mature woodland²². To the west there is intervening open land (including further woodland) in recreational²³, as well as agricultural use. To the south beyond the A630 is the neighbourhood of Armthorpe, a settlement of similar character to Edenthorpe and which adjoins to the east the West Moor Park/Armthorpe Industrial Estate which includes particularly large massed distribution centres of national retail chains. These buildings have some considerable prominence in the landscape providing a backdrop to the appeal site context when viewed in an easterly direction from along the A630 and, to a much lesser extent, from the approaches to the appeal site.
12. The appeal site is crossed from Mere Lane (to the west) along the southern section of the appeal site by a well-trodden public footpath (No 11), linking in with the footpath wholly contained with Long Plantation (to the east) and also accessing the roundabout junction of Hatfield Lane providing ready access to Armthorpe.

Planning Policy

13. The Development Plan includes the following relevant documents:
 - Saved Policies of the Doncaster Unitary Development Plan (UDP)²⁴ – adopted 1998 – sought to guide and co-ordinate development up to the year 2001²⁵. The relevant saved policies are UDP Policies ENV2 Countryside Policy Area and ENV4 General Development Control Policy Area (CPA) as defined on the Proposals Map²⁶;
 - Doncaster Council Core Strategy 2011-2028 (CS)²⁷ – adopted May 2012 – intended to provide a planning framework up to 2028 to deliver the vision and aspirations of the Borough Strategy. The Council consider the proposal is not fully in accordance with CS Policies CS1 Quality of Life, CS3 Countryside, CS9 Providing Travel Choice, CS14 Design and Sustainable Construction and CS18 Air, Water and Agricultural Land. It is an agreed position between the Council and the appellant company that the proposed development is in accordance with all other relevant CS policies including CS2 Growth and Regeneration Strategy, CS4 Flooding and Drainage, CS10 Housing Requirement, Land Supply and Phasing, CS12 Housing Mix and

²² Local Wildlife Site and covered by Tree Preservation Order.

²³ Children's play area.

²⁴ CD3.1.

²⁵ Did provide some housing supply up until 2003.

²⁶ Agreed in SofCG para 4.10.

²⁷ CD3.4.

Affordable Housing, CS16 Valuing our Natural Environment, CS17
Providing Green Infrastructure and CS20 Minerals Safeguarding Area²⁸.

14. Following the adoption of the CS a draft Sites and Policies DPD (S&PDPD) was submitted for Examination in December 2013. It was intended that this would function alongside the CS identifying land use allocations required to deliver the overall Strategy. However, the Examining Inspector identified that it was not based on an objective assessment of housing need and the Council withdrew the S&PDPD and abandoned any further work on this document. As a result it is an agreed position that no weight should be given to the S&PDPD.
15. The Council is now preparing a new Local Plan. The emerging Local Plan (ELP) will cover the period to 2032 and will be a new planning strategy for the Borough, including detailed development management policies. It has yet to progress to the Examination stage²⁹.

The case for the appellant company³⁰

Planning Policy

16. The Dunsville Inspector's decision provides a useful and recent starting point for interpretation and consideration of policy³¹. It finds UDP Saved Policies ENV 2 and ENV 4 to be out of date regardless of housing land supply issues³². There have been no changes of facts or policy that would affect those conclusions in relation to the UDP³³ or for that matter, Core Strategy policies³⁴. The UDP was adopted in 1998. Its housing policies were to apply until 2003 and it was prepared when national policy was very different. It was saved in 2007 in order to ensure a continual supply of housing.
17. All land not in the urban area or Green Belt is identified as Countryside Protection Area (CPA). It is agreed³⁵ that without allowing development in the CPA the Council cannot cater for anticipated growth, whether in line with the CS or the emerging draft plan. Application of the UDP policies ENV 2 and ENV 4 is therefore inconsistent with delivery of the CS, the most recent part of the Development Plan³⁶.

²⁸ SofCG para 4.6.

²⁹ National Planning Policy Framework (The Framework) para 48.

³⁰ Based on appellant company's Closing Submissions Inquiry Doc 36.

³¹ CD4.6.

³² CD4.6 at paragraph 63.

³³ Suffolk Coastal judgement (CD 5.1 para 63) makes clear that regardless of five-year housing land supply issues, the UDP should be judged out of date because it has gone past the period it was supposed to apply.

³⁴ The legal challenge has been addressed, leaving the decision in place and lawful. An error was agreed because of the inspector's comments in two paragraphs, wrongly identifying the EAR/ER assumptions of the Councils HNA. This has no bearing on the Inspector's conclusion in paragraph 103 of her decision that the proposal was consistent with the development plan in addition to the conclusion that the tilted balance applied, regardless of the 5 year housing land supply position.

³⁵ Edwards cross examination.

³⁶ UDP Policies ENV2 & ENV4 are overtaken by changed circumstances and national policy – Bloor Homes CD 5.5.

18. The objectives of UDP Policy ENV 2 are also inconsistent with the Framework³⁷ as they seek to apply a Green Belt approach to safeguarding the countryside from encroachment, the setting of towns, prevention of coalescence and a host of other Green Belt policy matters. The UDP³⁸ makes clear that it applies Green Belt control to all countryside. The Dunsville Inspector³⁹ found UDP Policy ENV 2 inconsistent with the Framework in that respect.
19. The UDP approach to countryside protection contains no assessment of quality. A similar finding was made by the Inspector considering the Sites and Policies DPD⁴⁰. UDP Policy ENV 4, which applies ENV 2, does not allow consideration of the wider economic benefits to the Borough capable of being brought by large scale residential development, only benefits at a local "rural" level. There is no contemplation of how to meet the overall housing needs of the Core Strategy, without the ability to balance wider benefits against harms⁴¹.
20. The boundary to the CPA was defined 19 years ago and does not allow the ability to meet the terms of Core Strategy Policy CS2. The timeframe it was intended to apply for has passed and the quantity and location of development in Policy CS2 cannot be accommodated without development of CPA. It is agreed the CPA boundary will be changed in the new plan, when it emerges and should be given less than full weight⁴².
21. The appellant company's case is that whilst the UDP Policies ENV 2 and 4 are conflicted with, they are out of date and should be given limited weight. The boundary of the CPA is also out of date and to be given limited weight as well. The conflict however also needs to be considered in light of the clear compliance with the Core Strategy growth and regeneration policy, which itself in this case has been found to prevail in terms of the key issue of policy compliance.
22. CS Policy CS2 is a policy that the Council confirm both in evidence and the statement of common ground is complied with. The site is described by the Council as an urban extension to Edenthorpe, itself part of the MUA of Doncaster⁴³. The CS makes clear that growth is not to be met solely from within the MUA. Extensions are necessary and CS Policy CS3 specifically anticipates these. The site is higher in the hierarchy than those instances where the Council has recently granted planning permission, at Hatfield. CS

³⁷ It is not consistent with the Framework to apply a blanket protection of the countryside for its own sake and that paragraph 170 of the Framework deals with recognising the countryside, not protecting it whilst balancing a number of objectives including delivery of homes and economic development.

³⁸ At paras 5.23 and 5.24.

³⁹ CD 4.6, para 60.

⁴⁰ CD 3.8 at paragraph 38, Sites and Policies DPD Inspector made clear finding that CPA land had not been identified for any special qualities and the policy seemed to elevate its status in a manner that is misleading.

⁴¹ Anita Coleman case – CD 5.24.

⁴² Dunsville CD 4.6 para 65 – Council has granted planning permission for 2 sites on the basis they are necessary to meet CS Policy CS2, a policy the appeal proposal is also agreed to comply with.

⁴³ The policy defines the settlement hierarchy and the appeal site is an extension to the top of that hierarchy, the largest town and to be the main focus for growth and regeneration.

paragraph 3.12 confirms that the chosen distribution is to locate development where it will do the most good in terms of prosperous and sustainable communities and improving economic performance. CS paragraph 3.17 further confirms this and 3.18 confirms the quantum of development to be located there is 50% to 65%.

23. CS paragraph 3.18 recognises Edenthorpe as a location for an urban extension⁴⁴. The reference to consideration of coalescence with Armthorpe clarifies that it is almost certainly referring to the area in the vicinity of the appeal site.
24. The appeal proposal not only complies with Policy CS2, but is needed to deliver the Growth and Regeneration strategy. There are many more houses to be built to meet that strategy than have been or have permission.
25. The opening line of Policy CS3 deals with protection of the countryside, having regard to the principles set out in the policy. These principles have to be applied in considering the approach to protection. Part B of the policy continues countryside protection in general terms and uses the term Countryside Protection Policy Area (CPPA), across an area that is yet to be defined in detail, other than by reference to the key diagram. The key diagram, as with all such diagrams, provides no specificity to the area of the CPPA. The definition in the glossary⁴⁵ describes the CPPA as something that will update and replace the CPA. It cannot be the same thing. It is an update. The Dunsville Inspector found it likely to be similar⁴⁶ but not the same and Mr Edwards describes it as the same for the most part, but with urban extensions⁴⁷. The anticipation of the Core Strategy was that the CPPA would progress hand-in-hand with a development plan document that would allocate sites⁴⁸. This is relevant to understanding the language used and approach it takes. It didn't contemplate allocations not being made. It is also clear from CS paragraph 3.39 that urban extensions on land previously designated CPA will be required to meet the Borough's housing and employment requirements.
26. The Council argues that new urban extension development can only be considered through allocations under part B1, but proposals which are outside development allocations must be resisted because they fall within the UDP CPA and are protected by Policy CS3 (C). This is effectively trying to have your cake and eat it. The reference to development allocations in part B1 and part C⁴⁹ uses exactly the same language. The first part identifies the allocations that will be created and the second explains what will happen outside them. The Dunsville Inspector lawfully concluded that Policy CS3 is capable of coming into effect before the adoption of a site allocations DPD⁵⁰, but it is critical to read the whole of her comments in paragraph 69 as well as 68. The effect of the Inspector's approach is that although the UDP CPA is out of date, there isn't a complete absence of some form of protection. Paragraph 69 of her

⁴⁴ At least by the clear implication.

⁴⁵ Page 115.

⁴⁶ Para 68.

⁴⁷ Proof 3.6.

⁴⁸ Paragraph 1.3.

⁴⁹ The part of the policy that restricts development.

⁵⁰ Dunsville paragraph 68.

decision states; "However as there are no allocations of land within the potential growth town due to a lack of adoption of the local plan, if the appeal development is considered to be necessary as part of the Council's growth and regeneration strategy, ie compliant with Policy CS2, the proposal would also be compliant with part B1 of Policy CS3". She clearly equated compliance with Policy CS2 as being necessary to meet the growth and regeneration strategy.

27. Any proper and fair reading of Policy CS3 leads to a continued level of protection in general terms, but subject to support for Policy CS2 compliant urban extensions. Both parts of the policy have to be read side by side and a balanced judgement applied as to the effect of the proposal in each case. The Council's approach makes no sense. It seeks to apply protection to an entire UDP area that is out of date, whilst accepting that there is a need to develop some of that land. It accepts there will have to be allocations on UDP CPA land to meet the Core Strategy, but also that those allocations will not exist for several years. The position is all the more confused given the Council is making no claim as to prematurity and that in the meantime, the Council has no strategy as to how to meet the growth and regeneration strategy of the Policy CS, other than to grant permission on an ad hoc basis on sites that meet Policy CS2. This is supported by Mr Hepburn's analysis of how far behind the Council is with completions in the MUA and that even with all planning permissions there is a need now for more development⁵¹. This is a matter returned to later, but all previous decision makers dealing with the meaning of necessary to meet the growth and regeneration strategy have determined this matter as Policy CS2 compliant. It is pointless to say this matter turns on the prospect of meeting the housing numbers of Policy CS2 in the future at some unknown time. At this time there is a need for more development to meet the growth and regeneration strategy of the most recent part of the development plan and the appeal site is consistent and gains direct support from this.
28. To suggest that the development allocations referred to in Part C of Policy CS3 are the UDP allocations runs counter to the whole point of Part B of the policy and whilst the allocations referred to in Part C may include the allocations of neighbourhood plans, such allocations as exist don't cover the Borough and certainly not Edenthorpe.
29. The relationship between the UDP and Core Strategy and in particular the interpretation of Policy CS3 has been considered by others on a number of occasions. The SofS first considered this matter when dealing with the 2012 appeal at Armthorpe⁵². The Inspector in that case concluded^{53/54} that urban expansion should take place notwithstanding the protection afforded by the UDP countryside policies and Core Strategy Policy CS3. He went on to state

⁵¹ As the Councils closing points out at page 20, in/adjacent the MUA sites with permission that are deliverable and those units already built amount to 3,938 and 2,080 respectively this = 6018. The CS requires at least 9,225. Everything else is without permission and the Council definition of developable sites cannot offer hope for the foreseeable future as this includes land in green belt, flood zone and subject to a range of other policy constraints. There can be little doubt that more land is needed and the appeal site is well placed to meet that need in line with the strategy for urban extensions.

⁵² CD 4.2.

⁵³ Paragraphs 111-113.

⁵⁴ And the Secretary of State agreed.

that whilst there was conflict between the Armthorpe proposals, the UDP and part of Policy CS3, overall Policy CS3 was more up-to-date, recognised the importance of extensions to meeting the growth and regeneration strategy of the CS, was more closely aligned with the Framework, carries greater weight and that the proposals in that case, an urban extension to a lower order settlement, would not be inconsistent with the objectives of Policy CS3. The Inspector concluded that that proposed development would be appropriate in principle and consistent with the broad thrust of planning policy in the Core Strategy. The SofS agreed. There was no relationship between that finding and the effect of the Armthorpe Neighbourhood Plan (ANP). Indeed the ANP did not exist and was only at the stage of requesting area designation at the time⁵⁵. Any proper understanding of this finding is that the UDP was out of date in terms of countryside protection, Policy CS3(C) was conflicted with, but a balance had to be made against that and the support for the proposal due to compliance with Policy CS3 (B) (1) in considering overall compliance with the development plan. The same line of argument and explanation has been presented by the Council's evidence to another appeal on the same site in 2017⁵⁶. The reasoning of the Inspector and SofS in the previous appeal is reaffirmed by the Council. Any suggestion that the reasoning is affected by the draft allocation in the ANP does not bear scrutiny. The analysis of Development Plan compliance takes place in 7.1 to 7.8 of the Council's Appeal Statement, without any reference to the ANP indeed it notes that the site in question is not an allocation that would meet what it calls the "specific provisions of CS3"⁵⁷. The ANP is dealt with separately in the Statement under the topic of prematurity as a basis for refusal, not approval. The report on the recent approval follows the same line⁵⁸.

30. When granting planning permission to the Unity development at Hatfield the Council approached the matter in a very similar way. As explained by Mr Edwards, the basis for the grant had nothing to do with the five-year land supply position but everything to do with meeting the Policy CS2 growth and regeneration strategy and its distribution of housing. Hatfield is a lower order settlement and it is common ground that the MUA does not have sufficient completions or planning permissions to meet CS Policy CS2. The Doncaster Road site at Hatfield⁵⁹ was also granted on the basis of meeting Policy CS2, even though there were at that time sufficient permissions for residential development to meet Policy CS2 in that settlement. Mr Edwards confirmed it was granted on the basis that the permission at Unity may not deliver enough in the plan period. Both of these approvals were justified by the Council on the simple basis of meeting Policy CS2, were in the UDP CPA, were not development allocations, were not justified on the basis of 5 year land supply (there was no assessment of that matter at all) and were granted after applying the same approach to the interpretation of policy as the appellant company now recommends to the SofS in this case.

⁵⁵ IR paragraph 123.

⁵⁶ MH rebuttal Appendix 6.

⁵⁷ 7.6 of the Council Statement.

⁵⁸ See MH update note.

⁵⁹ MH appendix 8 para.

31. The instance of a decision in Doncaster indicating an alternative interpretation is distinguishable. The New Mill Field appeal was written representations and it isn't clear how much the matter was explored or argued. It was a small site for a few dwellings that could not be considered an urban extension. As a consequence consideration of Policy CS3 B)1 simply did not apply, as the Inspector in that case noted.
32. As a matter of law it is clear that the most recent development plan document, the Core Strategy, takes precedence over the UDP. When properly applied, consistent with all other relevant decisions and consistent with the officer report on this application, Policies CS2 and CS3 support the grant of planning permission. The Dunsville Inspector was clear in her decision⁶⁰ that compliance with Policy CS2 met the Policy CS3 B)1 approach of being necessary to meet the growth and regeneration strategy. The Development Plan has to be read as a whole. Conflict with the UDP has to be considered against the support given by the Core Strategy. CS Policy CS3 has to be considered as a whole as well. Any conflict with Policy CS3 C) has to be balanced with the support from CS3 B). Fully in line with all past decisions this leads to a conclusion that the proposal is in accordance with the plan overall in respect of countryside policy. This interpretation of policy led to the reason why any commenting error by the Dunsville Inspector about the Councils HNA did not warrant the permission she granted being quashed, due to the fact that permission would have been granted anyway because of her findings, entirely in line with the reasoning above, culminating in paragraph 103 of her decision.

Green Wedge Policy

33. The SofCG⁶¹ confirms the Council agreed that CS Policy CS17 is complied with.
34. CS Policy CS3 C) refers to green wedges outside development allocations. These allocations are not yet in existence⁶² and green wedges are not yet defined⁶³. Policy CS 17 is designed to clarify the approach to green wedges once they are defined⁶⁴. CS Policy CS3 explains what is meant by protection, enhancement, retention and improvement of green wedges. The Council do not suggest a conflict with any element of Policy CS17 or the principles. When the SofCG concession was withdrawn the only reliance placed on Policy CS17 was in relation to Part A (4). As the Council's case evolved, somewhat organically, it appears that if the green wedges had been defined, development (Policy CS17 does not use the term allocations but proposals) would still be supported⁶⁵ within them if the loss of the green infrastructure asset is unavoidable, for example to accommodate development and the benefits of the development outweigh that loss⁶⁶. Even if green wedges were defined, which they are not, the policy that implements Policy CS3 C) in relation to them does not preclude development, indeed quite the reverse.

⁶⁰ Para 69.

⁶¹ At paragraph 4.7.

⁶² Save in one NP.

⁶³ Were not previously defined in the UDP there being no green wedge policy in the UDP.

⁶⁴ Goodall cross-examination.

⁶⁵ This is the language used in Policy CS17 A) and there is no language to indicate the means to test refusal.

⁶⁶ Goodall cross examination.

The suggestion that this is subverted by the supporting text of the CS at paragraph 6.28 because the site is not an allocation for development does not bear scrutiny. First the supporting text cannot change the policy. Second the text was drafted when allocations were expected to follow and the language of the text simply reflects that. Thirdly that text says nothing and is silent about the situation that exists with no allocations, but that cannot mean the reverse applies; that development is resisted. The reference in paragraph 6.28 to CPPA adds nothing to the point. CPPA and Policy CS3 are dealt with fully above.

35. As a matter of principle, given green wedges are not identified in the UDP and the idea only came into existence in the 2012 Core Strategy, it cannot be concluded that the site falls within such a wedge. This is an important distinction from the CPA/CPPA debate. The definition of green wedges is a matter for a future plan. That has to be a Development Plan as it goes to the issue of the development and use of land⁶⁷. The Core Strategy does not define them and Map 9 is indicative only⁶⁸. As explored later, the 2015 SPD⁶⁹ does not purport to define the extent of green wedges either. It's Figure 1 is no more than an identification of locations for the purposes of understanding the rest of the text of that document, which itself talks of development not allocations for housing. That the ANP Examiner misunderstood this, does not alter the point.
36. The Core Strategy⁷⁰ makes clear that green wedges will be identified where development allocations need to be sensitive to strategic rural gaps between settlements and that it is envisaged these will include the areas shown indicatively on Map 9. The expectation is that the wedges will be identified hand-in-hand with development allocations. Neither exist now. It is not within the power of an SPD to define either.
37. As already indicated, paragraph 6.28 of the CS states that green wedges will overlay CPA and areas identified for development⁷¹. It uses the future tense. It is clear from this paragraph that identification of an area as being within the green wedge (ie in the future) would not in itself exempt it from development. Whilst the text goes on, as it is a plan making policy, to comment that green wedges can overlay allocations, this does not suggest that development cannot be approved when both green wedges and allocations have yet to be defined⁷², only that in due course both can coexist. The text defines how development and green wedges can coexist; there will be an expectation that development must deliver an extensive buffer and exceptionally high standard of landscape to prevent complete merger of settlements and provide access to the countryside. This is exactly what the appeal proposal does. Green wedges are intended, where associated with development, to function as a type of positively created green infrastructure, not merely be open land that is

⁶⁷ Something that can only be lawfully dealt with in a proper Development Plan Document. An SPD cannot do this- see Regulation 5(1) (iii) of the 2012 Local Plan Regulations and *Skipton Properties v Craven DC* [2017] EWHC 534.

⁶⁸ Edwards cross-examination.

⁶⁹ CD 3.35.

⁷⁰ At 6.27.

⁷¹ Not allocations- development.

⁷² The position now.

undeveloped. To create green wedges and achieve the objectives defined for them in paragraph 6.28 of the Core Strategy, development is a pre-requisite. They are to provide a focus on landscape and amenity. That is what the appeal proposals will deliver.

38. Paragraph 6.29 of the CS refers to a Proposals Map that will provide further detail of the green infrastructure network and identify green wedges. It is referring to the Proposals Map of the intended site and allocations plan. The glossary to the CS defines the Proposals Map⁷³ as "formal allocations made through Development Plan Documents"- the S&P DPD.
39. Three other non DPD documents have looked at green wedges; the 2014 Green Infrastructure Strategy⁷⁴, the 2013 Green Wedge Study⁷⁵, and the 2015 SPD⁷⁶.
40. The Green Infrastructure Strategy contains no plan to define green wedges. It was the evidence base for a failed allocations plan and it refers to a Proposals Map that does not exist. The Map was to be in the S&P DPD that has been withdrawn⁷⁷. It was withdrawn because it was unsound, in part due to its approach to the identification and selection of sites, including concerns about using flood plain and Green Belt for development. Notwithstanding this, the approach to green wedges is further clarified by paragraph 3.72 where it refers to green wedges identified where development needs to be sensitive. Paragraph 3.73 states that green wedges will, in a new plan, overlay areas where there will be expectation that development⁷⁸ must deliver a series of objectives. The recognition of the need for sensitivity to achieve these objectives carries with it clarity that development and green wedges can go hand in hand and that an acceptable outcome is a matter of planning judgement, not that green wedges are to prevent development. The objectives are the same as the Core Strategy; prevention of complete merger, and the means of delivery of that objective is leaving a buffer, high quality landscaping, enhancement to the visual appearance of settlement edges and the improvement of access to the countryside, to positively create accessible green infrastructure.
41. The Green Wedge study follows the same approach. At page 11 it refers to the objective of preventing complete merger with the same means of achieving this as the previous document. This was also a document prepared as the evidence base for the now withdrawn S&A DPD. Paragraph 2.24 confirms the purpose of the study was to guide the form, scale and layout of urban extensions within or on the edge of green wedges. Section 4 deals with how green wedges and development are to coexist. Pages 30 and 31 deal specifically with the Armthorpe and Edenthorpe area restating the need to avoid complete merger and that a green wedge should provide a strong buffer. It recognises that the Strategic Housing Land Availability Assessment (SHLAA) identifies a number of potential housing sites in this area. The appeal site is

⁷³ Page 118.

⁷⁴ CD 7.4.

⁷⁵ CD 3.36.

⁷⁶ CD 3.35.

⁷⁷ See paragraph 1.24 of the document specifically relating Proposals Map to the S&P DPD.

⁷⁸ Not allocations.

one of these. The Housing & Economic Land Availability Assessment (HELAA) did the same and found the site suitable for development.

42. The 2015 SPD is just that. It is not a Development Plan Document to create policies for the development and use of land, allocations or the definition of the green wedge. It is to help explain existing CS policies, not define the areas a green wedge policy should specifically apply. It does not attempt to introduce land use, development, allocations or management policy⁷⁹. It could not lawfully define the extent of green wedge and does not seek to do so. This is not a question of an SPD doing something unlawful that may not now be challenged, but an SPD doing something lawful. It does not define allocations or provide policy that deals with land use, development or management. The Council's argument to the contrary, however, also runs against their case. If this SPD is doing the job of a DPD⁸⁰, it supports the development. It makes no mention of supporting allocations in green wedges, but anticipates development in green wedges.
43. Page 79 of the SPD confirms that green wedges are areas where development needs to be sensitive to openness, that development that overlays green wedges will be expected to provide buffers and landscaping and that where development would otherwise result in coalescence, a significant proportion of the site should remain open and undeveloped. The text defines how development should take place, not that it shouldn't. Figure 1⁸¹ identifies⁸² the appeal site, together with the adjacent Council land. It anticipates new development in this location stating⁸³ that it will need to provide an extensive buffer, comprising high quality landscape and open space to prevent coalescence. This can't sensibly be interpreted as only applicable to the Council owned land. The text⁸⁴ also clarifies how buffers should be created and that if the guidance is followed, how such buffers will contribute to maintaining the distinct identity and physical setting of settlements in line with CS policies CS2, CS3 and CS17. The point could not be clearer, delivery of the set out objectives on the land north of the A630, predominantly the appeal site, results in development that complies with those policies of the Core Strategy.
44. In this case, as recognised by officers in the committee report, fully aware of the Armthorpe NP allocations, the appeal proposal⁸⁵ provides a substantial landscape buffer, publicly accessible green infrastructure, prevents coalescence and merger and the illustrative material shows development no closer to Armthorpe than exists at present. This can all be secured by condition. Mr Coles' visualisations particularly figures 31 to 41 show how separation will be maintained. The A630 and its dualling, together with new planting, will provide a visual context avoiding merger. That context, as

⁷⁹ Agreed by Mr Edwards in cross-examination.

⁸⁰ Which it is not.

⁸¹ Page 81.

⁸² For the purpose of its comments- not definition of the green wedge.

⁸³ Page 80.

⁸⁴ Page 80- below the table.

⁸⁵ Even in the original illustrative form.

explained by Mr Coles, is fundamentally different to the relationship of the appeal site to Edenthorpe, of which it is part in visual and functional terms.

45. The Council has been unable to articulate what harm there would be to the proposed green wedge as a consequence of the development. The clearest presentation of the Council's case is that it would harm the character and appearance of the area through change, yet no landscape harm case is made and no townscape quality is relied upon. Mr Goodall's point was no more than that development would result in change.

Landscape Character and Quality

46. The SofCG clarifies no conflict with CS Policy CS 17, nor any disagreement with the Landscape & Visual Impact Assessment (LVIA), nor any concern with design and layout, trees and hedges ecology and wildlife, and no concern with impact on paths and no issue with open space provision. The LVIA concludes the site is not valued, is not of particular quality, is ordinary and is unremarkable. It is agreed that the site is not a valued landscape⁸⁶ and the Framework does not apply a blanket protection to countryside.
47. No LVIA assessment has been carried out by the Council. Mr Goodall refers to scenic quality in relation to the Long Plantation, but he does not claim to have assessed even that indicator of quality as required by Guidelines for Landscape and Visual Impact Assessment⁸⁷; there is no evidence that the sense of place, aesthetic and perceptual qualities are out of the ordinary⁸⁸. Relevant Council evidence base documents address the capacity of the site and wider area for development and provide the mitigation necessary to address all issues including the Long Plantation, all of which can be met and are shown in the illustrative material of the appeal proposals.
48. The 2010 Landscape document⁸⁹ was prepared to determine, in more detail, the capacity of land for development. The appeal site is identified as HOU2 along with the land north of Armthorpe. It is not distinguished from that land, which is now proposed to be allocated for development in the ANP and has been granted permission. The visual sensitivity of the area is described as medium, as is the landscape sensitivity and the landscape value. Whilst there is reference to Long Plantation, the mitigation proposals in the document require a restriction on development from encroaching into the woodland⁹⁰, not the avoidance of development near it. The mitigation suggested is creating a woodland block, connecting Long Plantation to Shaw Wood. In practical terms, the development of the appeal site can achieve a meaningful contribution towards this. This is a positive intervention that can only realistically be delivered alongside development. The text on mitigation points out this would provide separation between the two settlements. The text also clarifies that in order to prevent convergence of settlements a green corridor/landscape buffer along the A630 is required. This is exactly what the

⁸⁶ In the terms of para 170 of the Framework.

⁸⁷ CD10 - 3rd bullet point on page 85.

⁸⁸ Goodall cross-examination.

⁸⁹ CD 7.3.

⁹⁰ Which the appeal proposals achieve.

appeal proposal provides. The 2010 Capacity Assessment does not distinguish any part of the appeal site as having more or less capacity for development, or distinguish it from the land north of Armthorpe.

49. The site is not properly described as isolated or disconnected from Edenthorpe. Mr Goodall explained that his view would change to an acceptable position if the Council land adjacent to the site were to come forward for development. This clarifies the extent of the Council's point. It isn't about the distance to the current edge of Edenthorpe or the location of the appeal site. It's no more than that the area between the two is not currently built up. The Council owned land is identified in the HELAA as suitable for development alongside the appeal site. The Council's apparent concern about allowing a further footpath connection is all about maintaining flexibility for the future expected development of this land. The Council's intention as landowner is clear; it wants to promote development of that land.
50. The distance between the part of the appeal site where houses are proposed and the existing edge of Edenthorpe is some 250/300 m. There is strong intervisibility between the two. It is not credible to call this far away from other places or remote to use the dictionary definition of "isolated". The scale, location and nature of the Council's site is not such that it would isolate the development from Edenthorpe any more than parks, recreation land or schools sites elsewhere. The visual context is far different from the relationship between the development and Armthorpe⁹¹.
51. Of relevance to several topics in this appeal, including landscape, a significant part of the Council's justification for dualling the A630 is the ability to accommodate up to 3000 new homes in this area⁹².

Agricultural Land

52. The agricultural land report is undisputed. Of the site 26.4 ha is grade 3b and only 3.7 ha (12%) grade 3a. Only the grade 3a is best and most versatile agricultural land (BMVAL). The Framework, at paragraph 170 does not suggest refusal of permission that utilises agricultural land. It requires decisions to recognise the economic and other benefits of BMVAL. Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. This is a response to meeting the Growth and Regeneration Strategy and it is common ground the appeal proposal does that.
53. The better quality land on the site is incapable of separate or more beneficial cropping regimes. The 3a land is closest to residential areas and already is subject to urban fringe pressures. The land is a small fraction of the total area of the farm and is unlikely to have any economic effect on its continued future viability. The total area farmed is 1500 acres.
54. The terms of the Framework only apply to substantial losses of land and the loss of best and most versatile here is of only 3.7 Ha or 12% of the site. CS Policy CS18 follows a similar approach.

⁹¹ Including as extended.

⁹² Mr Wooliscroft's appendix 34 section 8 and plan at page 853.

55. All the available information does not provide complete coverage of the Borough in respect of the grading of agricultural land. However, it is clear that 90% of all the land surveyed, is grade 3 with almost half of it being grade 3a. Of the 48 sites surveyed only 5 have a lower percentage of best and most versatile land than the appeal site. They are small and incapable of accommodating material amounts of development, a matter to be seen in the context of the amount of development focussed on the MUA. Adjacent to the main urban area, the main focus for development in the Growth and Regeneration Strategy of Policy CS2, no site is identified as having a lower amount of grade 3a land. All available material shows that the appeal site contains a very modest amount of best and most versatile land and there is no evidence that there are more suitable sites with less.

Accessibility

56. Being adjacent to the MUA the site is, at a broad level, where most development is to be located. The CS confirms the MUA is the location that is to be the focus for development because it is well connected. The site was found by the HELAA to be suitable for development with the only issue being local policy, not concerns regarding accessibility. The site is inherently closer to the town centre, major retail facilities and employment than the outlying settlements of the Borough where the Council has approved development recently.
57. The provision of land for a school is a requirement of the Council. Appendix 1 to Mr Goodall's proof requires land and a financial contribution⁹³. Existing local primary schools have some capacity⁹⁴, but in the longer term an additional school is most likely to be part of the solution. Provision of school land and funds, is a matter to be given great weight⁹⁵ and should not be underestimated.
58. In the short to medium term, Edenthorpe primary school has capacity⁹⁶ to accommodate the needs of the development, providing time for the provision of new facilities on the site. If a school is built as part of the Armthorpe development and a school on the appeal site is not needed, that Armthorpe school will be close and accessible from the site.
59. The Council's evidence is that secondary school capacity exists. The secondary school is also walkable.
60. The development proposals are not dependent upon access to existing bus services, though these exist with good frequency on Thorne Road. Instead the appellant company is proposing to fund an extension to service 76 in order to

⁹³ By 2021 local schools are likely to be full – with 5% capacity allowance.

⁹⁴ Edenthorpe Primary is within easy walking distance of the appeal site.

⁹⁵ Framework paragraph 94.

⁹⁶ To 2021.

provide a 15 minute service with 20 minute service off-peak throughout the day and throughout the week⁹⁷.

61. In terms of walk distances, there is minimal dispute on actual distances. All are measured without the additional path across the Council owned land. The South Yorkshire Residential Design Guide⁹⁸(SYRDG) suggests as a rule of thumb about 1200 m walk to local services (15 minutes) and 1600 m to primary health and education (20 minutes). Using the detailed walk times from the Institute of Highways and Transportation (IHT) this is 1260m and 1680 m.
62. A sensible judgement should be made about the prospect of walking. It is also important to have regard to other evidence bases. IHT preferred maximum is an acceptable walk distance⁹⁹, and indicates a walk of 2000 m for commuting and to schools. This is greater than the SYRDG. Manual for Streets also promotes a preferred maximum of 2000 m for all purposes. Survey data from the National Travel Survey indicates that the 85th percentile distance people are prepared to walk to all facilities is 1950 m. It also indicates¹⁰⁰ that 85% of people will walk 1600 m to undertake their shopping, a greater distance than suggested by the SYRDG.
63. When these matters are taken into account Mr Wooliscroft's evidence at page 39 defines the facilities that are within 2000 m. There is a large range of individual facilities and importantly the nature of the destination in terms of the size and quality of the offer, provides a significant draw. The analysis of compliance with all different standards is set out in Mr Wooliscroft's pages 43 and 44 and as a matter of fact the only areas of dispute are in relation to the distance to a local shop where the difference is 68 m, the distance to Tescos where the difference between the parties is 94 m, the distance to Sainsbury's, where the difference is about a hundred metres and to the doctors which is about a 40 m difference. In practical terms none of these distances make a material difference to the outcome of the judgement. In some respects they are disputed by Mr Wooliscroft in any event.
64. What is clear is that of the primary, important facilities, the primary school is in a comfortable walking distance¹⁰¹, the new bus network fully complies with the SYDG and will provide a good level of service, the closest retail provision is fractionally¹⁰² beyond the SYDG but only a little distance further is a full Tescos, the doctors is within an acceptable walk distance, as is the pharmacy. There is, in accordance with SYDG, full compliance with walking distances to education and health care and, within the bounds of measuring accuracy, full

⁹⁷ Section 106 will fund the service for at least 5 years or 400 dwellings whichever is the later and the route is to the town centre, via Sainsbury's. The evidence is that the service will be self-sustaining – Wooliscroft Appendix 23 and update note and correspondance.

⁹⁸ CD 6.7.

⁹⁹ It states it is the maximum acceptable.

¹⁰⁰ In line with the Sedgefield decision (CD 4.18) which also utilised a 1.6 km distance to local services as its benchmark of acceptability- somewhat more than the 1200/1260 m in SYRDG.

¹⁰¹ Future on-site provision will be even closer.

¹⁰² 8m or 68m depending on walk speeds.

compliance with walking distances to local facilities. Only a little further is access to a wide range of properly high order retail and other facilities.

65. Mr Wooliscroft provides a real world check as to how the Council considers accessibility normally. He has looked at all sites granted planning permission in Doncaster since the introduction of the old Framework that are over a hundred units. The appeal site fares well, being 4th out of 8. The Council does not dispute the outcome of this analysis.
66. The walking route from the site to Mere Lane will be direct, short, lit and level. At the time of the determination of the application a formal footpath connection was proposed across the Council land and the application was not objected to by Council officers in terms of safety or usability. The Assets Management Team are recorded as content to allow it to be put in. Since then the appellant company has proposed an upgrade in the location of the existing footpath and have offered a comprehensively costed undertaking to allow the path across the Council land to be put in as well. The non-Council land route would be of a similar distance and of a similar nature to the route across the Council land in all material respects. In the view of officers the route across the Council land was all that was required in order for the site to be completely acceptable in terms of accessibility. This narrow point helps define the extent of the real difference between the parties. The nature of that route will be no more or less overlooked, no more or less convoluted, no more or less capable of being followed or legible than the current proposal. The true difference between the parties is therefore very small. The Council's current position in relation to delivery of this route seems to be opportunistic. The appellant company's unilateral undertaking continues to make the offer which includes the cost of construction, maintenance and relocation to address the Council's development aspirations for their land. The original position of the Asset Management Team is clear in the committee report- no concerns. In reality, if planning permission is granted pursuant to this appeal there is every prospect and no hindrance for this route to be put in place, if it is really needed and indeed the strong likelihood is that the Council land will come forward for development.
67. The appeal site is appropriately accessible by foot and public transport to a good range of high quality services. The routes to all relevant facilities by foot are sufficiently direct, level, lit, overlooked and legible and there is no proper basis for refusal on accessibility grounds. The existing paths are well used, as is the play area and the appeal proposals will reinforce and enhance this.

Response to CPRE/Parish Council

68. Mr Wood presented several policy arguments similar to those of the Council. In terms of matters that were additional, the principal point was that the development of the site could be laid out in a different fashion. When this was explored it was plain that there was no particular aspect of the SYRDG which would lead to a different or better outcome. No evidence was provided to support the notion that a single point of access was unacceptable or that there was an alternative means of access that was better than the approach of the appeal scheme.

69. The argument that a plan-led approach would produce a better outcome for delivery of the site doesn't bear scrutiny. No prematurity case is relied upon by the Council and Mr Wood could not articulate one. The tests are set out in the NPPG¹⁰³. This makes clear that arguments as to prematurity are unlikely to justify the refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. That is not the case here. There are two further tests, both of which need to be satisfied. The second test is that the plan has reached an advanced stage. That is not made out. NPPG makes clear that refusal will seldom be justified where a draft plan has yet to be submitted for examination. The second test relates to the effect the grant of permission would have on the emerging plan. This is not a proposal so substantial that to grant permission would undermine the plan making process on a matter that is central to it.

Objectively Assessed Needs for Housing

70. The appellant company's position is not predicated upon the lack of five-year housing land supply. The fact UDP Policies ENV 2 and ENV 4 are considered out of date requires the tilted balance in paragraph 11 of the Framework to be applied and that those policies should be given little weight regardless of matters of five year housing land supply.

71. The consultation recognises¹⁰⁴ that LPAs are able to plan for economic growth and infrastructure provision and in doing so, promote higher figures. If they are to do this they should do so by properly aligning homes and jobs. Doncaster has always sought to plan for economic growth and there is no indication to the contrary in the future. The Core Strategy is predicated on substantial job growth and the emerging plan¹⁰⁵ continues to promote growth, with an expectation of some 474 Ha of new employment land and 20,000 jobs. Doncaster also proposes significant investment in infrastructure, not least the dualling of the A630, the business case for which is in part to facilitate development of some 2,500 homes in the vicinity of the appeal site.

72. All appeal decisions since the publication of the Consultation have consistently given it little or limited weight.

The Council's Housing Needs Assessment

73. The Councils HNA¹⁰⁶ does not provide a robust and credible basis for determining housing needs. Whilst there is no material difference between the parties in terms of the demographic starting position and only a marginal difference in relation to the effect of partial catch up of younger age cohorts¹⁰⁷, the principal difference between the parties is in relation to job growth and economic activity rates (EAR)/employment rates (ER). This is a matter of

¹⁰³ See paragraph 021b.

¹⁰⁴ Paragraphs 28 and 46.

¹⁰⁵ CD 3.24 at pages 9 and 10.

¹⁰⁶ CD 3.9.

¹⁰⁷ About 70 dpa (FB XX) - A number that makes no difference to the presence or absence of a 5 yr HLS.

planning judgement and requires a view of the realism of the EARs and ERs rising at the rates suggested by the Council.

74. The NPPG¹⁰⁸ requires assessment of the likely change in jobs based on past trends and/or forecasts. This assessment requires one to look at all of the likely change in jobs, not just part of the change. It is the total job demand, not just the demand it is felt could be met by worker supply.
75. For determining realistic job growth the Council has used the Sheffield City Region (SCR) in every aspect of the HNA. The HNA describes it¹⁰⁹ as having come from independent expert advisers. It is based on credible assumptions. The Council doesn't rely upon Experian job growth or historic trends to determine the OAN. The Council doesn't rely upon the so called baseline position referred to by the SCR work. As explained by Mrs Braithwaite¹¹⁰ this is in any event four years old and projects forward recessionary factors. The job growth forecasts relied upon are those from Ekosgen¹¹¹ of 1,182 jobs per annum or 20,103 for the new plan period to 2032. The HNA¹¹² provides clear and reasoned examination of an expected reduction in public administration jobs by almost 30% and growth in other areas. The SCR jobs growth figure does not rely upon past public sector growth. Instead there is clear analysis of future growth described as realistic and credible. The Council accept that this job growth figure is the most appropriate to be used for assessing housing needs¹¹³. The appellant company's analysis supports the Council's conclusion and shows that the SCR is predicting job growth below historic trends over a 15 year period, indeed dramatically below the growth in jobs experienced in the period between 2011 and 2015¹¹⁴. The SCR jobs growth figure can be relied upon with confidence. It is therefore common ground that the SCR job growth expectations are the best and most reliable. They are not policy on, but a reasonable prediction of the future.
76. Mr Brown accepts that it is appropriate for Mrs Braithwaite to use PopGroup as a relevant modelling tool to translate jobs to homes needed¹¹⁵ and this is also used by the Council in Method 2 of the HNA. HNA Method 2 produces an OAN of 1,146 dpa before adjustment for empty homes. It is the highest of the three methodologies used by the Council and the closest to Mrs Braithwaite's 1,370 dpa. Method 2 was undertaken by external consultants applying their own judgements on population to dwelling conversion factors. These used lower EARs than Mr Browns Method 3. They are only a little more than Mrs Braithwaite's¹¹⁶. There is no suggestion in the HNA or from Mr Brown that the EARs used in Method 2 of the HNA are wrong, inconsistent with the claimed underlying approach of the SCR jobs growth figure, or unreliable. They are materially less than the approach in Method 3¹¹⁷.

¹⁰⁸ paragraph 18.

¹⁰⁹ pages 71 and 72.

¹¹⁰ See rebuttal pages 19-24.

¹¹¹ Produced as part of the Sheffield City Region work.

¹¹² Page 73.

¹¹³ Brown proof para 71.

¹¹⁴ Braithwaite proof pages 62-64 and in particular Figures 6.3, 6.4 and 6.5.

¹¹⁵ Brown cross-examination.

¹¹⁶ Braithwaite rebuttal at Figure 3.1.

¹¹⁷ A Brown cross-examination.

77. Method 3 is the part of the HNA carried out by Mr Brown himself. It provides a crude conversion for jobs to homes. It applies a series of "what if" economic activity rates or employment rates to determine the extent of decrease in available future labour force caused by demographic change¹¹⁸ and then combines that outcome with the number of workers needed to meet the accepted SCR job growth figures. It takes no account for vacancy. It leaves the unemployment position unclear and it provides a reduction to its final outcomes based upon in-commuting patterns (25% reduction claimed to come from the 2011 Census). The reliability of this approach, regardless of the question of the EAR/ERs used is highly questionable. The commuting ratio in particular is inconsistent with the 5% net out commuting ratio utilised in Method 2 by Edge Analytics from the 2011 Census.
78. There is no justification to support the EAR/ERs used in each sensitivity test of Method 3, simply an explanation of what it is. The figures used are not forecasts.
79. Mr Brown's evidence, in an attempt to indicate the reasonableness of Method 3 EARs and ERs presents what he expects to happen in graphical form. The graph at the bottom of page 24 of his proof is the most relevant to define what is expected by the Council as it shows ERs for the whole of the working age population¹¹⁹. The Method 3 outputs used by the Council to produce their OAN are ER 2 and ER 3 both with ER o2. The graph purports to plot ER2 /ER o2¹²⁰, however it is agreed the pale green line is wrong. Mr Brown accepts it should be set materially above where it is shown. The graph does not show ER3 ER o2 at all, which would be further above ER2 ER o2. Regardless of this, the Council's case as to the reasonableness of the Method 3 outcomes¹²¹ rests on the claim that the red line will rise to a point materially above the pale green line on the graph. This is implausible and lacking in evidence. There is no reliable explanation of what would cause this. To suggest it will be brought about by the demand for labour and education¹²² does not sit comfortably with the factors that Experian say effect activity rates¹²³. There is no clear correlation between jobs growth and EARs¹²⁴. In addition it is apparent that there has been no real growth in 16+ Employment Rates since 2010, with only one year in 6 exceeding the 2010 rate before a decline and now effective parity with where we were 6/7 years ago. Mr Brown's suggested trend line appears highly implausible. It also relies on a continuing year on year improvement, something which has simply not happened, especially post-recession. It is a projection and as clarified by Mrs Braithwaite it is unlikely to be achieved¹²⁵.
80. All of the HNA Method 3 ER's and EAR's are "what if" scenarios. They are not based upon any official forecast. The extent of fluctuation and lack of growth

¹¹⁸ Population fall in 16-64 year olds and rise in 65 and over.

¹¹⁹ The HNA prefers ERs and the whole working population provides the most relevant picture- Brown cross-examination.

¹²⁰ It is agreed the key is wrong.

¹²¹ Which are material lower in OAN than either Method 1 or 2- see HNA page 82.

¹²² Mr Brown's case.

¹²³ See C Howick Appendix A page 2.

¹²⁴ See FB proof Fig 6.3 compared to 6.5.

¹²⁵ FB Re-examination.

since the recession shows their lack of realism. Employment rates cannot rise indefinitely. There is a finite position that the Borough can achieve. Mr Brown's evidence would tend to suggest that point has been reached.

81. At the Dunsville Inquiry Mr Brown accepted that it was appropriate to use OBR based EAR/ERs¹²⁶. He continues to accept the point¹²⁷. Whilst different Inspectors have reached different views, the Inspector in the Long Bank Farm inquiry¹²⁸ recorded the highly relevant facts that the OBR was set up to provide independent economic forecasts to Government, has a statutory duty under the National Audit Act 2011 to report on the sustainability of public finances and those forecasts are used by the Government for the most important activities of state. As accepted by Mrs Howick they are the only official forecasts. She also agrees that the use of the 2017 OBR fiscal sustainability report is a reasonable choice as it takes into account rising state pension ages and other matters¹²⁹. It is for these reasons that Mrs Braithwaite has used OBR EARs in all her work.
82. In order to be robust the HNA should have done sensitivity tests with falling, lower or static EAR/ERs. That is the purpose of sensitivity testing. This omission, when the real purpose of Method 3 is to test Methods 1 and 2¹³⁰, lacks objectivity.
83. The over 65 population of Doncaster is growing, whilst there is decline in the younger age cohorts. This is a factor which is bound to impact upon the available labour force. Even with increasing activity for the over 65's, that level of activity is dramatically less than the activity for the younger cohort whose population is decreasing. The result¹³¹ is a smaller pool of available workers.
84. As indicated above, Method 2 of the HNA approaches the calculation of the OAN in a similar way to Mrs Braithwaite. It produces the highest OAN of 1,146. The principal difference is economic activity rates but as Mrs Braithwaite's rebuttal¹³² shows, the difference in EARs to the figures she has used is modest. At no point does the Council suggest the use of PopGroup and the activity rates used in Method 2 are wrong. There is no claimed methodological inconsistency in using these rates and in particular there is no claimed inconsistency between the EARs it uses and any underlying SCR job growth assumptions¹³³.
85. The Dunsville Inspector looked at all of these matters and provided clear and robust conclusions as to the robustness and reliability of Mrs Braithwaite's work¹³⁴. In addition the Inspector who considered the Sites and Policies DPD

¹²⁶ See paragraph 26 of CD 4.6.

¹²⁷ A Brown cross-examination.

¹²⁸ CD 4.8 at para 20.

¹²⁹ CH Proof at 3.7.

¹³⁰ But in effect provides a means of pulling down the outcome from both of those external party assessments.

¹³¹ See FB first rebuttal paragraphs 7.30-7.32.

¹³² 1st rebuttal at page 14- Figure 3.1.

¹³³ Whatever they may be, as explored below.

¹³⁴ Paragraph 34.

(SPDPD) made clear findings that the housing requirement he was being asked to examine¹³⁵ would only support a fraction of the jobs in the Council's economic growth expectations¹³⁶. That inspector was commenting about the job growth from the SCR. This is the 20,000 jobs utilised as the job growth in the HNA, as is apparent from the dates of the documents¹³⁷. It is clear he was indicating that 1,230 dwellings per annum would not meet the SCR jobs growth figure. The SP DPD inspector also referred to the Council's reliance on increasing activity rates and commuting, indicating that he saw no evidence to demonstrate the Council's assumptions were accurate. His comments relate directly to the points being put forward by the Council in the HNA now.

86. Whilst empty homes account for only a modest part of the difference between the parties, empty homes can only be relied on as a supply side matter if there is robust evidence¹³⁸. Mr Brown's proof produces no new evidence that was not before the Dunsville inspector and simply mentions at paragraph 60 the average number of empty homes brought back into use. We don't have any cogent analysis of the true empty homes position other than that which is set out in the HNA¹³⁹. This sets out what has happened in the past but doesn't distinguish between long-term and short-term empty and does not determine any figure for the re use of empty homes that is realistic for the future. It doesn't distinguish between newly occupied empty property and what has been counted as existing stock. It acknowledges that there will always be a baseline of empty homes, but leaves unanswered the question about what of the remaining long term empty homes are likely to be reoccupied. The HNA records¹⁴⁰ that caution needs to be applied when considering the level of progress in tackling Doncaster's empty properties, that consideration needs to be given to in-depth investigations on the actual number of empties and there needs to be research in relation to the baseline level of empty homes in order to get a true reflection of the problem and resources that need to be allocated. This is exactly the area where the PPG says caution is needed¹⁴¹, particularly with double counting. The position remains just as poorly evidenced as it was in front of the Dunsville Inspector¹⁴².
87. Mr Brown refers to the effect of BREXIT. This is also an argument run in the same way in front of the Dunsville Inspector and not accepted. Reduction in immigration from the EU has already been factored into the 2014 ONS projections¹⁴³. There is no evidence that economic growth post BREXIT will be different to that anticipated. Mrs Braithwaite's rebuttal shows revised growth upward rates since the BREXIT vote.

¹³⁵ 1,230 dpa.

¹³⁶ CD 3.8, paragraph 18.

¹³⁷ SPDPD Inspector letter was June 2014- the SEP (CD 10.7) was March 2014 and the HNA was August 2015.

¹³⁸ Paragraph 039 of NPPG- robustly evidenced at examination, testing the deliverability of the strategy, and avoiding double counting – not counted within the existing stock.

¹³⁹ At pages 52 and 3.

¹⁴⁰ At page 50.

¹⁴¹ NPPG ID: 3-039.

¹⁴² On the requirement side of the equation.

¹⁴³ These projections assume a 90% reduction in immigration from the EU.

88. There is no evidence that changes to HS2, itself never intended to be operational until 2033, will have any impact on the SCR job growth, or that HS2 had any material connection to the jobs growth figure in the first place.
89. Although affordable housing is not relied upon by either party to increase their OAN, the relevance of it is that Mrs Braithwaite's OAN allows for most of the true affordable need to be met. The Council's position on affordable housing need however remains obscure. The Council runs two arguments. The first is to rely again¹⁴⁴ on the 36% who failed to bid for property in order to suppress the affordable housing need, the second is to undertake a recalculation of affordable need, using an entirely different approach and methodology to the HNA or the HNA update, without any written evidence to support it. The Dunsville Inspector said there was no evidence that people were cherry picking from the waiting list or getting on the list to wait for a house at a future point. This remains correct. Mr Brown's proof tells us that there is work underway to analyse the matter but it isn't complete and it isn't put forward. There may be many reasons why people aren't bidding for properties. These people will be amongst the most vulnerable in society who have the most difficulty in addressing these matters. As the Dunsville Inspector noted¹⁴⁵ the Council's approach is unique, with no basis in the NPPG or SHMA guidance¹⁴⁶.
90. Finally Mr Brown's approach to determining OAN by past levels of development has no basis within national policy or guidance and clearly fails to take account of limitations on supply, the reasons for past performance, viability and other constraints. All of these matters were noted by the Inspector at Dunsville¹⁴⁷.
91. In contrast to the HNA Mrs Braithwaite has presented a clear analysis of her methodology, inputs and approach. This was found sound and reliable by the Dunsville Inspector and preferable to the HNA. The terms of the consent order leaving that permission in place do not affect this finding.

Criticism of Mrs Braithwaite

92. The criticisms of Mrs Braithwaite's work fall into three main topics; the so-called logical inconsistency, the reliance upon SCR job growth with OBR EARs and partial catch up of household formation amongst younger people. A fourth point is made by Mrs Howick in relation to past rates of job growth. Whilst of some relevance it is important to recognise that this was not relied upon by Mrs Braithwaite to determine the OAN, only assessed in a range of possible job

¹⁴⁴ As at Dunsville where the argument was rejected- para 21-23.

¹⁴⁵ Dunsville- paragraph 22.

¹⁴⁶ Mr Brown's explanation of the new methodology for determining need is also unconvincing. There is no hard evidence to back it up. We do know that the newly arising need has increased from last year and that the supply has gone up by less. The difference in Mr Brown's new assessment of need all comes down to the backlog need, where apparently the priority need has gone up, the contribution from those unable to tackle repairs has been omitted altogether and those sharing facilities has been discounted to 42%. Mr Brown's approach to justify these changes of approach is not set out and is far from straightforward or transparent.

¹⁴⁷ Paragraph 27- albeit in connection with a different matter – adding a modest amount to OAN for past trends.

scenarios to determine the reasonableness of, amongst other things the only job growth scenario relied upon by the Council; the SCR job growth.

93. Mrs Howick confirmed that her work is not intended to provide an alternate OAN to the HNA. The outcomes of her evidence claiming "logical inconsistency" are not a substitute for the Council's OAN and are put forward only as an illustration of the claimed error of Mrs Braithwaite's approach¹⁴⁸. Mrs Howick's work is contradictory of the HNA and undermines the Council's own evidence base. Nothing that she says supports the Council's claimed OAN. Indeed the reverse is true.

94. As an overview, the appellant's response is as follows;

- The so-called logical inconsistency is based on a principle that fails to address real job demand. Mrs Howick's evidence relies on wholly unrealistic EARs, derived from Experian to try to illustrate her point and an Experian job growth figure which is particularly low (when seen in the context of the Council's reliance on SCR) and is not relied upon by the Council in the HNA.
- The SCR is the Council's preferred¹⁴⁹ job growth scenario, there are no underlying true EAR assumptions set out within it and Mrs Braithwaite is quite entitled to use realistic EARs to determine the OAN.
- The partial catch up point is a matter of judgement, it is agreed that policy allows local circumstances to be taken into account, but in any event this makes a marginal difference to the position of the parties.
- The past jobs growth assessment by Mrs Howick produces unreliable and unrealistic outcomes, but past job growth is not used by Mrs Braithwaite in the calculation of the OAN anyway. She uses the Council's accepted SCR jobs growth and dampens this down, perhaps too reasonably, with Experian job growth.

95. Mrs Braithwaite's approach is to consider a range of different job growth scenarios, test their reliability and reasonableness and then determine the most appropriate and reasonable approach to both jobs growth and economic activity rates. It is based upon considering both forecasts and the past. When viewed properly, it is an approach that is not only consistent with the NPPG but unaffected by the logical inconsistency point for similar reasons to those set out in Chelmsford¹⁵⁰.

96. The so called logical inconsistency criticism relates only Mrs Braithwaite's consideration of the Experian jobs growth scenario, not to the SCR or the assessment of past job growth. Mrs Braithwaite in her proof¹⁵¹ explains the Experian jobs growth figure is unrealistically low particularly when compared to the Council's preferred SCR jobs growth figure and past trends, therefore it is

¹⁴⁸ Howick cross-examination.

¹⁴⁹ Indeed only utilised scenario.

¹⁵⁰ CD 5.12 and as explained in FB Rebuttal 1 at pages 24-27.

¹⁵¹ Page 65 and 66.

not relied upon by her to determine the OAN other than as a reducing factor against the SCR derived OAN.

97. Mrs Howick accepts that the use of OBR is a reasonable choice in principle and that there is no official alternative¹⁵². There is however an unexplained difference between the OBR used by Mrs Braithwaite, and that suggested by Mrs Howick as being the Doncaster OBR figure¹⁵³.
98. It is agreed that OBR activity rate figures take account of future changes in pension age and greater activity of certain cohorts, including more activity of women in the work force¹⁵⁴.
99. When explored with Mrs Howick it is clear¹⁵⁵ that the Experian approach is controlled to the national totals for potential job supply. When the real point behind this was explained by Mrs Howick, it means that, at a national level, when Experian activity rates are applied to population projections, there is a constraint on the amount of labour force available. This constraint defines the amount of labour demand from employers. Labour demand is assumed to be equivalent to labour supply, whether or not it is. Mrs Howick/Experian then assume that all local authorities must take a share in this national labour supply, so defining the labour demand of that area. The problem with the apparent neatness of this approach is that it effectively predetermines the number of jobs local employers are assumed to need, regardless of the view they may have of growth, investment, markets and opportunities. Mrs Howick's/Experian's approach takes no proper account of local variations and the ability for workers to migrate from one location to another. It is a closed system that assumes that there can be no more jobs provided than the total population can supply. Fundamentally it runs counter to the objectives of the Framework, a matter which Mrs Howick attempted to slough off as just planning policy¹⁵⁶.
100. The NPPG requires an analysis of the likely changes in jobs having regard to the growth of the working age population¹⁵⁷. It is agreed that this is all jobs employers want to fill. It is also clear from the Framework¹⁵⁸ that the economic role of national policy is to ensure sufficient land of the right type, in the right places is available at the right time to support growth. This isn't just some of the job growth needed by employers. It is all of it. NPPF paragraph 17 requires planning to proactively drive and support economic development, to deliver amongst other things, what business and industry for the country needs and it explains the Government is committed to securing economic growth in order to create jobs and prosperity¹⁵⁹. Mrs Howick's/Exprian's closed system of analysis determines the jobs that employers "want" from the labour supply available at a national level, then assumes that the sum of all local areas will equate to the same thing. There is a mathematical attraction to the point, but it means that

¹⁵² Proof 3.7.

¹⁵³ In percentage terms the difference is modest, but small differences make large effects

¹⁵⁴ Howick XX

¹⁵⁵ Indeed set out in her proof at 3.10

¹⁵⁶ Howick XX

¹⁵⁷ Paragraph 18 of CD 3.19

¹⁵⁸ Paragraph 7

¹⁵⁹ Paragraph 18 of NPPF

at a local level, genuine job demand from employers may have to go unmet. It also effectively assumes that all assessments at a local level are done at the same time and on the same basis. It frustrates the policy objectives of the Framework. Indeed this approach begs the question of why there is any step in the NPPG analysis of OAN requiring examination of local job growth at all. The practical effect of Mrs Howick's approach is that job growth in Doncaster is constrained by a function of the population and the EAR assumptions made, regardless of the needs of employers. This is demonstrated by her own work. Table 3.1 of her proof shows that the 741 jobs pa job growth of Experian's forecast¹⁶⁰ can be accommodated with no more¹⁶¹ homes built, if the very high Experian activity rate is used. The point is almost perfect in its circularity and is brought even more clearly to the fore when Table 3.2 shows us that by changing (reducing) EARs¹⁶² and nothing else, the outcome is that local employers apparently need less workers. This can't be a remotely sensible position. What Mrs Howick simply shows is that if the population is less economically active, there is less labour supply. To claim that this means employers don't need the workers anymore is more accurately explained as those employers cannot have the workers they need. In fact of course they can, through migration at a local level to match the jobs being created. This alternate approach of assuming in-migration, is exactly the principle in the HNA (albeit with EARs/ERs that are themselves too high) and in Mrs Braithwaite's approach. It is common ground with Mr Brown, that if a business has expansion plans and needs employees to meet them, then if the local population at the appropriate activity rate cannot provide this, there are only two outcomes; labour migrates into the area or the business's growth is not realised. Mrs Howick's approach is the latter. She says businesses will, in that situation, simply not actually need to grow.

101. Mrs Howick's Table 3.1 relies upon wholly unrealistic economic activity rates. These are far higher than anything in the HNA. The effect of using these is to suppress housing needs. The activity rates used by Mrs Howick for 16 to 64-year-olds are almost 80%. This is higher than the sensitivity EAR 4 in the HNA, rejected by the Council for lack of realism. The rate used by Mrs Howick is 2.6% above the national rate at the 2014 peak. It is simply off the scale of the graphs used by Mr Brown to try to illustrate what he believes is realistic.
102. Not only are the EAR assumptions of Mrs Howick inconsistent with the HNA, but so too are the outcomes and the basic principles of what she has done. Even the flawed approach of Mr Brown's HNA Method 3 seeks to determine how many homes will be needed to meet the number of jobs, not reduce the number of jobs to fit.
103. Mrs Howick's SCR argument is unrelated to her logical inconsistency argument. She simply says that if SCR job growth is to be relied upon, and the Council's position is that it is, then higher activity rates should be utilised. This is truly the central point of the whole OAN issue. Both parties say the SCR jobs growth is correct and reliable. The issue is what ER/EAR should be applied to it. The Experian /logical inconsistency and the skirmish over past jobs growth

¹⁶⁰ A fraction of that indicated by past trends and the SCR figure.

¹⁶¹ To all practical effects.

¹⁶² Claimed to be to OBR , but to a level above the OBR used by Mrs Braithwaite.

have no bearing on this central issue and it is important to avoid the distraction they could create.

104. No one can point to any activity rates that underpinned the SCR job growth conclusions with any particularity. The Independent Economic Review¹⁶³, July 2013, predates the Strategic Economic Plan¹⁶⁴. It comes to a different conclusion regarding job growth, 40,000 or 55,000, not the final 70,000 and the section of the document that sets the job growth numbers¹⁶⁵, does not mention any activity rate. It refers to three elements to a successful transformation. The first is an increase in employment above the level forecast and in all likelihood above the national average. What this means is opaque, but it seems to be the rate of job growth, not the activity rate. There is nothing to clarify an activity rate having been used as an underlying basis for prediction of job growth. The same text talks about lowering unemployment and increasing employment levels but does not say to what or how that aspiration has factored into the prediction of job growth. The connection the Council tries to make is tenuous. The principal part of this document, relied upon by Mrs Howick is at pages 31 and 37. However, page 31 simply states as a matter of fact, that job density is lower in the Sheffield Region than in other areas and this produces a shortfall of 58,000 jobs compared to the national average job density. This is no more than a statement of fact. It does not define any assumption of economic activity rates. When read alongside page 37, the same point is continued. Eight percent job growth would produce 58,800 jobs. There is no explanation of activity rates. Activity rates are driven by many factors, particularly those identified by Experian in Mrs Howick's Appendix A. These matters are not based upon the level of job growth, but changes in public policy, the likelihood of participation of certain parts of the population, such as women and older age groups and worker's behaviour connected with longevity, health and changes in industrial composition.

105. The Strategic Economic Plan¹⁶⁶ contains the 70,000 jobs growth figure, later described by the HNA as the SCR figure. Whilst it refers to narrowing and economic gap, to what and by what rate is not made clear¹⁶⁷. Narrowing the gap, whatever that means, is clearly narrowing the current gap¹⁶⁸ from the local position to the national position at that time. This is made clear by the title to Figure 11 on page 28. This is not a question of aiming at future convergence with national rates. Mrs Braithwaite's economic activity rates do narrow that gap. OBR assumes material increases in activity in the future. There is no suggestion in Mrs Braithwaite's evidence that the job growth is met merely¹⁶⁹ from inward migration of workers.

106. At page 22 the SEP talks about increasing jobs to the prerecession peak employment levels. The Ekosgen report itself¹⁷⁰ talks of a return to the previous employment rate peak for the City Region, also referring to the

¹⁶³ CD 10.29.

¹⁶⁴ And the Ekosgen work Inquiry Doc 29A.

¹⁶⁵ Page 64.

¹⁶⁶ CD10.7.

¹⁶⁷ See page 6 of SEP.

¹⁶⁸ Agreed in cross examination with Mrs Howick.

¹⁶⁹ Council closing at para 8.

¹⁷⁰ Para 2.5.

recession, with the potential to rise further. If we were to take anything from this as representing an underlying assumption to the SCR/Ekosgen jobs growth figures, then it is relevant to look at what the prerecession peak was on Mr Brown's graphs¹⁷¹. Whilst Mr Brown's graphs are Doncaster and not the City Region it is clear that for the critical 16+ cohort, whether we are dealing with EAR's or ER's, the prerecession peaks are at or marginally below the current position. If that is the aspiration underlying the SCR job growth then Mrs Braithwaite's future growth of EAR through OBR are indeed appropriate and consistent. Mrs Howick's criticism is therefore completely hollow.

107. If the SEP shows anything on the topic of EARs/ERs it is the over ambition in the HNA sensitivity assumptions, not the under ambition of Mrs Braithwaite's assumptions.
108. Mrs Braithwaite has looked at past trends of employment growth in order to establish whether the SCR employment growth is reasonable and to clarify¹⁷² that the Experian employment growth is unrealistically low. She does not rely upon it in order to support her final OAN.
109. The criticism by Mrs Howick is unjustified. Mrs Braithwaite has considered a long period; 15 years, covering economic cycles. She has taken an average of each of the individual year's increase or decrease rather than a simple average, she has cross checked this against the data from Oxford, Experian and ONS¹⁷³.
110. Mrs Howick's alternative trend approach is unsupported by guidance or precedent¹⁷⁴.
111. Mrs Braithwaite's assessment of past trends shows the SCR job growth to be reasonable, robust and reliable, exactly as the Council claims.
112. The partial catch up (PCU) point is a matter that makes very little difference to the total outcome, as noted by the Dunsville inspector¹⁷⁵. It does not make enough difference to be a tipping point¹⁷⁶. That Inspector agreed with Mrs Braithwaite regarding the need for an adjustment to reflect local demography, not caught by past trends. In doing so she referred to recent trends in Doncaster, with falling rates of household formation and the slowing in decline of household size.
113. Most of the material relied on by both Mrs Howick and Mr Brown, to present their argument on PCU was also presented to the Dunsville Inspector¹⁷⁷. It is also relevant that this material predates the 2014 projections and reflects a national academic based view, but does not consider the circumstances in Doncaster.

¹⁷¹ pages 22 or 24 of his proof.

¹⁷² Consistent with the approach of the Councils HNA.

¹⁷³ Page 63 of her proof.

¹⁷⁴ Appeal decisions or otherwise.

¹⁷⁵ Paragraph 19.

¹⁷⁶ The OAN would have to fall from 1370 to 1223 to tip the balance to there being a 5 year supply on the basis of the appellants case on all other matters.

¹⁷⁷ Including the documents by Ludi Simpson and MacDonald and Whitehead. See page 3 of CD 10.16.

114. The MacDonald and Whitehead document¹⁷⁸ argues that in the future there will be push and pull factors between economic growth and structural changes in welfare reform that could offset the effect of that growth. The balance between these is unclear and particularly at a local level. Guidance specifically encourages local level circumstances to be taken into account¹⁷⁹.
115. Mrs Braithwaite's PCU does not rely on a return to the 2008 household formation rates. It suggests only a return to half way between those and the 2014 rates. Mrs Braithwaite's first rebuttal looks at the position of the younger age cohorts in Doncaster specifically. Given the terms of the NPPG, it is important to look at the local circumstances. In contrast Mrs Howick has no local evidence and has no evidence to indicate that the picture presented in the graph at Figure 7.2 of Mrs Braithwaite's first rebuttal is anything other than specific and local to Doncaster. What that shows is clear; between 1991 and 2001 the household formation rate for the 25-34 age cohort in Doncaster was constant¹⁸⁰. There is then rather dramatic change with household formation having fallen by 2011, deviating from the past trend. Mrs Braithwaite's proposition is simply that the "flat" historic trend in Doncaster will return. This is fair, reasonable and there is no contrary evidence of local circumstances. It was accepted by the Dunsville Inspector for good reason.
116. Overall Mrs Braithwaite's evidence is balanced, reasonable, cogent and transparent. There is every reason to understand why the Dunsville Inspector accepted it. The OAN is properly to be concluded to be 1,370 dwellings per annum.

Supply

117. There is relatively little difference between the parties in relation to five-year housing land supply. The relevance of five year supply has already been explained. It is only one means of coming to the conclusion that paragraph 11 of the Framework and its tilted balance is engaged. It is important to note that there was no reliance upon the absence of five-year housing land supply in the committee report recommending approval of this application, or in the two permissions granted by the Council at Hatfield. It is also important to note that the Council accepted that any error made by the Dunsville Inspector in relation to one narrow aspect of 5 year housing land supply in parts of paragraphs 24 and 30 of her decision had no bearing on her overall decision to grant permission on the basis that the proposal accorded with the Development Plan overall. The supply the Council now claims is 8300.
118. The majority of the difference is made up by the Council rejecting the Inspector's findings from the Dunsville Inquiry on windfall. If the Dunsville approach to windfalls was taken, the supply would be 7,748. As Mr Hepburn sets out, when properly calculated, utilising a housing requirement of 1,370, this leaves a shortfall in five-year housing land supply of some 1,235 dwellings, equivalent to a 4.31 year supply.

¹⁷⁸ Quoted by Mrs Howick at 2.12 of her proof.

¹⁷⁹ NPPG at ID: 2a-017.

¹⁸⁰ The start and end point was the same as these are the known census points.

119. The issue of windfalls was no part of the challenge to the Dunsville Inspector's decision. The evidence before us is no different to that before the Dunsville Inspector¹⁸¹. There is simply now a graphical presentation of past windfall as distinct from the numbers themselves. The Dunsville Inspector was fully aware of past windfall delivery¹⁸². This is a matter of planning judgement. The volume of completions from windfalls has been the inevitable consequence of not having an up-to-date plan. There is no rational basis to doubt the planning judgement that approximately 10% of the supply is a more reasonable view of future windfall from the point when a new plan is in place; years 4 and 5 of the 5 year period.
120. Mr Hepburn's rebuttal shows that windfall completions were a small proportion of total completions when the UDP was adopted in 1998. They rose as allocations were used up until the recession and are now, post-recession almost 2/3 of the total supply. As agreed by Mr Edwards¹⁸³ looking forward, windfall supply is likely to be from sites smaller than 5 units that don't currently have planning permission, given the very thorough exercise the SHLAA and HELAA has already gone through¹⁸⁴.
121. The relevant policy test is set out in the NPPF¹⁸⁵. The windfall allowance has to be realistic, having regard to the SHLAA and not just past, but expected future trends. Even if the Council's position on windfalls was accepted the 5 year supply would be 4.6 years.
122. The second aspect of unknown supply is empty homes. This has been dealt with above. The policy test in the NPPG¹⁸⁶ is that there must be robust evidence, deliverable strategies, and the avoidance of double counting¹⁸⁷. There are none of these. If the Council's position on empties was accepted the 5 year supply would be 4.49 years. Even if the Council's position on both windfall and supply was accepted there would be 4.77 years supply.
123. In calculating the five-year land supply there are two issues of dispute; the buffer and the question of undersupply. It is agreed¹⁸⁸ that whatever the buffer is, it is to be addressed in the five-year period and it is also agreed¹⁸⁹ that any undersupply is to be caught up in the five-year period.
124. The question regarding the buffer is a matter of planning judgement; has there been persistent under supply? There was a challenge to Dunsville on the question of the buffer, but as with most of that challenge it was dropped and the Consent Order makes no mention of the matter. There are two initial issues; how long you look back and what to measure against. There is then a need to form a view on whether there has been persistent past undersupply.

¹⁸¹ See CD 10.15 Mr Edwards proof to Dunsville.

¹⁸² Dunsville 44.

¹⁸³ Edwards cross-examination.

¹⁸⁴ 5 units is the cut-off point for these documents so everything larger than that has already been assessed.

¹⁸⁵ Para 48.

¹⁸⁶ ID: 3-039.

¹⁸⁷ Counting as part of existing stock and as new supply.

¹⁸⁸ Edwards cross-examination.

¹⁸⁹ Edwards cross-examination.

The test is persistent, not persisting. It is clear from the NPPG¹⁹⁰ that it's important to take a long-term view¹⁹¹. Over the 10 years preceding 2015, as a matter of fact, the Council has been under the requirement defined by the policy extant at the time, every year. The total undersupply is almost 4,500 units. Only in the last 2 years has the Council exceeded its OAN by some 387 units, with last year being less than the year before¹⁹². The appellant's OAN has never been exceeded. This modest recent improvement and then decline presents a clear story of persistent under delivery, with no clear sign of addressing the problems of the past. In terms of targets for the last 10 year period, there was only the Core Strategy and the Regional Strategy pertinent and relevant at the time, apart from potentially in the last two years if the Council's OAN is used. The Council's OAN is not and has never been claimed to be a means of defining housing need prior to 2015. As made plain by the Courts¹⁹³ it is a matter of judgement as to the reasonable period of time. The appellant's position is to look back longer than the Council and that is clearly more consistent with the PPG. The Dunsville Inspector agreed. Whilst the Cotswold case does provide an Inspector with a choice to look either at the previous plan or an alternative, the truth here is that there is no alternative prior to 2015. All we have is the CS and RSS prior to that. As made plain by the Boston Spa decision¹⁹⁴, dealing with the same arguments¹⁹⁵, the Secretary of State endorsed using a previous plan¹⁹⁶ as the most appropriate means of determining persistency even when there were questions about that plan. The issue is about judging delivery against the target of the time, not the degree of criticism of that target with the benefit of hindsight.

125. The topic of undersupply is largely related to the choice of OAN. It only arises with the Council's OAN. However, as recorded by the Dunsville Inspector, the notion of over supply does not arise because the housing requirement is a minimum and not a ceiling. Once again this matter was part of the Dunsville challenge but was dropped. Reducing the supply to be delivered in future years has the effect of treating the requirement as though it was a ceiling. This would be inconsistent with the Core Strategy¹⁹⁷. This is not a question of waiting to the end of a five-year period to determine whether there has been under or oversupply but looking at the delivery since the base date and applying the accepted position that the figure is not a ceiling. The recent Wendover¹⁹⁸ case confirms the Dunsville approach.

126. The Appellants conclude there is no five-year housing land supply. Even if there was a five-year housing land supply, that is no basis for refusal of planning permission and there is ample material to conclude that the policies in relation to which there is any conflict are out of date in any event.

¹⁹⁰ ID: 3-035.

¹⁹¹ Agreed by Mr Edwards.

¹⁹² See Mr Edwards' table at proof page 13.

¹⁹³ Cotswold CD 5.29 at 47.

¹⁹⁴ CD 10.36 (para 15 decision letter para 223-225 IR).

¹⁹⁵ Boston Spa at 223, 224 and 225 confirms that the Council's concern in that case as here was that RS and population projections were wrong.

¹⁹⁶ Also in that case the RSS- with claims that it contained an overstatement of requirement.

¹⁹⁷ Para 5.10.

¹⁹⁸ Council reply to update at appendix 1- see 118-120.

Emerging Plan(ELP)

127. The existing approach of the Core Strategy is to place the majority of development in or adjacent to the Main Urban Area. Six years into the Core Strategy period the MUA should have delivered between 3,258 and 4,170 dwellings. There is a current shortfall of between 1,178 and 2,090 units against this target. The area where most development should take place has not seen anything like enough. Even against the figures in the draft Local Plan Consultation¹⁹⁹ there is a need for more land in the MUA than has permission, by well over 2000 units.
128. The only means for addressing this undersupply is granting planning permission or sorting out a new plan to make allocations. At the moment there is not even a draft plan that identifies allocations. The furthest the matter has got is issues and options and the prospect of a first draft plan in the near future is limited²⁰⁰. The Council has confirmed²⁰¹ progress on the plan has been suspended in the light of Dunsville, that an independent review of housing numbers is being undertaken and that this will delay the first draft plan. In any event the Council is making no claims as to prematurity.
129. In the meantime, the Council has no strategy for the delivery of housing to meet housing needs. It has to maintain a continuous five-year, rolling land supply and can't stand still on the matter. This will require the grant of new planning permissions on sites not allocated but which accord with the current growth and regeneration strategy in CS2 throughout the period until a new plan is in place. In practice that is what the Council has done, albeit ad hoc and in the case of the appeal site, inconsistently.
130. The appeal site itself is identified in the HELAA²⁰² as being available, suitable and developable with²⁰³ some 831 units suitable for development and 140 of those coming forward in the first 5 years. Mr Edwards candidly accepts that as a deliverable site it is possible that it could be allocated to meet the housing needs of the emerging plan period. He suggests however there is a need to determine whether it is the most sustainable site. The problem is that there is no ability to judge relative sustainability without a plan and there is no prospect of a plan for several years. All this whilst the Council runs no prematurity case.
131. Mr Hepburn has done a very careful assessment of the constraints that exist around the MUA²⁰⁴. Green Belt surrounds the MUA from the south east round to the north and the land that is not Green Belt is flood zone 3 all the way around the edge of the MUA to the north east. There is very limited opportunity to extend the MUA except in the vicinity of the appeal site. Much of the land to the east of the MUA is protected open space, for example at the Warren, or is racecourse. Armthorpe, whilst to the east of the MUA and not

¹⁹⁹ CD 3.7 page 12.

²⁰⁰ The draft plan is intended for publication as a consultation document in September 2018.

²⁰¹ Mr Hepburn's rebuttal appendix 4.

²⁰² Mr Edwards' proof at 7.9 confirms this.

²⁰³ In total, combined with the adjacent Council land.

²⁰⁴ In his rebuttal proof at appendix 3.

entirely affected by flood zone 3 is a separate settlement in hierarchy terms with a different and separate housing allocation to find.

132. The choices for expansion of the urban area are very limited indeed. In this regard it is important to note that Mr Edwards' analysis of potentially available supply confuses deliverable land with what he calls developable land. His definition of developable land includes land that is in the Green Belt in flood zones 2 and 3, in the setting of listed buildings and other heritage assets and otherwise subject to an assortment of local policy opposition. When all of this is properly considered there is no basis for concluding there is any materially better site than the appeal site to meet future development needs. The appeal site has some of the least constraints and is in an area which is the focus of substantial public spending planned on increased road infrastructure through the Sheffield City Region Investment Fund (SCRIF), specifically designed to assist with substantial housing growth.

133. The Council accepts that there will be a need for greenfield urban extensions to the MUA and that this will involve sites that are currently in the UDP CPA²⁰⁵. The Council's case is also that such sites will be supported²⁰⁶ where they meet CS Policy CS2²⁰⁷. Given that it is common ground that the appeal site does meet CS Policy CS2, it becomes difficult to see what the real basis for refusal is.

*Revisions to the appellant company's case following the issuing of the Revised Framework (July 2018)*²⁰⁸

134. The appellant company continue to be of the mind that the tilted balance²⁰⁹ in this case still applies regardless of the 5YHLS issues. Following the issuing of the Revised Framework in July 2018 the Council's submission proceeds on the basis that the local housing need for Doncaster is the outcome from the standard method. Guidance in this regard is incomplete and this is not a proper interpretation of the Framework.

135. Paragraph 73 of the Framework, with its reference to determining 5YHLS against local housing needs where the strategic policies are more than 5 years old, requires an understanding of the definition of local housing needs. This is in the Glossary which defines local housing need as "the number of homes identified as being needed through the application of the standard method set out in national planning guidance, *or a justified alternative approach*". The appellant company maintains that its alternative approach is fully justified as an exception to the standard method given the job growth and infrastructure plans of Doncaster.

²⁰⁵ Supported by Hepburn analysis in his rebuttal proof and in particular appendix 2.

²⁰⁶ Indeed have been granted permission.

²⁰⁷ XX Edwards and approach in his proof at 7.15.

²⁰⁸ Inquiry Docs 39, 40 & 42.

²⁰⁹ Para 11 of the Framework.

The Case for the Council

Five-year supply

- *OAN*

136. For the purposes of this appeal, the demographic starting point can be taken as +582-588 dwellings per annum²¹⁰.

137. The appellant company promotes the position that an adjustment should be then made to the demographic starting point to take account of factors²¹¹, such as undersupply or worsening affordability, which may have constrained past household formation rates, providing for a partial catch within younger age groups to the formation rates predicted in the 2008-based SNHPs. The adjustment itself is relatively modest (from +588 dpa to +621 dpa). The justification given is that the 2014-based SNHPs do not take sufficient account of the effect of the recession in suppressing formation rates within these groups. However, the PPG makes clear that the official projections are “statistically robust and based on nationally consistent assumptions” and that only “local changes” are permissible, on the basis of “robust evidence” of “specific local circumstances” affecting “local demography and household formation rates”. The recession was clearly not something that was merely “local” to Doncaster. The Council contends that the lower formation rates in the 2012- and 2014-based SNHPs reflect long-term trends, rather than falsely projecting forward a temporary blip caused by the recession. Therefore, there is no justification for making any adjustment to allow for a return, or even a partial return, to 2008 rates.²¹²

138. However, there is a large difference between parties regarding the extent to which the demographic starting point should be uplifted in order to cater for future jobs growth (980 dpa vs 1,370 dpa). It is common ground that this large difference is due primarily to different assumptions regarding Economic Activity Rates and Employment Rates.

139. Mrs Braithwaite’s evidence presents a number of different ‘employment-led scenarios’. Her method is the same in each: she starts with a given figure for jobs growth (which varies depending on the scenario in question), then calculates, using the Popgroup model, how many homes would be required in order to accommodate the additional labour force necessary to fill them. In order to do so, she has to make assumptions regarding the EARs of the future population since the size of the available labour force is determined not only by the size of the local population but, crucially, by what proportion of it can be expected to be economically active. In that regard, she applies the same assumption across all of her scenarios: namely, that Doncaster’s EARs will move in parallel with the future national average (which she takes from the

²¹⁰ The Council’s Housing Needs Assessment calculated the demographic need as 582 dpa using the 2012 based Subnational Household Projections (SNHP). The appellant company, using the 2014 based SNHP, calculated it at 588 dpa a slightly (but not materially) higher figure.

²¹¹ Reference ID: 2a-015-20140306 and para: 017017 Reference ID: 2a-017 20140306.

²¹² Howick Proof paras 2.1 to 2.34, pp.3-9.

Office of Budget Responsibility (OBR)). However, this method is fundamentally flawed. The reason it is flawed is that it implicitly presupposes that future jobs growth is unaffected by EARs (otherwise she could not consistently apply the same assumption regarding EARs across all of her scenarios which have differing jobs growth figures). This, however, is false, as Mrs Howick explains: EARs are one of the factors which determine the level of future jobs growth since, for example, the less economically active the UK population is as a whole, the less it has to spend, the lower the demand for production and thus jobs.

140. This can be seen clearly in the case of Mrs Braithwaite's Experian scenario – one of the two on which she relies directly in calculating her OAN. Mrs Howick contacted Experian who have confirmed that its jobs forecast for Doncaster, which Mrs Braithwaite has used, does indeed rest on assumptions regarding UK EARs which are incompatible with the OBR's views of the same. Furthermore, by rerunning its forecast using the OBR's EARs rather than its own, it has shown that applying consistent assumptions regarding EARs to both the jobs forecast and the estimate of future labour supply makes a huge difference. If Experian's assumptions are applied consistently, the future jobs uplift is +12 dpa (+600 dpa = 588 + 12). Conversely, if the OBR's assumptions are applied consistently, it is +29 dpa (+617 dpa = 588 + 29). In either case this is far lower than that which Mrs. Braithwaite arrives at by applying the assumption that she does lopsidedly (only to the estimate of the future labour force).
141. The same is also true of the jobs target in the other scenario that she uses to calculate her OAN, the SCR scenario. Again, the inconsistency does not depend on whether the OBR's view regarding future national rates is correct or not. Rather, it derives from the fact that Mrs Braithwaite's assumption that local EARs will merely track changes in national rates is incompatible with the essential aim or purpose of the SCR's jobs growth target, which is to 'narrow the gap' between the city region ER and the UK average, as Mrs Braithwaite ultimately accepted in cross-examination. Furthermore, as Mrs Braithwaite also accepted, one cannot improve ERs merely by importing new population to fill jobs²¹³. Necessarily, one must improve the proportion or ratio of those employed in order to do that. Accordingly, it follows inevitably that, it assumes that if the plan to increase jobs in line with the SCR jobs target succeeds, ERs (and, consequently, EARs, since they are closely related and the great majority of the economically active are the employed) will have to rise significantly faster than the national average, which contradicts Mrs Braithwaite's assumption that they will move in parallel. On the other hand, of course, this is entirely consistent with the assumptions relied on in the Council's modelling.
142. Whilst Mrs Braithwaite's OAN was calculated on the basis of the outputs of these two scenarios alone, she also initially placed emphasis on the output of her 'past trends' jobs scenario as at least providing reassurance that her OAN was realistic having regard to them. Her reliance on it was, however, also flawed for two principal reasons.

²¹³ See also the Exogen Report Inquiry Doc 29A – para 2.6 page 7.

143. Firstly, the Planning Practice Guidance is clear that regard may be had to forecasts and/or projections “as appropriate”. This begs the question therefore whether it is appropriate to have regard to a projection of past trends in jobs growth at all in this case. As Mrs Howick explained, such a projection implicitly assumes that the future will be like the past. Consequently, if there is good reason to think that it is not, then projecting forward what happened in the past is not likely to provide appropriate guidance at all. Here, it is common ground that two key factors will not be the same in the future as in the past. The first relates to the drivers of employment growth locally. Local employment growth in the recent past was driven to a very large extent by growth in public sector employment, yet this is now expected to reverse or reduce. The national factor is the ageing of the population, which the OBR (and others) predict will result in significantly lower employment growth nationally²¹⁴. Whilst it is possible, the Council hopes and expects, that it will do better than the national average that is on the basis of the SCR scenario, not simply a continuation of past trends. Mrs Braithwaite’s approach is in fact circular. She assumes that future growth will be like the past despite the fact that the drivers of growth will not be the same on the basis that this is what the SCR is based around, ie she uses her SCR scenario to validate the past trends scenario, which she is using to validate the realism of the SCR scenario.
144. In any event, however, there are other issues. First, Mrs Braithwaite’s figure of 1,466 jobs per annum(jpa) is not a true trend but an average between two dates. Second, since it is just a measure of the average increase between the beginning and the end dates it does not take account of anything that happened in between (eg employment could have dropped dramatically and then risen steeply in the final year but the average would remain the same). Thus, it does not seek to show the “direction of travel”, which is the point of a projection. Mrs Howick’s evidence shows that if one instead draws a trend line using the data used by Mrs Braithwaite the result is a much lower figure (c776 jpa)²¹⁵. Third, the beginning and end dates used are essentially arbitrary. Mrs Braithwaite confirmed they were simply the earliest and latest dates for which there was information. If instead similar points in the economic cycle had been used (peaks or troughs), it is evident that Mrs Braithwaite’s average would have been much lower again.
145. In conclusion, it is evident that, but for the errors in each of the three methods on which Mrs Braithwaite relied, the appellant company would not have arrived at an OAN anywhere near as high as 1,370 dpa (and most likely would, in fact, have indicated one lower than that of the Council).
146. In fairness to the Dunsville Inspector, the evidence on which the Council has principally relied to demonstrate these flaws was not before her. However, the error into which she fell in the first (and apparently primary) reason she gave for preferring the appellant company’s OAN over that of the Council was one which was reasonably apparent on the evidence before her and which therefore she ought not to have made, namely that the Council’s Method 3 depended on assumptions about future EARs/ERs which were unrealistic

²¹⁴ Howick Proof - fig 3.3 p24.

²¹⁵ Howick Proof p23.

because they indicated Doncaster's rates would "continue to rise and eventually pass the national average".

147. This was demonstrably incorrect (and was conceded to be by the SofS in the recent High Court proceedings). As one can see from pp 75 and 78 of the HNA 2015 the Council made no such assumption. On the contrary, the two combinations of sensitivities which fed into its OAN in Method 3 assumed only that:

- Doncaster's ER for the 16-64 year group would reach the historic Doncaster 2004-2014 by 2032 + the ER for the 65+ year group would remain at its 2014 rate until 2019 then rise by 0.5% to the city region average thereafter (SENS-ER2/ERo2)
- Doncaster's ER for the 16-64 year group would reach the historic national 2004-2014 peak by 2032 + the ER for the 65+ year group would remain at its 2014 rate until 2019 then rise by 0.5% to the city region average thereafter (SENS-ER3/ERo2)

148. Given that these merely involved returning to an historic local peak (or an historic national peak) within a period of 15 years, having the general upward trend in Doncaster's ER, coupled with the efforts being made to improve education and employability in the area referred to in Mr Brown's evidence, all against the backdrop of the plan to boost employment and economic growth within the SCR, it is hard to see how, if Mrs Braithwaite had understood the position correctly, she could have reached the same conclusion.

149. In any event, the additional evidence on which the Council now relies provides substantial further support for its position which was not available at the time of the Dunsville Inquiry. For example:

- Experian's revised forecast – the data presented in Mrs Howick's table 3.2 shows that even the most optimistic assumptions regarding EARs in the Council's unused sensitivities (e.g. SENS-EAR4) suggested future EARs for Doncaster below those of Experian. Given the latter's status and reputation as one of the leading forecasting houses, this lends considerable credibility to Doncaster's more modest assumptions.
- Past trends projection if a true trend line is drawn based on the data used by Mrs Braithwaite in her 'past trends projection', suggests a level of future jobs growth just over half that suggested by Mrs Braithwaite and, if used to derive an OAN, would produce one lower than that of the Council²¹⁶.

- *Supply*

150. A 'base supply' of 7,784 is agreed between the parties. The only areas of significant disagreement relate to oversupply, windfalls and empty homes.

151. *Oversupply* - The Council's case is that there would have been an oversupply of 387 units in the first two years of the new emerging plan period. The Council submits that it is right to take this oversupply into account when calculating what residual supply is required for the next five years in the same way that any undersupply would be taken into account. Mr Hepburn disagrees

²¹⁶ Howick Proof 3.61 p23, i.e. 870 dpa.

and contends that there is no true equivalence since, whilst undersupply would be 'bad' and this ought to be addressed by upping the requirement in future years, oversupply is not and therefore there is no need to do so. This response misses the point. The point of the five-year requirement is simply to work out how much housing is needed to meet objectively assessed needs. If there is a source of supply (ie past oversupply) which is available to do so there is no logical reason why it should not be taken into account like any other source of supply. The question of whether oversupply is a bad/good/indifferent thing does not come into it. However, for the avoidance of doubt, it is important to bear in mind what was said by Sales LJ in *Gladman* regarding the Framework paragraph 47²¹⁷, namely that provided the supply meets the 'standard' set by that paragraph, the imperative to boost significantly the supply of housing in it has no further implications for decision-making (ie it is not encouraging the provision of more housing than is actually required to meet objectively assessed needs).

152. *Windfalls* - The difference between parties is whether the allowance should be 684 (Appellant) or 1,200 (Council). Mr Edwards explains the Council's position in detail at page 12 of his proof and page 13 of his rebuttal. The key points are in short:

- The Framework paragraph 70 states that the allowance should be "realistic" having regard to the evidence of availability, historic windfall delivery rates and expected future trends;
- Neither party makes any allowance for windfalls in the first two years of the five-year period to avoid potential double-counting;
- Windfalls in Doncaster have consistently averaged well over 400 dpa in the period since 1999, with relatively few points where it has dropped below that (and then only slightly);
- There is no reason not to expect this historic pattern to change significantly so as to make the higher allowance suggested by the Council at all unrealistic;
- Unlike the Council's position, the appellant company's is based on an essentially arbitrary percentage.

153. *Empty homes* - Again, this makes only a small difference (+60 dpa). However, since it is possible that it may make a difference to the outcome of the five-year supply calculation depending on what conclusion is reached on other matters it is necessary to address it.

154. In the Dunsville appeal Mrs Braithwaite objected to the Council's allowance for empty homes coming back into use on the basis that it was treated as a factor which reduced the 'need' for new housing whereas she contended that it was only relevant to supply. She did not, however, suggest there was any reason not to make an allowance for it in the supply calculation. In cross-examination Mr Brown explained that he had done so because he was considering the need for 'new' housing but that, since it made little difference which side of the equation it forms part of, he was content to treat it as a supply-side issue. The Dunsville Inspector agreed with Mrs Braithwaite that it

²¹⁷ *Gladman v Daventry DC*, para.40 per Sales LJ - CD5.25.

was irrelevant to housing need but also agreed that it was “relevant to housing supply”. However she did not then make an adjustment to the supply to take account of it when she came to that, and did not explain why she did not. It is unclear, therefore, whether this was a simple omission or whether she had particular reasons (which she did not express) for doing so.

155. In this case, the only objection raised to doing so is in Mr Hepburn’s rebuttal where, whilst he does not dispute that it can be made in principle, he states that it has not been properly evidenced. However, at paragraph 67 of his written evidence, and again in his oral evidence, Mr Brown explained that the Council had considered the past record of empty homes coming back into use in arriving at the 60 dpa figure and referred to a number of initiatives approved as part of the Council’s Housing and Empty Homes Strategies. Accordingly, it is clear that the Council’s expectation that at least 60 dpa will come back into use is realistic and robust.

- *Buffer*

156. It is not in dispute that the CS requirement was not met over a number of years. That is insufficient in itself to justify the application of a 20% buffer. Rather, the question is whether that demonstrates a *persistent* record of under-delivery, ie one that is likely to continue so that, without a 20% buffer, there is no realistic chance that the required supply will be provided.

157. The answer to this is dependent on whether or not the Council’s OAN is accepted. If it is, it follows that the Council has oversupplied against that in the first two years of the new emerging plan period. Furthermore, having regard to the very healthy supply that would exist on that basis, there would clearly be more than a realistic prospect of the required supply being provided in the future. Consequently, since the only purpose of applying a 20% buffer is to ensure that there is such a “realistic prospect” of the required supply being delivered, there would be no warrant for the higher buffer in those circumstances. Mr Hepburn’s approach of only looking backwards is wrong. The point of the buffer is to look back, but only to judge what is necessary to achieve what is required moving forward.

Development in the Countryside

- *UDP Policy ENV 4: CPA*

158. The development is located in the open countryside to the east of Edenthorpe within the area designated as CPA in the UDP²¹⁸. UDP Policy ENV 4 provides that, within the CPA, development will not normally be permitted for purposes other than those specifically listed, which are considered appropriate to a countryside location. It is common ground that the appeal proposals – comprising, as they do, a large scale new housing estate – do not fall within any of those purposes and, consequently, are in conflict with this policy.

159. UDP Policy ENV 4 is the sort of policy which is found in development plans up and down the country. Furthermore, it is accepted that the mere fact that

²¹⁸ Policy ENV 2 - CD3.1 and Proposals Map - CD3.2.

it was adopted some time ago does not, of itself render it out-of-date or inconsistent with the Framework²¹⁹. Nevertheless the appellant company contends that its approach to development in the countryside is inconsistent with the approach to such development required by the Framework. This, however, is incorrect.

160. The Framework sets out that planning should recognise the intrinsic character and beauty of the countryside²²⁰. Although the Framework does not elaborate further on the meaning or effect of the principle, it is clear that it applies to the countryside in general. This is signalled by the use of the expression “intrinsic” (i.e. belonging to it by its very nature as countryside) and is confirmed by the PPG which explicitly states that it applies to the “wider countryside”²²¹.
161. Furthermore, it is clear that the principle is not inconsistent with policies which seek to protect and strictly control development in the countryside. This is clear, firstly, from the PPG which specifically states that “local plans should include strategic policies for the conservation and enhancement of the natural environment, including... the wider countryside”. Secondly, case law shows that there is nothing obviously or intrinsically inconsistent with policies that apply “strict control” over development in the countryside outside settlement limits. Arguments to that effect were firmly rejected by the Court of Appeal in *Daventry*²²² and are also inconsistent with *East Staffs BC v SSCLG and Barwood Land*²²³. In that case, a development was found to be contrary to the development plan due to conflict with a policy (SP8) which also imposed similar “strict control” over new development in the countryside outside settlement limits. Not only was that policy deemed Framework compliant by the local planning authority and the Inspector who, respectively, adopted and examined the East Staffordshire Local Plan, but neither the Inspector who considered its application in the context of the appeal leading to the court proceedings, nor any of the parties or judges in those proceedings, considered it to be inconsistent with the Framework either. Whilst there is at least one case²²⁴ that arguably goes the other way, firstly, it is a High Court decision (whereas *Daventry* and *East Staffs* are Court of Appeal), second, the judge’s attention does not appear to have been drawn to *Daventry* (her judgment also pre-dated *East Staffs*) and, thirdly, in any event her finding was merely that an Inspector had been entitled to find that a policy of strict control in that case was inconsistent with the Framework, not that decision-makers are legally bound to regard them as such in all cases.
162. The weight to be given to such a policy may, of course, be reduced for reasons other than intrinsic inconsistency with the Framework. In particular, it may be appropriate to give reduced weight in a case where a local planning authority cannot demonstrate a five-year supply in accordance with

²¹⁹ See also *Gladman v Daventry DC*, para.40 per Sales LJ - CD5.25.

²²⁰ Framework para 170 b).

²²¹ PPG reference ID: 8-001-2014030, cf. Framework para.170 “valued landscapes”.

²²² Paras 11 and 42 per Sales LJ (CD5.25) discussing a policy (HS24) which was older and, if anything, more restrictive than UDP Policy ENV 4 in this case.

²²³ CD5.28. See paras.26 and 42.

²²⁴ *Telford and Wrekin BC v SSCLG* (CD5.22).

Framework paragraphs 67 and 73 (and it is shown that the development of greenfield countryside sites is necessary to address the shortfall). Although the Supreme Court has recently confirmed that policies such as UDP Policies ENV 4 are not to be regarded as “relevant policies for the supply of housing” (and thus are not deemed to be “out-of-date” in the event of a shortfall in the five-year supply), it is clear that this does not mean that the need to release land in order to boost supply cannot still be regarded as a good reason to give them less weight²²⁵. However, this is simply not such a case. The Council has a very healthy supply of housing land, more than sufficient to meet the requirements of both the Framework and its own CS.

163. Consequently, this case falls into the same category as cases such as *Daventry* and *East Staffs* in which policies of strict control were properly given full weight²²⁶, rather than ones such as *Hopkins Homes* where the lack of a five-year supply was held to entitle Inspectors to give reduced weight to relevant policies, whether or not they were strictly “for the supply of housing”.

164. It is acknowledged, of course, that the Dunsville Inspector came to a different conclusion in this respect. However, for the reasons set out above it is respectfully submitted that she was clearly wrong to do so. The appellant company has sought to suggest that the consent order in the s.288 proceedings somehow undermines the Council’s argument that the Inspector was wrong to do so. This is completely misconceived. Firstly, because the lack of reference to this issue in the consent order does not imply that the Council agreed that the Inspector did not err in law in this respect. Second, because in any event, even if she did not err in law, it does not follow that it was right as a matter of planning judgment to reach that conclusion. On the contrary, her conclusion was flatly inconsistent with the approach taken by Inspectors and Judges in other cases.

165. Another reason given by the Dunsville Inspector for reducing the weight she gave to the conflict with UDP Policy ENV 4 in that case was that she felt that there was a tension between ENV 4 and CS Policy CS3 which, since CS3 was more up-to-date (and was not held by her to be inconsistent with the Framework) and that it should be resolved in favour of CS3. However, this was based on a misunderstanding of Policy CS3 and its relationship to the Growth and Regional Strategy (GRS) in CS Policy CS2, as explained below.

- *CS Policy CS3*

166. The overarching purpose of CS Policy CS3, like UDP Policy ENV 4, is to ensure that the countryside is “protected and enhanced” having regard to the principles set out. It is agreed that those in part A) of the policy are not relevant (since they relate to the Green Belt). However, the parties disagree over which in parts B) and C) are relevant.

167. The appellant company’s argument that part B) 1 is engaged and that the proposed development complies with it is wrong. Part B) 1 is expressly

²²⁵ *Hopkins Homes et al v SSCLG*.

²²⁶ See footnote 18 of Inquiry Doc 34 Council’s Closing Submissions.

concerned with plan-making (ie allocations), not decision-taking, and thus an application can neither comply nor conflict with it²²⁷. Furthermore, its purpose is to impose tight control over the extent of development in the countryside (ie “new urban extension allocations will be confined to those necessary to deliver the GRS” and otherwise only rather than, as the appellant company has suggested, to present a very “positive” framework for such development).

168. The Council accepts, however, that this does not mean that any need for development to deliver the GRS is necessarily irrelevant in the context of a planning application, it is just that it is not relevant to determining whether proposals comply with Policy CS3 or not (ie if a site is needed to deliver the GRS, this may be a material consideration to balance against conflict with the plan²²⁸). However, even on this basis, there is no reason to conclude that the appeal proposals are necessary to deliver that strategy. In particular:

- Policy CS2 sets out an “indicative housing allocation” for the MUA of 9,225-11,808.
- In order to be “necessary” to deliver the GRS for the MUA therefore one could say a minimum of 9,225 homes should be delivered (nb the appellant company’s submission that “necessary” to deliver the GRS in Policy CS3 means simply “consistent with Policy CS2” is wrong: any scheme for development in the MUA would be consistent with Policy CS2, given it is the “main focus for growth...”. Consistency and necessity are entirely different things).
- This, however relates to the whole plan period, ie to 2028, which is still 11 years away (at the time of the inquiry).
- The evidence of Mr. Edwards²²⁹, which is not challenged in this respect, is that:
 - 7,031 new homes have been permitted already
 - 2,080 of those had been completed by the start of the Inquiry
 - 4,377 of those not completed still have permission
 - 3,938 of those not completed but still with permission are considered deliverable within five years
 - A further 1,535 units are deliverable within five years on land without permission
- Therefore, the MUA total of completions plus sites within the five-year supply = 7,553 (ie 2,080 + 3,938 + 1,535).
- On top of this, Mr. Edwards identifies around another 12,000 units on land identified as developable from the HEELA. Mr. Hepburn takes issue with most of this supply and reduces it to 2,242.

²²⁷ Mr. Hepburn appeared to accept that the proposed development would not conflict with B) 1 even if, as the Council believe, there is no need for it to be released to achieve the GRS in Policy CS2. However, he nevertheless maintained that the proposal complied with it because, in his view, there is such a need. However, it makes no sense to say that a policy can be complied with if it is impossible to conflict with it. The possibility of both must exist if a policy is to function as any kind of yardstick to judge development proposals.

²²⁸ This is consistent with the approach taken in the officer report: Whilst the proposal is not in conformity with CS Policy CS3, which seeks to protect Doncaster’s countryside, Part B does support new urban extension allocations within the Countryside Policy Protection Area.

²²⁹ Mr. Edwards POE §7.

- However, this takes the total supply to 9,795, which is over the minimum required in the GRS under Policy CS2.
- Consequently, even with 11 years still to run on the CS plan period, more than sufficient land has already been identified even on the basis of Mr. Hepburn's own evidence to deliver the GRS for the MUA (in respect of its housing ambitions).
- Furthermore, whatever doubt there is about the timescale of the emerging Local Plan, it is altogether implausible to think that the new plan will not have been adopted several years ahead of the expiry of the Core Strategy period. Consequently, since that will allow for sites e.g. in the Green Belt to be removed from it, it is not unreasonable to expect that such land is likely to be a source of supply in future, before the end of the Core Strategy period.
- Whilst it is true that there may not be certainty that all of the sites identified will come forward or deliver at the rate expected, that is no different from the position with respect to the five-year supply which only requires that there be a "realistic prospect" of development within five years. It would be absurd to require more certainty in respect of sites in the portion of the housing supply which is required to meet the GRS for the MUA in the Core Strategy than is required by the Framework for housing supply generally.
- The test cannot be, in particular, "certainty" (which was the test applied by the Dunsville Inspector). If that were, then it would be impossible to argue that additional permissions in the countryside around the MUA are unnecessary until nearly all the required units have actually been built – to the obvious and great detriment of the countryside since there would then be a huge stockpile of permissions far in excess of the required amount of housing. Furthermore, CS Policy CS3 part B) 1 expressly sought to "confine" new allocations to the minimum necessary to deliver the GRS. It is fundamentally inconsistent with that to suggest that one should not merely allocate, but grant permission for, a number well in excess of that.

169. The appellant company's position regarding the applicability of part B)1 of CS Policy CS3 also sit ill with its position on part C) which, it claims, can have no application until such time as new allocations have been made, ie the appellant company is claiming that a provision which expressly relates to allocations can be applied instead to applications before any allocations are made but that a set of provisions which expressly related to applications (ie sites outside allocations) cannot be applied in the same circumstances.

170. In any event, however, this is not a position any decision-maker who has ever considered the application of Policy CS3 has ever agreed with. It is contrary to the position taken by the Dunsville Inspector who accepted that there was conflict with part C) of Policy CS3²³⁰, the position of the Inspector

²³⁰ See Dunsville decision para.69 (CD4.6). Mr. Hepburn raised the possibility in cross-examination that the inspector may only have been recording agreement that there "would" be conflict – if Policy CS3 part C) applied. However, this is a misreading of the decision. The developer's planning witness in that conceded in cross-examination in that part C) did apply and that is what the Inspector was referring to – see Council's closing submissions para.9 (CD10.21).

and the SofS in the Lazarus appeal²³¹ and the position of the Council's planning officers who advised that the proposal would conflict with Policy CS3, as well as UDP Policy ENV 4, and was therefore a departure from the plan notwithstanding their recommendation ('on balance') to approve²³².

- *CPPA*

171. Initially the appellant company's position was that the CPPA as such does not yet exist as its boundaries have not been precisely defined in the policies map. However, not only was this contrary to the conclusions of the Dunsville Inspector who found that, despite this, the indication of its general extent on the Key Diagram was sufficient for the relevant parts of Policy CS3 which refer to it to be applied, but it was also inconsistent with the approach taken to the York Green Belt in the appeal decision referred to by Mr. Hepburn, in which, in reasonably similar circumstances it appears, an Inspector adopted the earlier view of the SofS that the relevant policies in that case could be applied.

172. In view of this, Mr. Hepburn conceded that the same applies here. Accordingly, there is now no disagreement on this point.

- *Conclusion on development in the countryside*

173. UDP Policy ENV 4 and CS Policy CS3 are highly relevant to the proposal and, as Mr. Hepburn accepted in cross-examination, critically important policies in the context of the development plan as a whole, both in terms of their application to a wide geographical area and their comprehensive coverage of different forms of development. Consequently, it is difficult to see how any proposal which conflicts with them in any significant way could be regarded as nevertheless conforming to the development plan as a whole.

174. Here, the nature, scale and location of the development means that there is obviously significant conflict with both policies. Furthermore, the development would manifestly appear as isolated and disconnected from the settlement to which it purports to be a sustainable urban extension.

175. In addition, there is no reason to reduce the weight to either of the policies cited in the first reason for refusal, or the conflict with them, on account of inconsistency with the Framework, lack of a five-year supply, or tension between them.

Green Wedge

176. There is a fundamental dispute between the parties over two key matters. Firstly, whether green wedges (GWs) have in fact been identified and thus whether the relevant parts of CS Policies CS3 and CS17, which refer to them, can be applied. Second, if so, whether the CS is permissive, in principle at least, of development within GWs, not only in the case of allocations, but also unallocated sites.

²³¹ CD4.2 DL8-10, IR113.

²³² Officer report, §§1.1, 8.5 and 9.2 "the proposal is not in conformity with CS3".

177. On the first point, the CS made clear that GWs would be identified²³³ but it did not prescribe how. In particular, it did not *require* them to be identified in a DPD (although, that was the expectation originally – see the Green Wedge Study²³⁴). Following the abandonment of the DPD process, the Council's Development Guidance and Requirements SPD went through the statutory procedures and was adopted. This document plainly does identify specific areas as GWs (p 81).
178. The appellant company, however, disputes that this was the intention or is the effect of the SPD, and argues that what is shown is merely indicative potential future areas for GWs. However, that is not the case. The SPD refers to them as *being* GWs and they are "described in detail" (p 79). Furthermore, the fact that those shown in the SPD differ from those originally proposed in the Green Wedge Study demonstrates that they were not simply taken from the latter document in order to illustrate potential locations for them but rather were the result of specific deliberation and choice.
179. The appellant company further contends that it would have been unlawful for the SPD to perform the role of identifying GWs. The appellant company has not spelt out the details of its argument in this regard. However, so far as it is understood, it appears that what is being suggested is that, since a SPD is defined by the 2012 Regulations as "any document of a description referred to in regulation 5 (except an adopted policies map or a statement of community involvement) which is not a local plan", it can only contain statements of the description in r 5(1)(a)(iii) (ie concerning environmental, social, design and economic objectives)²³⁵. This, however, is a misreading of the Regulations. Whilst it is true that a document is not a SPD unless it contains statements of that nature, and conversely cannot contain statements of a nature that would make it a local plan (ie those in r 5(a)(i), (ii) or (iv) such as ones which make allocations or concern the development or use of land), it does not follow that it cannot contain other kinds of statement or perform other functions. Indeed, SPDs frequently do contain other sorts of statement and also perform other functions apart from making statements. Equally, the fact that the definition of a SPD distinguishes them from policies maps does not mean that they cannot identify areas to which policies in the development plan apply. It merely means that, if a document is a policies map, it is not a SPD. A SPD, however, may still do some things a policies map might do without necessarily becoming a policies map (see r 9, which provides for what constitutes a policies map).
180. On the second point, it is plain that both CS Policies CS3 and CS17 seek the retention and enhancement of GWs. Whilst the CS makes clear that, where there are allocations overlaying GWs, development can occur (subject to an extensive buffer, maintaining adequate separation etc), it also makes clear that if land falls within both a GW and CPPA development will be ruled out (para 6.18). Therefore, given that the appellant company now accepts that the CPPA does exist and, given that this site clearly falls within the general

²³³ CD.34 para.6.27.

²³⁴ CD3.36.

²³⁵ Town and Country Planning (Local Planning) (England) Regulations 2012, r 2(1).

extent of it illustrated on the Key Diagram that inevitably means that this proposal contravenes the relevant policies in the plan.

181. However, even if it were not the case, the scale of the loss of GW here is so substantial that the same result would ensue. In particular, the effect of the development will be to reduce the separation between Armthorpe and Edenthorpe to roughly the same distance as will exist between the proposed development and the western edge of Edenthorpe's existing urban edge on Mere Lane. However, whereas the appellant company says the former will be more than satisfactory to prevent a perception of coalescence, the latter will be close enough that the proposed development will not appear isolated or disconnected. The appellant company's position is therefore self-contradictory.
182. It is also to be noted that the Armthorpe NP examiner specifically recommended that the proposed GW for Armthorpe was unnecessary and should be dealt with on basis of there being a significant GW to the north (ie the one shown on p.81 of the SPD). Not only does this imply that the SPD does identify GWs but also that the Armthorpe allocations were approved by him specifically on the assumption that the appeal site would remain undeveloped. Conversely, since the Armthorpe sites have now been approved, this proposal has to be considered in light of its cumulative effect together with the development permitted on those sites.

Accessibility/sustainable location

183. The national policy position is clear, and was agreed with Mr. Wooliscroft in cross-examination. In order to be sustainable, a development of this scale must not just allow for the use of sustainable transport modes but provide a real choice and be located where their use can be maximised.
184. In the Council's submission, the proposed development would singularly fail to do this. Not only because of the distances to various primary destinations but also, importantly, because of the nature and character of the routes.
185. As regards distances, it was agreed with Mr. Wooliscroft that (as is evident from his and Mr. Goodall's tables) a number of primary destinations lie outside the preferred maximum distances in the IHT and/or walking times in the South Yorkshire Residential Design Guide (SYRG) whilst, even in the case of those that fall within them, they are virtually at or very close to the limit. Furthermore, if the lower 'acceptable' distances in the IHT are (as the Council suggest is appropriate having regard in particular to the nature and character of the route) the more appropriate standard for this site, then almost all of them fall outside them.
186. As regards the nature and character of the routes, it is clear that the site will be disconnected from Edenthorpe and the routes to the majority of the nearest primary services there would involve a convoluted and unattractive route (particularly for those living in the northern part of the site).
187. Similarly, whilst the proposed extension of the 76/76A bus service would plainly be of benefit in terms to trips into/from Doncaster, it will do nothing to improve accessibility to those services which will, therefore, remain poor, and thus well below the standard expected in the case of large sites such as this by the Framework.

Loss of agricultural land

188. Framework paragraph 112, along with CS Policy CS18, seek to avoid the loss of Best Most Versatile Agricultural Land unless it is necessary. Therefore, unless it is concluded that the release of the site is necessary either to achieve a five-year supply or to deliver the GRS for the MUA, this represents a further reason why permission should not be granted.

Revisions to the Council's case following the issuing of the Revised Framework (July 2018)²³⁶

189. The appropriate way to assess housing need is now by using the new standard method. Paragraph 73 of the Framework states explicitly that the required 5 year supply is to be assessed by reference to the Council's adopted housing requirement or "their local housing need" where the requirement is more than 5 years old, as is the case here. Paragraph 60 of the Framework makes clear that, even in the context of plan-making, assessments of "local housing need" are to be conducted by reference to the standard method unless exceptional circumstances justify an alternative approach. To look beyond the figure produced by the standard method to determine whether or not this, or some other number, should be the housing requirement is not part of the job of the decision-maker in a Section 78 appeal. The fact that the figure produced by the standard method is described as representing the "minimum number of homes needed" (paragraph 60 of the Framework) does not mean that the need may actually be higher. The "minimum number of homes needed" expressed by that figure simply is *the local housing need*.

190. The Council's assessment of its local housing need using the new standard method is 585 dwellings per annum (ie 2,925 in total over five years);

- Projected growth: 548 dpa
- Market signals (affordability) adjustment = 1.68%
- Housing need = $548 \times 1.068\% = 585$ dpa
- 585×5 years = 2,925

191. Therefore, even if a 20% buffer is applied, and even on the appellant company's own assessment of the supply, it would be sufficient to provide more than 11 years' worth of the housing required (ie $7,784$ divided by $(585 + 20\% = 702) = 11.1$).

192. Further, even if, following the review of the standard method, the Council's need were to *double*, the appellant company's assessment of the supply would still be sufficient to provide over 5 years' worth of the required housing including a 20% buffer (ie $585 \times 2 + 20\% \times 5$ years = 7,020).

193. However, paragraph 73 of the Framework states that a 20% buffer should only be applied where there has been significant under delivery of housing over the previous three years. The evidence to the Inquiry showed that there had been significant *over*-delivery over the preceding three years (ie 881 in 2014/15, 1,025 in 2015/16 and 1,049 in 2016/17, significantly above 585).

²³⁶ Inquiry Docs 38 & 41.

Furthermore, the completions data for the latest year (ending March 2018), although not yet finalised in accordance with the RLA methodology, shows a similar surplus (the Council's figure for 2017/18 is 1,173).

194. Accordingly, it is clear that the appropriate buffer is 5% and therefore the supply is even greater than already indicated.
195. The Council disputes the appellant company's position on the base supply that it should be reduced from 7,784 to 6,381. That notwithstanding, the Council consider that even if the lower figure of 6,381 were applied it would represent 10 years' worth of the required supply with a 5% buffer or more than 9 years' worth with a 20% buffer. It does not then actually matter even if the appellant company was right on the deliverable supply as the new lower figure would still provide well in excess of the required 5 year supply.
196. Framework paragraph 72 states that the supply of large numbers of new homes can often be best achieved by planning for larger scale development. However, firstly, this clearly refers to *plan-making* (ie allocations) and therefore does not support *windfall* applications such as this which are in conflict with an adopted plan. Secondly, in any event, it is subject to the proviso that the development must be well located and have good access. Therefore, it is this standard by which the accessibility of the site should be judged (ie it would be illogical to apply a lower standard in determining an application than would be applied if the site were being considered in the course of plan-making). Consequently, it is not sufficient for the appellant company to show that the site would merely be acceptable in terms of access to local services etc. In the Council's submission, given the disconnection between the site and Edenthorpe, the fact that many services lie outside even the preferred maximum guidelines distances and the convoluted and unattractive character of the route to them, the site plainly cannot be said to be well located or have good access.

The Case for the Edenthorpe Parish Council (Rule 6 party)²³⁷

197. The main areas of disagreement with the appellant company and where there is agreement with the Council, are the status of policy; the status of green wedge and the impact on it, including the green infrastructure offer; and the accessibility of the site.

Policy

198. The proposal must be judged against CS Policy CS3 C)²³⁸, since it is in the CPPA and is not an allocated site. This also means that:

- CS3 B) does not apply;
- The provisions of CS paragraph 6.28 do not apply, because they pertain solely to situations where development *allocations* overlay a green wedge.

²³⁷ Based on the Closing Statement of the Edenthorpe Parish Council Inquiry Doc 35 and Inquiry Doc 37 Additional submissions on Revised Framework.

²³⁸ CD3.6 page 33.

Whilst issues of housing supply in the Borough may impact on the weight to be given to some policies, the policies themselves cannot change their meaning or relevance.

199. The two Armthorpe decisions (east²³⁹ and west of Hatfield Lane) and the decision at Westminster Drive, Dunsville²⁴⁰, are not comparable with the appeal scheme:
- the Dunsville scheme is much smaller and fulfills a different role with respect to the settlement hierarchy;
 - the two Armthorpe schemes are consistent with the Armthorpe Neighbourhood Plan (ANP), which is now at a late stage in preparation and has been shown by these decisions to carry weight.
200. The Draft ANP Examiner's Report (30 Aug 2017)²⁴¹ supports the interpretation of the status of relevant policies in that:
- the statutory development plan currently comprises the Core Strategy and the saved UDP policies and the UDP proposals map (plus the joint waste plan);
 - the UDP saved policies and proposals map remain material considerations;
 - the Development Guidelines SPD, whilst not a development management document in its own right, is also a material consideration.²⁴²
201. The Wynn-Williams High Court judgement (EWHC3374 - para 17)²⁴³ confirms that *"the NPPF is a material consideration (albeit an important one)"*. The Framework paragraph 48 requires local authorities to assess their policies for consistency with the Framework but it remains for the decision-maker in each case to determine the weight to give to the Framework itself and to other material considerations in relation to the Development Plan policies²⁴⁴. In this case CS Policy CS3 C) has full application.

Green Wedge

202. The DANP Examiner's Report at paragraphs 5.74 and 5.75 relies upon the protection afforded to sites by CS Policy CS3 C), and upon the existence of the identified green wedge which covers the appeal site as defined in the Development Guidelines SPD, to support and complement the policies and site allocations of the DANP. The DANP Report, paragraph 5.83, sets out that the Armthorpe elements of the green wedge are identified in the DANP on the explicit understanding that the remainder of the green wedge has been identified by the Development Guidelines SPD.

²³⁹ CD4.2.

²⁴⁰ CD4.6.

²⁴¹ CD6.8.

²⁴² All accepted by Mr Hepburn in cross-examination.

²⁴³ Inquiry Doc 29.

²⁴⁴ Points accepted by Mr Hepburn.

203. The DANP Examiner, paragraph 5.199, also draws on the proposals map from the withdrawn S&PDPD to show the relationship between the elements of green wedge identified within the DANP, and the adjacent elements of the green wedge outside the DANP. This supports the promoted approach that although the S&PDPD has been withdrawn, the evidence base behind that DPD does not cease to exist.
204. Any evidence base is constantly evolving and simultaneously informs a range of documents and decisions, so the withdrawal of one of those documents cannot realistically render that evidence base out-of-date or meaningless without also voiding all the other documents that it informs. Further a neighbourhood plan can only directly shape policies and decisions within its boundaries, but it is entitled to rely upon the available evidence from the rest of the Borough, especially those areas immediately outside its boundaries.
205. In short, it is quite likely that the DANP Examiner may have reached different conclusions about the green wedge elements of the DANP, if he had had doubts about the robustness of the evidence for the status and extent of the green wedge immediately outside the DANP boundary, including the appeal site. Therefore, the DANP gives weight to the green wedge status of the appeal site.

Green Infrastructure

206. The appellant company²⁴⁵ cited the green infrastructure provision in the appeal scheme as a mitigation within the terms of CS para 6.28²⁴⁶, with the provisions being complementary to that in the adjacent Armthorpe development. The notion of new woodland planting to create a contiguous woodland from Long Plantation to Shaw Wood was also raised.
207. This is a flawed approach as the provisions of CS paragraph 6.28 do not apply to non-allocated sites, and therefore mitigation measures do not come into play. Further the combination of the appeal scheme and the approved Armthorpe scheme only amount to a narrow band of trees either side of the A630, not a woodland. In addition, there is no basis for implementation, because the appeal scheme's green infrastructure plan is only indicative, and there are no proposals as part of this appeal to make the approval of this outline application conditional on the full implementation of that plan. This leads to the fear that the green infrastructure plan is just window dressing.
208. The appellant company²⁴⁷ presented the A630 road as a major physical and visual barrier that would prevent the coalescence of Armthorpe and Edenthorpe, with the additional help of a landscape buffer on either side of the road. Conversely the appellant company considered there was no problem with the remaining, vastly-reduced green wedge being cut in two by a very busy road that can only be safely crossed through a tunnel. This seems a

²⁴⁵ Mr Coles in evidence.

²⁴⁶ CD3.4 page 82.

²⁴⁷ Mr Coles in evidence.

perverse contradiction. The enjoyment of such open spaces so close to a major road would be impossible, particularly taking into account air quality.

Accessibility

209. There has been no assessment of the proportion of all journeys generated by the development that would be expected to be by non-car modes. If the scheme is to be regarded as a 'sustainable urban extension' of the main urban area, then it would be expected to be significantly more walkable, and significantly more characterised by non-car journeys, than would be the case for a development that did not make this claim.
210. The walking distances associated with the development are approximately double the 800m catchment that characterises 'walkable neighbourhoods' (as per CIHT's *Planning for Walking*²⁴⁸ and the *Manual for Streets*²⁴⁹). However, it is not just about distances. Pedestrian access arrangements for the site would tend to deter journeys by foot as a modal choice compared to journeys by car.
211. The following points are matters of disagreement with the position of the Council who do not take issue in these matters, aspects of highways impacts; the primary school land; and affordable housing.

Highway impacts

212. It is undesirable to have a single point of vehicular access. This scheme would introduce a residential development accessing directly onto a motorway link road, and that would change the nature of the highway from a motorway link road into a radial artery *within* the main urban, residential area. This would not be an acceptable highways arrangement.
213. There are no plans for the A630 to have a reduced speed limit or surface pedestrian crossings, as would characterise a residential artery. This is despite the prospect of having a new primary school on at least one side of the road, if not both. This would mean that either the characteristics of the A630 would be transformed to make it a slow, calm street that is safe and comfortable for pedestrians to cross and to walk alongside or that the appeal scheme must be found unacceptable in terms of its accessibility and relationship to the highway. The latter scenario is the most likely in the circumstances of this appeal.

School Land

214. Land is offered for a primary school within the appeal site, as a community benefit to be secured under a S106 agreement, even though the school would be immediately adjacent to the busy A630 and accessed directly from it. This has clear potential impacts on road safety and childrens' safety that have not been assessed. It is for these reasons that the school on this land is considered to be unacceptable in planning terms in its own right, and cannot

²⁴⁸ CD6.2.

²⁴⁹ CD6.3.

therefore be offered as a legitimate community benefit under a S106 agreement.

Affordable housing

215. Affordable housing in the Borough is considered to be of the highest priority, in terms of community needs. The reduction of the full requirement for affordable provision of 26% down to only 10%, on viability grounds, which the appellant company justifies on the basis of the financial contribution to the West Moor Link Road project (WMLR) is strongly opposed. Whilst the level of contribution to the WMLR project has been agreed between the appellant company and the Council, it is not accepted as being sufficient to warrant a reduction in the level of affordable housing.
216. The WMLR project is not financially dependent on the appeal scheme. The potential benefits of the WMLR project have been substantially overstated in the SCRIF bid, since it suggested that approximately double the number of homes might result from the project than seem likely to be built even if the appeal scheme goes ahead²⁵⁰.
217. The business case for the WMLR project seems much weaker than the SCRIF bid suggests, which further weakens the justification for the appeal scheme to contribute to it.
218. The adjacent scheme in Armthorpe has been approved on the basis of a full 26% affordable housing contribution, and a significantly smaller WMLR contribution. It is not clear if a reduced WMLR contribution was sought that this might lead to more affordable housing on the scheme.
219. This situation does nothing to re-assure the community that a good outcome can be achieved for Edenthorpe in the event that the appeal scheme goes ahead.

Conclusion

220. The appellant company has sought to justify this scheme on the basis of a policy interpretation that confounds logic, and runs exactly opposite to the spirit and meaning of Doncaster's planning policies. If approved, the appeal scheme would create a development that would prioritise drivers over pedestrians, and highway engineering over affordable housing. It is inconceivable that such a form of development could be considered to constitute a sustainable urban extension and the appeal should be dismissed.
221. Framework paragraph 7 reaffirms that the purpose of the planning system is to contribute to the achievement of sustainable development. The appeal scheme cannot be realistically considered to represent sustainable development for the reasons set out above. The scheme should therefore be dismissed on the basis of paragraph 11 d) ii of the Framework "adverse impacts...would significantly and demonstrably outweigh the benefits". The

²⁵⁰ Wooliscroft proof Appendix 34.

proposal would fail to achieve healthy, inclusive and safe places without the provision of social, recreational and cultural facilities and services the community needs²⁵¹. Further this significant development would not be focused on a location which is or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes²⁵².

Third parties who addressed the Inquiry

*Paul Bissett – local resident*²⁵³

222. Edenthorpe is one of three 'garden villages' which provided Pilkingtons Glass Factory with a workforce. With recent infill and a possible further 2,500 houses²⁵⁴ increasingly the village is losing its character. Coalescence with Armthorpe is a real danger. The Armthorpe Neighbourhood Plan (ANP) has been examined and the report received. Planning permission has been sought for the ANP northern allocations between the existing edge of the village and the A630 (south of the appeal site) thereby reducing the gap between the two villages.

223. Edenthorpe is already deficient in green open space and the proposal of such a size²⁵⁵ would remove the only remaining access to open green space where villagers can walk in the countryside with their children and dogs. This proposal will form part of an urban sprawl of housing and commercial development within the green corridor out to the M18. The proposal will not enhance the area but destroy it.

224. It is an isolated housing site to the main part of Edenthorpe, without any vehicular link to the village. There would be an intended bus service but this will not be used to access the village or one of the nearby supermarkets. The site can only be accessed by car via the A630 which is a busy main route into and out of Doncaster and is heavily trafficked at peak times with congestion in the vicinity of the Sainsbury's supermarket. With large housing developments already committed this will just add to the congestion which already exists.

225. The new school would be built close to the A630 with associated problems of access at the start and end of school. Children would also be exposed to increased air pollution due to the proximity of the road. Some children would use local schools. They would have to walk and the distance and safety would not be conducive to encouraging this, so more car journeys are likely to be the result.

226. Edenthorpe currently has a clearly defined built edge along Mere Lane which avoids any coalescence with Armthorpe. This proposal would unacceptably harm the character of village life into the future.

*Patricia Cooney – local resident*²⁵⁶

²⁵¹ Framework paras 91 & 92.

²⁵² Framework para 103.

²⁵³ Inquiry Doc 6.

²⁵⁴ List of sites.

²⁵⁵ Approximately one third of the size of the existing village.

²⁵⁶ Inquiry Doc 7.

227. This is the last field in Edenthorpe and adjacent to already over built communities. It provides the last area for protected birds and animals in the vicinity. The proximity of the motorway network along with the additional traffic from the development would cause further issues relating to air quality. Further there is no capacity in the local schools and doctors to support such a large development. Brown field sites are abundant in Doncaster and housing should be built on these sites not on productive agricultural land. CPA restricts using farmland for residential development, a policy criteria which is being adhered to.

David Nevett – Ward member of Doncaster Borough Council for Edenthorpe and Kirk Sandall²⁵⁷

228. The proposal will never form part of Edenthorpe. The settlement is deemed to fall within the MUA. This is incorrect as residents perceive it as part of a village in its own right. The site is within CPA which offers protection to the countryside. The Councillor agrees with the points made by the CPRE/Parish Council above. The village already has to suffer traffic along the A18 with daily tailbacks spreading out into the wider local road network. Traffic from the proposal will add to this congestion. The main road from the M18 into Doncaster is single carriageway and the proposed roundabout will slow the flow of traffic further. Other sites in the vicinity could equally accommodate the number of houses proposed as should be considered before the appeal site.

229. In respect of accessibility it is reasonable to expect future residents to walk up to 400 metres to services. There are no services within 400 metres. It is likely therefore, that residents will drive to the services in the village merely adding to congestion especially during peak times. The surrounding bridleway means, other than the access onto the A630 which is isolated to the village, there is no other vehicular access into Edenthorpe.

230. The appeal proposal would be an imposition on an attractive, popular and well-loved village. It would erode the countryside between Edenthorpe and Armthorpe and create coalescence adding to the creeping urban sprawl on productive farmland. It would swamp the village and alter its character. It would not support the health and well-being of existing residents. It would ruin the green space and intrude into the open views from the children's play space across to the woodland.

Dr M A Griffiths – local resident²⁵⁸

231. This is the wrong development on the wrong site. It is isolated from the community services such as education, medical, retail and infrastructure such as gas, waste and surface-water disposal. Access would need to be via the A630. There is no evidence submitted that the services in the locality could support the future residents of the new development. The proposal involves the connection to a low pressure water supply which will reduce pressure to existing users. The disposal of waste water is to be via an extension of the existing residential network. This is nearing capacity and cannot cope with this

²⁵⁷ Inquiry Doc 8.

²⁵⁸ Inquiry Doc 10.

number of additional houses. For surface water disposal drainage ponds are to be utilised. This is a ridiculous means of disposal. In reality water will track westward and add to flood risk on the Fieldside Estate where the drainage system is inadequate. Residents do not want any additional flooding risk.

232. Due to the site's isolation some form of community focus would be required. The Community Park would include overflow ponds which in wet periods would render the open space useless. Such community isolated developments would lead to anti-social behaviour which would spread to neighbouring areas. Further studies show that developments close to major roads result in poorer health outcomes and reduced longevity.

Andrea Robinson - Ward member of Doncaster Borough Council for Edenthorpe and Kirk Sandall²⁵⁹

233. The appeal proposal will create disconnected, disruptive and dismal urban sprawl. The disconnect arises as there is no direct vehicular access from the village of Edenthorpe and facilities within the community. Future residents will have to drive out of the one access point and round four sides of a square to get back to Edenthorpe or Kirk Sandall and Dunsville. The proposal cannot function well with a singular point of access and egress onto a dual carriageway. This is not an inclusive development with adults and children with impaired mobility being unable to access it by footpaths. The design creates a dependency on the use of the car therefore this will just add significantly to traffic congestion around the village.
234. In addition Long Plantation will lose its character as a place to go to be in tune with nature, as well as the children's play area where the therapeutic effect of being in a natural environment would be diminished. The village has no other comparable area of green space. It is important to be aware of the value of physical fitness and mental health and wellbeing. The footpath, open space and wood are used by local people for dog walking, jogging, fitness fanatics and generally families enjoying the countryside and woodland. The proposal would ruin this access and enjoyment.
235. Whilst appreciating the need for urban extensions to extend onto CPAs there are no exceptional circumstances in the case of this site. The proposal will lead to the coalescence of Edenthorpe and Armthorpe, something the Council is committed to avoiding as set out in the CS.
236. Edenthorpe is a village in its own right with an active community. So although it is deemed to be part of the MUA the village community values and utilises the amenities within it from provisions elsewhere. The Parish Council are currently working on a Neighbourhood Plan and the enthusiasm for the benefits is evidence of the way Edenthorpe functions as a village.
237. Only minimal affordable housing will result from the scheme even though this is what we need.
238. The proposal will disrupt education, traffic and local amenities. The proposed roundabout on West Moor Link will significantly reduce the flow of traffic on the route. Traffic flows at peak times are of particular concern to

²⁵⁹ Inquiry Doc 11.

residents. The developments at Thorne and Dunsville will just add to this. Existing air quality is already of concern resulting from traffic levels along the A18 and Leger Way. This development will just add to it.

239. The proposal will have a significant impact on school places. No funds via S106 are being made available for secondary school places. The local secondary school does not have the capacity to accommodate all the young people in the area and so there will be significant displacement which will be problematic to especially vulnerable families without cars.

240. The proposal would be disruptive to primary education as the proposed primary school will not be full from the children from the proposed development. It is not readily located by foot for children from the surrounding area. Vehicles dropping off and picking up would park in a particularly disruptive location. A new primary school is required in the locality as existing schools are at capacity. However, the location proposed is not appropriate and there are other better sites which should be exploited.

*Frederick Gee – local resident*²⁶⁰

241. Residents in the Parklands area have suffered with issues of flooding for many years (since 1972). Issues of raw sewage in back gardens after heavy rain is particularly prevalent. The existing pipework sizing is inadequate and pressure on the system causes drains to overload. The connection of the proposed 650 houses would place the system under further pressure, particularly if the pump breaks down. There is also concern in relation to surface water run-off from the large areas of proposed hard-surfacing which may place existing soakaways in the village under pressure resulting in flooding.

Written Representations from interested parties²⁶¹

242. Representations were received at the time the planning application was considered by the Council. Further letters and consultation responses were then received in relation to this appeal. The following is a list of the essence of the concerns raised over and above those raised by the representors who addressed the Inquiry and the Council.

- Loss of greenfield site
- Impact on ecology
- Noise pollution
- No need for more houses

Conditions and Obligations

243. In the case that the SofS is minded to allow the appeal an agreed schedule of conditions was submitted by the parties at the Inquiry²⁶². Some amendments were made following discussion at the Inquiry seeking to amalgamate for clarity,

²⁶⁰ Inquiry Doc 12.

²⁶¹ Planning Committee Report dated 18 October 2016.

²⁶² Most of which had been agreed between the parties – Inquiry Doc 32.

precision, elimination of duplication, and taking into account guidance in this regard.

244. Only conditions which are formally required to be discharged prior to works commencing on site have been promoted as pre-commencement conditions. These have been agreed by the appellant company as a party to the agreed schedule of conditions. These are recommended to be imposed as they involve details to be approved for the arrangements of the work on site (Phasing Plan, Construction Management Plan, Construction Environmental Management Plan, Contamination Investigation, Construction Method Statement, Construction Traffic Management Plan), groundworks and infrastructure approval (highway layout and works, archaeology, landscaping, tree protection, drainage, lighting strategy) or matters that affect the layout and position of development (Design Guide, material details, noise assessment). These details are required to be submitted to and approved by the Local Planning Authority prior to commencement of development.
245. Standard conditions are required on the approval of the reserved matters and on the commencement of development. Further conditions are required to ensure that the submission of reserved matters and later details comply with the considerations/parameters taken into account in the approval of the outline permission.
246. To properly inform the design process related to the reserved matters both a Design Guide and a composite Development Framework Plan is required. To secure clear design principles these should be discussed and agreed with the Council. They will ultimately need to be agreed in writing by the Council before the submission of the first reserved matters application and it is up to the Council who else they involve in any conversations in this matter. I see no reason to be more specific as to the involvement of other parties.
247. The permitted scheme would result in the order of 600 new homes being built. The management of the phasing of the construction of these buildings would be of importance to secure the required services for the individual dwellings such as roads, lighting, play provision and landscaping in the right place and at the right time. Appropriate conditions have been imposed to secure agreement on the phasing involved.
248. In the interests of preserving and enhancing the character of the locality details of the facing and roofing materials of the new homes are required to be agreed.
249. Due to the proximity of protected trees adjacent to the site in Long Plantation and some boundary trees close to the A630 details of tree protection during construction is also required.
250. The locality has been identified as having some possible archaeological interest. Therefore, a condition requiring a programme of investigation is justified.
251. The condition relating to the Construction Management Plan is required in order to protect the amenities of nearby residents and general amenity.
252. In the interests of both the amenities of nearby residents as well as maintaining the free flow of traffic and safeguarding highway safety in the

locality, a condition relating to a Construction Traffic Management Plan is required.

253. Taking into account that access has now been agreed to be reserved as a matter for later consideration²⁶³, a condition setting out that details of the general arrangements for access, egress and carriageway re-alignment will be required to be submitted is justified.
254. A condition relating to the submission of a full Travel Plan and its subsequent implementation is necessary to provide sustainable transport objectives giving people a real choice about how they travel. A condition requiring electric vehicle charging provision would also further the cause of sustainable transport options.
255. A condition relating to the provision of a Site Wide Drainage Plan including strategic foul water drainage and Sustainable Urban Drainage Systems is deemed necessary to ensure adequate arrangements are in place, particularly in relation to flooding and in the interests of environmental impact. Some concerns were raised by local residents in relation to the impact of the proposal on on-going problems of flooding on the Fieldside Estate. This should be a matter for consideration.
256. In relation to limitations on external lighting in the public realm, these are necessary to minimise visual impacts on this edge of settlement site as well as the management/protection and long-term well-being of the natural elements of the ecology of the development site for the reasons of amenity and biodiversity.
257. Although evidence is limited regarding whether there is any contamination of this agricultural land, it is reasonable that investigations should be carried out in relation to possible contamination of the land. Further a condition relating to the testing of imported soil to the site is also justified to safeguard the health of future residents as well as the well-being of the wider ecological environment.
258. A requirement for a scheme to implement the recommendations of the submitted noise assessment relating to road traffic noise from the A630 should be imposed to safeguard the long term amenities of future residents.
259. In the interests of landscape character, visual and residential amenity and for the avoidance of doubt a detailed hard and soft landscape scheme dealing with the public realm should be imposed taking into account the Development Framework Plan and the Design Guide. Such details will form part of the reserved matters details to be submitted to the Council for consideration. It will be at this stage that other parties will be involved. There is no need to specify this within the terms of the condition.
260. A condition to secure a scheme of works to deliver highways improvements at nearby junctions is required to ensure the development can be satisfactorily accommodated within the highway network.

²⁶³ Para 3 of this report.

261. It is reasonable to secure the provision of the areas used by vehicles to serve individual dwellings such as roads, footways, access, parking, garaging and turning in the interests of highway safety and management and residential amenity.

*Obligations*²⁶⁴

262. A signed bilateral agreement under section 106 of the Town and Country Planning Act 1990²⁶⁵ has been submitted covering the following matters:

- Affordable housing – CS Policy CS 12 requires 26% affordable housing. Following the assessment of a viability appraisal in relation to the proposed scheme the Council are satisfied that based on the findings of the appraisal the provision of 10% affordable housing is considered fair and reasonable as proportionate in the circumstances of the development.
- Provision of an extended bus service – Existing service 76 is proposed to be improved/extended in order to connect the site with Doncaster Bus Interchange. This would result in a greater number of people using the bus network in an area not currently well serviced by public transport.
- Education commuted sum – this is to be applied towards the provision of additional primary school places within the Hungerhill Secondary pyramid.
- Public Open Space – provision of open space and its transfer to a management company for future management and maintenance.
- Transport improvements - including contributions towards the A630 West Moor Link dualling scheme (WMLD).
- Permissive footpath works contribution & commuted sum - Unilateral Undertaking²⁶⁶.
- The provision of land for a primary school has been promised on the basis that the Council's Education Team identified that the local Edenthorpe Hall Primary School has no spare places and will require expansion or new school provision. As the existing school site is potentially unsuitable for further expansion a potential site has been identified within the Parameters Plan. This would be safeguarded for 10 years or up until the occupation of the final dwelling (whichever is sooner). This in no way commits the Council to granting planning permission for the school or conveys any acceptance of the site as being suitable for a school. The S106 plan indicates a much larger area as a general location for the school than on the Parameters Plan and the agreement also indicates its provision would be subject to any further application for planning permission. The promise is of the delivery of land not of building a new school. It is not clear whether funds would be available, presumably from the Education Authority, if required to build a school. In addition I am aware there may be other options involving the development of Armthorpe. It is reasonable to secure the site for a school to expand the options for the provision of

²⁶⁴ Inquiry Docs 30, 31, 33 & 18.

²⁶⁵ Inquiry Doc 18.

²⁶⁶ Inquiry Doc 33.

future education places beyond those funded through the Education Commuted Sum, but with the uncertainty of actual on-site provision the weight to be given to a new school site as a benefit²⁶⁷ should be reduced. This can best be done via the S106 agreement.

All of the above provisions are considered to be necessary, in order to make the development acceptable taking into account the terms of the CIL Compliance Statement²⁶⁸.

Inspector's Conclusions²⁶⁹

The key provisions of the Development Plan [13-15, 16-45, 158-172, 176-182, 198-201]

263. The appeal proposal is for housing which is intended by the appellant company to form an urban extension to Edenthorpe at the edge of the Doncaster Main Urban Area (MUA). The site lies within the Countryside Protection Area (CPA) as defined on the Proposals Map of the UDP²⁷⁰ and within saved UDP Policy ENV 2²⁷¹. The policy sets out that the CPA will be maintained in the eastern part of the Borough covering all countryside outside the Green Belt²⁷². Supporting text paragraph 5.25²⁷³ identifies that the established CPA boundaries sought a careful balance between the protection of the countryside, the protection of the form and amenities of urban areas and the provision of an adequate supply of land for housing, industry and other development. It should be noted that the extent of the CPA was linked to the delivery of the objectives of the UDP based in the policy and evidential base of a plan adopted about 20 years ago.

264. Further, UDP Policy ENV 2 seeks to apply a Green Belt approach including safeguarding the countryside from encroachment and assisting urban regeneration. The policy is placed in the context of applying equal force to both Green Belt and Countryside outside Green Belt policies²⁷⁴, a policy stance somewhat out of step with current Government guidance.

265. UDP saved Policy ENV 4 identifies development that will be permitted in the CPA and is a restrictive development management policy. The supporting text

²⁶⁷ A new primary school is likely to go beyond mitigating the impact of the proposed development.

²⁶⁸ Inquiry Doc 30.

²⁶⁹ The following conclusions are based on the submitted evidence, that given at the Inquiry, the written representations made and my inspection of the site and its surroundings. The numbers in square brackets [] denote earlier paragraphs in this report from which these conclusions are drawn.

²⁷⁰ CD3.2.

²⁷¹ This is the only Development Plan document that defines the boundary of the 'Countryside'. These boundaries were intended to cover the period to 2011 in accordance with the period to be covered by the UDP.

²⁷² This can be considered to be a blanket, washed over designation without any reference to assessment of quality or value of the countryside landscape.

²⁷³ CD3.1 para 5.25 page 61.

²⁷⁴ CD3.1 para 5.24 page 61

to the policy at paragraph 5.29²⁷⁵ sets out that the policy is based on the guiding principle that development in the countryside should both benefit economic activity and maintain or enhance the environment, and achieve good quality development which respects the character of the countryside. Nonetheless, the identified purposes of development within the policy do not specifically include urban extensions or general housing²⁷⁶.

266. Whilst both UDP Policies ENV 2 and ENV 4 do aim to protect the countryside with some recognition of its intrinsic character and beauty neither reflect the need to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth and meet the needs of present and future generations. The delivery of homes and infrastructure supports sustainable economic development serving to facilitate thriving local places which actively contribute to national growth and well-being.

267. The Doncaster CS was adopted in 2012²⁷⁷ and is clear in placing the economy at the centre of a strategy of achieving local aspirations²⁷⁸ and allowing Doncaster's economy to realise its potential. An increase in the provision of housing throughout the Borough, particularly in areas with access to existing services, recognising the significant role the delivery of housing has in the sustainable economic well-being of the Borough, is one of the specific CS objectives supporting the overall vision²⁷⁹.

268. CS Policy CS2 seeks to distribute growth and regeneration where it would do most good in terms of supporting prosperous and sustainable communities by improving the economic performance of towns, promoting regeneration and tackling deprivation²⁸⁰. One of the main thrusts of the policy is that the MUA will be the main focus for growth and regeneration, with the quality and range of housing, employment and services improved for the benefit of the Borough as a whole. Edenthorpe is specifically identified within the scope of the policy as being part of the MUA and a location where there is an opportunity for major urban development, although settlement coalescence with Armthorpe is identified as a potential issue²⁸¹.

269. CS Policy CS3 identifies that the countryside to the east of the Borough (which includes the appeal site) will continue to be protected through a Countryside Protection Policy Area (CPPA). This policy seeks to develop the general protectionist stance of UDP Policies ENV 2 and ENV 4 for the countryside of Doncaster whilst recognising the importance of urban extensions to the growth and regeneration strategy. The Key Diagram to the CS²⁸² washes over the appeal site as part of the CPPA and the CS definition of

²⁷⁵ CD3.1 para 5.29 page 63.

²⁷⁶ UDP Policy ENV 4b) does mention infilling development within settlements washed over by the CPA subject to limitations but Edenthorpe lies within the MUA and is not a washed over settlement.

²⁷⁷ Spans period 2011-2028.

²⁷⁸ CD3.4 para 2.2 page 14.

²⁷⁹ CD3.4 para 2.3 page 15.

²⁸⁰ CD3.4 para 3.12.

²⁸¹ CD3.4 Para 3.18.

²⁸² CD3.4 page 20.

the CPPA distinguishes it as an updating and replacement to the CPA²⁸³. It would be wrong to assume that the ELP CPPA boundaries will, for the most part, be the same as the boundaries of the UDP CPA²⁸⁴.

270. However, CS Policy CS3 does identify through Part B)²⁸⁵ that new urban extensions through development allocations will be considered within the CPPA as well as minor amendments to settlement boundaries where existing boundaries are indefensible. With the withdrawal of the S&PDPD (the original vehicle intended to consider development allocations) the ELP is now purposed to define new detailed boundaries for the CPPA, including development allocations. The Council is clearly committed to the timely production of the ELP but the lack of advancement in the preparation of the ELP affords it little weight. Therefore, currently there are no identified development allocations in the context of CS Policy CS3 Part B) 1. Reading this part of the policy in its purest form the appeal proposal is not a new urban extension development allocation and so Part B) 1 of the CS3 is not applicable.

271. Whilst the identification of the CPPA within the CS is somewhat indicative and with finer policy definition yet to come, a general reliance on the out-dated CPA boundaries enshrined within UDP Policy ENV 4 would be a backward step which could undermine the forward looking vision of economic success. The lack of designation of development allocations is not a circumstance anticipated by the CS and could be a significant limiting factor in achieving the timely success of the vision over the plan period of the CS. Nonetheless, even in the circumstances of the identified policy uncertainty, aspects of CS Policy CS3 would still bite in this case.

272. CS Policy CS3 Part C) identifies that outside development allocations which, at face value in the circumstances of the generality of the identification of the CPPA²⁸⁶, all of the CPPA currently lies outside development allocations²⁸⁷. Proposals will only be supported subject to certain criteria being met one of which is where they would protect and enhance the countryside²⁸⁸, including the retention and improvement of key Green Wedges where areas of countryside fulfil a variety of key functions. The Council consider that the appeal site lies within an area defined as an indicative Green Wedge in the CS. Map 9 of the CS²⁸⁹ identifies such indicative Green Wedges including one between Armthorpe and Edenthorpe. Paragraph 6.27 of the CS sets out that it is envisaged that this wedge would be included in future detailed identification. Nonetheless it is intended that Green Wedges would overlay CPPA and areas identified for development. Thus the identification of an area as being within a Green Wedge would not in itself exempt it from development²⁹⁰. It was via a

²⁸³ CD3.4 page 115.

²⁸⁴ Such an assumptive point has not been appropriately evidenced – Edwards’ proof para 3.6 - and the boundaries of the CPPA have yet to be defined in detail through the ELP and then examined en route to adoption, taking into account development allocations, any ad hoc planning permissions already granted and where existing boundaries are indefensible.

²⁸⁵ CD3.4 page 33 Policy CS3 Part B) 1 & 2.

²⁸⁶ As defined on the CS Key Diagram.

²⁸⁷ There being none.

²⁸⁸ CS Policy CS2 Part D) 4 similarly reflects such a policy criteria.

²⁸⁹ Inquiry Plan A.

²⁹⁰ CD3.4 para 6.28.

new Proposals Map that the identification of the location of key Green Wedges would have been set out along with a green infrastructure strategy or similar. This was likely to have been part of the S&PDPD. The Council does intend to carry forward the concept and identification of Green Wedges through the ELP.

273. CS Policy CS17²⁹¹ currently offers, amongst other things, protection and enhancement to Doncaster's green infrastructure network including key Green Wedges. At this stage in the plan-making process key Green Wedges have not been definitively set out. The Doncaster Council Development Guidance and Requirements Supplementary Planning Document (SPD)²⁹² does include at Figure 1 a location of a Green Wedge between Armthorpe and Edenthorpe to provide a clear physical separation. However, the role/function of the Green Wedge does not preclude development but sets out that new development in this location would need to provide an extensive strategic buffer comprising high quality landscaping and open space to protect the amenity of the landscape and prevent coalescence²⁹³. Such a buffer would not necessarily have to include screening. The distinct identity and physical setting of existing settlements should be maintained²⁹⁴.
274. The Development Plan only offers an indicative reflection of Green Wedge locations across the Borough²⁹⁵ and Policy CS17 provides a policy wording for protection once the key Green Wedges have been identified. Much as the CPPA was intended for likely definition within the S&PDPD so events have overtaken the identification of key Green Wedges leaving uncertainty in policy application.
275. However, it is noted that the Council agreed with the appellant company in the SofCG that the terms of CS Policy CS17 were not offended by the proposal²⁹⁶. That said the matter of whether the appeal proposal would result in the coalescence, either physically or visually, of Edenthorpe with neighbouring Armthorpe is certainly an issue which will be returned to later in this report.
276. Identified conflict with CS policy of countryside protection and enhancement would normally bear down on the negative side of any balance in this instance, even in the circumstances of only an indicative rendering of the general extent of the CPPA referenced in policy.
277. Even so, in attributing weight to the identified conflict I am conscious of the common ground between the parties that the Council will be unable to achieve identified growth, whether in line with the CS or that anticipated within the ELP without allowing development on land previously designated as CPA²⁹⁷. At the

²⁹¹ CD3.4 page 33.

²⁹² CD3.35 para 5.3 – this document does not form part of the Development Plan.

²⁹³ CD3.35 SPD Table 2 page 80.

²⁹⁴ In line with CS Policies CS2, CS3 and CS17—supporting text to Table 2 SPD CD3.35 page 80.

²⁹⁵ Doncaster Local Development Framework - Green Wedges Study (2013) CD3.34 has been taken into account.

²⁹⁶ SofCG para 4.7.

²⁹⁷ Mr Edwards in cross-examination and within CD3.4 para 3.39. The boundaries of the CPA were set some 20 years ago. CS Policy CS3 does allow for such a circumstance.

present time the development allocations referred to within CS Policy CS3 Part B) do not exist. In response and in acknowledgement of this fact, as well as to meet the requirements of CS Policy CS2, the Council has been proactive in granting planning permissions²⁹⁸ within the washed over CPPA²⁹⁹, albeit on an ad hoc basis. Further, the CS does indicate support for the growth of Edenthorpe³⁰⁰ which may involve development in the countryside, a principle accepted by the Council³⁰¹. The Council and the appellant company have agreed that CS Policy CS2 would not be offended by the appeal proposal³⁰². This would seem at face value to indicate agreement that it would represent in principle, development in the main focus for growth and regeneration (the MUA) taking into account the acknowledgement of the need to extend beyond the existing MUA boundaries to achieve the strategy.

278. These practical compromising responses to the transitional position in which the Council finds itself between the UDP and ELP, does reduce the weight to be attributed to any conflict in this regard with Development Plan policy. Such conflict is highly likely to be comparable across any sites within the CPA, and is a blanket designation with no obvious differentiation in policy being made between the quality or value of designated land.

279. Notwithstanding all of the above commentary and in the context of evolving policy, without doubt the Development Plan presently places the appeal development site within the CPA and by definition within the 'Countryside'. This at first reading sets up a conflict with the Development Plan. However, as already explored the relevant UDP policies ENV 2 and ENV 4 are out of step with the direction of travel of local and national policy particularly in relation to reference to the CPA, which as an historic designation is out of date³⁰³. The Council has to some extent relied upon these saved UDP policies as the policy development of the second generation CPA, the CPPA, has not evolved. As a result these policies, of considerable importance in the determination of this appeal, are considered out-of-date and therefore, the tilted balance of paragraph 11 of the Framework, the presumption in favour of sustainable development, applies. The qualification of the presumption is that permission should be 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. It is necessary then to consider whether the impacts arising from granting planning permission are adverse and

²⁹⁸ Land west of Hatfield Lane and Land east of Hatfield Lane, Armthorpe. Both of these are promoted allocations in the Armthorpe Neighbourhood Plan although this document has yet to progress through referendum to full adoption (Examiner's letter received CD3.32 – Submission Version of ANP Inquiry Doc 5).

²⁹⁹ Also within the CPA.

³⁰⁰ CD3.4 Page 24 CS Policy CS2 Table 1 + MUA definition.

³⁰¹ The Council is not running an argument of the proposal being premature to the adoption of the ELP and this is a noted position.

³⁰² SofCG para 4.7.

³⁰³ It is also noted that the Council's own HELAA dated December 2016 has identified the appeal site in Table 7.3³⁰³ as being suitable for development but with Local Policy Constraints. Such constraints means sites currently designated as CPA in the UDP. This is a further recognition of the acceptability of development with the CPA.

whether they would significantly and demonstrably outweigh the benefits of that permission.

Impacts

- *Landscape/Green Wedge* [11-12, 33-45, 46-51, 176-182, 202-208]

280. The appeal site is located beyond the established built up edge of Edenthorpe. It is a flat open agricultural field with little vegetation which blends into the intervening, predominantly Council owned, as yet undeveloped, land to the west. Long Plantation serves as a visually prominent and substantial defining edge curving around the appeal site creating a sizeable physical barrier confining contextual views of the appeal site to the north and east, to that of the site itself, its woodland backdrop, the adjoining agricultural land, recreation ground and sports pitch with the sprawl of Edenthorpe and Doncaster beyond. In visual terms the dense belt of trees of Long Plantation creates a firm delineation between the appeal site and the wider open countryside beyond.

281. To the south is the linear containment of the A630 which sits up on an embankment. With limited significant vegetation on either side of the road views across the appeal site are easily discernible both from moving vehicles as well as from pedestrians using the footpath on the south side of the A630. Travelling east the countryside context of the appeal site does not become readily apparent until one reaches the Hatfield Lane roundabout due in good part to the screening effect of Long Plantation and the more distant backdrop/skyline feature of the concentration of large distribution/warehousing units serving national retailers located convenient to the M18 on the West Moor Park Industrial Area. Whilst the appeal site, as an unremarkable and generally featureless agricultural field, contributes to the setting of the urban edge (MUA) of Edenthorpe it has a restricted visual envelope with views of the site being limited to localised close range views more greatly influenced by urban features such as power lines, A630, its incumbent traffic, Distribution Park and the visually dominant urban edges of Edenthorpe itself as well as Armthorpe, cumulatively amounting to urban distractions in the landscape context of the appeal site. The distant hum of heavy traffic on the M18 and the more immediate and audible traffic noise along with frequent traffic movements from the A630 also diminishes any sense of landscape tranquillity. In essence there is nothing particularly distinctive about the appeal site or its immediate landscape context that makes it out of the ordinary, and with no sense of scenic quality. It has a stronger and more immediate visual, spatial relationship with the nearby suburban sprawl of Edenthorpe than the open countryside to the north and east.

282. To the south are the open fields of similar character to the appeal site between the road (A630) and the current built up edge of Armthorpe. However, the Armthorpe Neighbourhood Plan (ANP) includes housing allocations which covers much of this land³⁰⁴. The two housing sites east and west of Hatfield Lane have already been granted planning permission and

³⁰⁴ The ANP has yet to be adopted (Submission version Inquiry Doc 5) and does not include any of the land the subject of this appeal.

whilst in outline include masterplan proposals for open space and areas of strategic planting particularly in the vicinity of the A630³⁰⁵.

283. The A630 provides a clear, strong and visually prominent boundary between Armthorpe and Edenthorpe emphasised by the movement of traffic in a slightly elevated position above the essentially flat edge of settlement landscape. This section of the A630 is intended for dualling. This would further strengthen this sense of separation with any increase in the road width and accompanying landscaping³⁰⁶.

284. The Doncaster Metropolitan Borough Council Landscape Character and Capacity Study (June 2010) (LCCS)³⁰⁷ identifies the land centred on the A630 between Armthorpe to the south and Edenthorpe to the north, including the appeal site and the two committed housing developments mentioned above, as a landscape character unit. Its character sensitivity is assessed to be Medium and due to the proximity of the urban area and the road which makes for accessibility for receptors (people), the visual sensitivity is also assessed as Medium. It is no surprise that the overall landscape sensitivity of the area is therefore assessed as Medium.

285. It is clear that local residents do value the site in the context of an immediately accessible, well used circular walking route and the woodland experience of Long Plantation, and its contribution to the open setting of the MUA. However, the popularity of the site and its environs is not sufficient to afford it value in the sense of Framework paragraph 170³⁰⁸. Nonetheless as the LCCS sets out that landscape value is heavily influenced by the surrounding land uses³⁰⁹ and results in a Medium landscape value. The LCCS acknowledges that were the site to be developed and certain mitigation elements implemented such as restricting development encroachment into Long Plantation, creating a woodland block suitable for informal recreation along A630 as well as a green corridor/landscape buffer along the road to prevent convergence of settlements, the landscape capacity of the site to accept housing development would be Medium³¹⁰. So essentially the appeal site is of Medium suitability in landscape terms.

286. The appeal site in physical terms is set apart from the edge of the MUA by intervening open flat agricultural land. Nonetheless, the appeal site is seen in the context of the built up development of Edenthorpe and to a lesser degree that of Armthorpe. I heard from the Council that the adjoining land within Council ownership was being promoted for development in the future and I am aware that the Armthorpe allocations spread out up towards the Hatfield Road roundabout. I am also aware that the HELAA has identified the appeal site in Table 7.3³¹¹ as being suitable for development but with Local Policy Constraints ie currently designated as CPA in the UDP but physically attached to settlements.

³⁰⁵ Rech Appendix D Figure 25.

³⁰⁶ The road design and landscaping is not yet resolved.

³⁰⁷ CD7.3.

³⁰⁸ It is an agreed position between the parties that this is not a valued landscape.

³⁰⁹ CD7.3 para 15.5.

³¹⁰ CD7.3 Page 62 paras 15.6 & 15.7.

³¹¹ CD 3.11 page 83.

287. Taking into account the strong natural barrier presented by Long Plantation, the physical linkage through from the proposed housing through to Edenthorpe via the community park and its juxtaposition with the Armthorpe allocations, the proposal would not present a fragmented, unrelated development, unconnected with nearby urban development. It strikes me as a rounding off of land more akin to the urban context than to the wider countryside setting beyond.
288. The extent of the open green space, community park, play areas and sports pitches proposed³¹² along with those of the neighbouring permitted allocations north of Armthorpe would create the mitigation outlined in the LCCS were development to be allowed. The green space including landscaping and tree belt either side of the A630 would create a buffer between Armthorpe and Edenthorpe.
289. At present the sense of separation between the two built up areas, one part of the Doncaster suburban sprawl, and the other a more distinct village, relies on distance with sparse landscape features resulting in the edges of the existing settlements standing out as hard urban edges and there being a high degree of inter-visibility between them. The Parameters Plan shows areas of planned green space incorporating existing trees and hedging, whilst introducing structural planting in the form of further woodland, hedgerows and tree cover along the whole of the southern section of the appeal site and wrapping round to the east and north to create a buffer between any built development and Long Plantation. This area of managed open space would be mirrored by the planned, landscaped open space associated with the Armthorpe developments to the south of the A630³¹³. The proposed intervening landscaping/planting on both sides of the A630 would reduce the inter-visibility between the two settlements. The hard urban edges of built development would be softened and, even with the proposed development, along with that of the Armthorpe allocations, a strong sense of spatial separation would be maintained between Armthorpe and Edenthorpe. The distinction between the two settlements would be preserved without any heightened impression of coalescence.
290. The identification of Green Wedges on the edge of built-up areas reflects a need for development to be sensitive to the openness of the gap between settlements and the wider countryside as well as the amenity of the landscape. As already identified Green Wedges are presently subject to uncertainty in policy application and definition, but Green Wedge does not preclude development. Where development overlays Green Wedges extensive, continuous buffers of high quality landscaping to preserve openness of the countryside and the physical identity of settlements should be provided.
291. Notwithstanding the agreement of the Council and the appellant company that CS Policy CS17, which deals with key Green Wedges, is not compromised

³¹² In excess of 40% of the appeal site is proposed to be green infrastructure, much concentrated along the road frontage and off towards Mere Lane including the existing footpath and proposed cycleway. This could all be secured through the imposition of a condition relating to reserved matters springing generally from the Parameters Plan.

³¹³ See Rech Appendix A Figure 25.

by the proposed development³¹⁴, I have considered the appeal proposal in the context of the aims of the designation of Green Wedges to prevent the complete merging of settlements and enhance the amenity and visual appearance of settlement edges, as well as improving access to the countryside³¹⁵.

292. The matter of coalescence has been dealt with above³¹⁶. The appeal proposal would offer the implementation and delivery of green infrastructure including open space, trees, biodiversity and proposed footpath/cycleway³¹⁷. It also offers opportunities for both informal and formal recreation space over and above the current footpath link from Edenthorpe through to Long Plantation. This would all serve to enhance the amenity of the MUA edge improving access to the countryside and creating recreational spaces/routes/facilities which would enhance the well-being and enjoyment of the future residents of the new homes as well as existing residents of Edenthorpe.
293. The proposed open space would serve as an extensive strategic buffer in its own right as well as in combination with that of the allocations in Armthorpe. It would create an open corridor of high quality landscaping along either side of the A630 opening out at the Hatfield Road roundabout into the wider open countryside to the east. To the north the linkage through from the Armthorpe allocations up through the Long Plantation and its proposed associated planted buffer within the appeal scheme to the countryside beyond, would also serve to maintain the distinct identity and physical setting of the existing settlements and the amenity of the landscape³¹⁸.
294. I have noted that the Armthorpe Neighbourhood Plan examiner identified that any related Green Wedge to the south of the appeal site (part of Armthorpe allocation sites) should be deleted from the NP on the basis that there was a significant Green Wedge to the north (includes the appeal site). Firstly, as I have made clear within the Development Plan the location and extent of Green Wedges have not been finalised. That said the appeal proposal would in isolation, and more so in combination with the Armthorpe open space, function as a type of green infrastructure corridor with a focus on landscape and amenity³¹⁹. As I have set out above the proposed landscaped open space would serve the purposes of Green Wedge even with built development becoming part of it. I have been able to come to this view in the knowledge of the type and extent of the proposed development as set out on, amongst other things, the submitted Parameters Plan evidence which would not necessarily have informed the comments of the NP examiner.
295. In conclusion, in respect of impacts there will be a change to the existing landscape of the appeal site and its wider context. However, change does not necessarily translate into harm. For all the reasons set out above the appeal proposal would not harm the landscape character and, in respect of

³¹⁴ SofCG Para 4.7.

³¹⁵ CD3.4 CS para 6.28.

³¹⁶ Para 289 of this Report.

³¹⁷ CD3.35 SPD Para 5.4.

³¹⁸ CD3.35 SPD Table 2 page 80.

³¹⁹ CD3.4 CS para 6.28.

introducing high quality landscape, could enhance the transition between the MUA edge and the wider countryside. Further the landscaped/open space element of the proposal would also serve as a green infrastructure corridor maintaining separation between settlements but creating green linkages through to the open landscape. In this way the terms and general thrust of CS Policies CS17 would not be compromised.

- *Biodiversity* [227]

296. The integrity of Long Plantation as a local wildlife site and as an area of dense woodland covered by a TPO has been respected by the proposal. The trees lie outside the development site. Built development is proposed to be off-set at a distance from the woodland to safeguard the well-being of the trees. Additional appropriate tree planting is also proposed around the perimeter of the development site where it adjoins Long Plantation in conjunction with a swathe of green space to enhance the woodland.

- *Highways*³²⁰ [212-213, 224, 228, 233, 238]

297. It is common ground between the Council and the appellant company as set out in the Highways Statement of Common Ground that the main access to the appeal site could be accommodated from the A630³²¹, subject to a number of other junction improvements in the highway network. The exact location and details have been reserved for future consideration but it is accepted that there would be no prejudice or harm to the implementation of the West Moor Link Dualling Scheme (WMLD). Any access to the appeal site can be facilitated within land on adopted highway and on land within the appeal site to accommodate both the pre and post WMLD vehicular access arrangements.

298. Edenthorpe Parish Council did raise concerns relating to the desirability of a single point of access to the site in the context of the A630 being changed from a motorway link road to a radial artery within the residential development. Evidence to expand on this point is limited but taking into account that the A630 links through from other residential development, including the future Armthorpe allocations³²², and does not solely serve the M18 and, that initial designs have been undertaken of roundabout junctions serving the appeal site onto the A630 which have been assessed by the Council as being suitable, I do not see such a concern as determinative particularly as the actual details of access could be the subject of a condition.

299. The HSofCG also sets out³²³ that the impact of the appeal proposal on the local highway network and on highway safety, subject to the proposed proffered mitigation³²⁴ being undertaken would not be severe³²⁵. Taking into account the terms of the Transport Assessment³²⁶ and being mindful of the

³²⁰ Inquiry Doc 25 – Highway Statement of Common Ground (HSofCG).

³²¹ Highways England, South Yorkshire Passenger Transport Executive & Council's Highways and Transportation Team were consulted and raised no object in respect of highway impacts.

³²² Although these will not directly access onto A630.

³²³ Inquiry Doc 25 para 23.

³²⁴ See paras 10-23 of HSofCG Inquiry Doc 25,

³²⁵ Framework para 109.

³²⁶ CD1.13 & CD1.14.

agreement between the Council and the appellant company following advice from transport related consultees I cannot identify any harmful impacts of the proposal in this regard.

- *Air quality* [225, 227, 238]

300. Third parties have raised concerns in relation to the impact the appeal proposal may have on air quality in the locality particularly taking into account the proximity of the M18 to the appeal site. However, other than understandable concerns no substantive evidence to support the point was submitted in this regard. The submitted updated Air Quality Assessment³²⁷, which includes cumulative traffic flows associated with other schemes in the area concludes that the overall effect of the proposed development on local air quality would not be significant and air quality impacts associated with the proposed development should not represent a constraint, having regard to local and national policy. The Council's Pollution Control Officer accepted the conclusion of the assessment³²⁸ and I see no reason to differ in this expert assessment.

- *Best and Most Versatile Agricultural Land (BMVAL)* [52-55, 188]

301. Framework paragraph 170 b) sets out that planning decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the BMVAL. BMVAL is defined as land in grades 1, 2 and 3a of the Agricultural Land Classification³²⁹.

302. It is common ground that 12% of the appeal site is classified grade 3a, with the remainder being grade 3b (88%)³³⁰. Only a small area of the appeal site is BMVAL³³¹ (3.7 hectares) and within the Parameters Plan the land forms part of the community park to the south of the existing Mere Lane Children's recreation area. To farm/crop this limited area separately from the rest of the land does not make economic or agricultural sense. The rest of the site is grade 3b with a sandy soil from which, without irrigation, average yields are low³³². Proximity to the urban fringe and footpath has caused some issues for the owner/farmer such as crop trampling or contamination by dogs, restricting the type of crop which can be grown³³³. In any event the crop chosen lends itself to the lower quality grade 3b land than the small area of higher grade land as the cropping area is considered as a whole.

303. The Council has already indicated that, in meeting their housing need, it is likely that greenfield sites, including agricultural land³³⁴, will have to be developed. The Council's HELAA does not reference agricultural land quality in the site appraisals. However, BMVAL features in a number of the sites where new housing development may come forward³³⁵.

³²⁷ CD1.34.

³²⁸ SofCG paras 5.17-5.19.

³²⁹ Framework Glossary.

³³⁰ SofCG para 5.4.

³³¹ Palmer Proof Appendix 1 Map 2.

³³² Palmer proof para 7.1.

³³³ Palmer proof Appendix 5.

³³⁴ Some of which may be BMVL.

³³⁵ Palmer proof para 6.7.

304. Whilst it was accepted by the appellant company that were permission not to be given for the appeal proposal it was likely that farming would continue on the land and the problems of small scale cropping and public access would persist, the loss of the BMVAL would have little or no impact on the business operation of the larger farm of which it forms part in terms of agricultural yield or profitability³³⁶.

305. So in common sense terms were the BMVAL to be excluded from the appeal site it would leave an isolated pocket of agricultural land of little economic value to the farming business due to the economy of scale and the constraints to use it arising from its location on the urban fringe. The loss of the BMVAL would, at worst, be modest, and I do not see this small area of land being of any greater economic and other value than the adjoining grade 3b agricultural land which forms the vast extent of the appeal site. Therefore, the development of the grade 3a agricultural land in real terms would not adversely impact on the economic and other benefits of BMVAL and the primary purpose of food production. Therefore, the aims of CS Policy CS18, which is generally akin to those of the Framework, would not be undermined.

- *Accessibility* [56-67, 183-187, 229]

306. Framework paragraph 103 identifies that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.

307. Accessibility of facilities and services is fundamental to the proper functioning of a neighbourhood. The Council is of the view that the appeal site does not form a suitable location for development due to poor accessibility for pedestrians³³⁷. Edenthorpe benefits from a number of local services and shops, including a Tesco supermarket, some of which are located in the vicinity of Thorne Road. There is no question that Edenthorpe is not in itself a sustainable location where residents can access essential day to day services on foot.

308. The dispute lies firstly in the actual distances from the appeal site to these facilities, and secondly in the walking times; the Council and the appellant company having used different guidance documents to assess the acceptability of those walking distances.

309. In respect of the measured distances specifically, the differences between the Council and the appellant company are as follows³³⁸:

- Local services Eden Stores – 68 metres
- Local services Tesco – 94 metres

³³⁶ Palmer proof para 7.3.

³³⁷ The route and distances could be well achieved in good time on a bike. The proposed upgrading of the footpath which crosses the site to Mere Lane including lighting would include a cycleway.

³³⁸ Goodall Rebuttal para 2.4.

- Doctors Surgery 40 metres
310. Common sense dictates that such comparatively minimal distances which might mean a pedestrian would need to walk for a further minute would not deter someone from walking out to get shopping or visit the Doctors. In practical terms it is the walking times, the nature of the walk and their purpose on that occasion, which are more likely to influence whether someone decides to stride out or to jump into their car.
311. In calculating walk time both parties use different guidelines, the Council using the Institute for Highways and Transportation (IHT) Guidelines for Providing Journeys on Foot published in 2000³³⁹, whilst the appellant company uses the South Yorkshire Residential Design Guide, a supplementary planning document (SYRDG)³⁴⁰ adopted by the Council in 2011 with other neighbouring authorities applying it as best practice³⁴¹. This is the most recent of the two guideline documents and the adopted guidance for the Council. Paragraph N1.2 sets out walk times as broad accessibility targets for the layout of residential areas. As a general rule of thumb a 5 minute walk equates to a distance of 400 metres. At my site visit I walked along the footpath crossing the appeal site and then onto Mere Lane and out onto Cedric Road reaching Thorne Road and its services within 15 minutes. The Doctor's surgery in Church Balk would be just over the 15 minutes. It was a pleasant walk through established residential streets which once onto Cedric Road was on level, well paved and surfaced pavements. I found nothing about that part of the route which I consider to be unpleasant and it was a direct walk along Cedric Road to Thorne Road where the location of shops and services was not difficult to navigate. I then walked on to Tesco which did add a further 5 minutes³⁴² but I could have saved time by walking along Eden Grove Road which would have taken in the services offered at the Thorne Road frontage. I walked back along Mere Lane which during the day was a pleasant walk, and less than 15 minutes walking time, but I can appreciate at night it would not be so inviting and its unsurfaced nature could deter some users.
312. The first section of the walk along the existing public footpath link which crosses the appeal site on a comparatively level surface, at present would be difficult to traverse with a buggy or in inclement weather. However, the proposed scheme includes the widening, resurfacing, upgrading with lighting and the creation of a cycle way. It would be an integral part of the community park and is likely to be well used by existing and future residents alike even into the evening due to its illumination, proximity to proposed organised sports facilities, any future school and the A630. This would be the main walking route between the proposed development and the existing built-up area of Edenthorpe.
313. There are nursery, primary and secondary schools in the locality of Edenthorpe. In general they would be within 20 minutes or just over walking time. For those cycling, most likely to be secondary school pupils, the cycle time would be under 10 minutes. In accordance with SYRDG guidelines the

³³⁹ CD6.5 + Appendix to SofCG.

³⁴⁰ CD6.7.

³⁴¹ CD6.7 page 2 para 1.3.

³⁴² Tesco is just outside the SYRDG distance by around 2 minutes.

school walk times broadly accord with accessibility targets taking into account the nature of the walk. I am also conscious that at some point there may be a primary school within the proposed development and/or a school as part of the Armthorpe allocations which would be a reasonable walking time, walking along Mere Road and under the underpass.

314. I am conscious that the walking times I have considered would be lengthened for those who find walking more of a physical challenge. However, the level and upgraded route as described above along with the nature of the routes within Edenthorpe itself would facilitate greater access for those pedestrians to the community park as well as to the facilities of Edenthorpe beyond.
315. In respect of access to bus stops, the existing stops on Thorne Road would be in the order of a 15+ minutes walk based on SYRDG walk time. These stops provide access to a number of local bus services. However, the appeal proposal includes the extension of the 76/76A service which would divert into the proposed development to offer future residents access to a bus service with a direct connection to Doncaster town centre (20 minute journey time), and the railway station within less than 5 minutes walk of their homes. It would also allow for an improvement to bus services in the immediate vicinity and existing Edenthorpe residents may choose to cross the community park to access the bus service which also would serve the Wheatley Park Industrial Estate. First South Yorkshire transport group would be responsible for running the extension to the route. It would deliver a 15 minute bus service at peak time dropping to a 20 minute service off peak 7 days per week up until 23.00 each day. The bus company consider the route would be self-sustaining within 5 years³⁴³. In the intervening 5 year period the route would be funded by the appellant company via the terms of the bilateral S106 agreement³⁴⁴.
316. The appellant company have offered a Unilateral Undertaking (UU) under S106 of the Town and Country Planning Act 1990 to secure a permissive footpath which would cross the Council owned land to the north and link directly into Mere Lane and then onwards to Thorne Road. This would create a desirable and shorter pedestrian/cycleway linking the northern part of the proposed development with Edenthorpe. However, whilst the Council was initially alive to the proposal and appeared willing to accommodate the footpath at the Inquiry it became apparent that that support as landowner (via the Council's Assets Team) was no longer offered. Nonetheless, the appellant company has, through the UU, promised an obligation to provide the footpath as part of the development and also were the land to be later development by the Council. Such a proposal would definitely improve access for future residents to Edenthorpe and its services, but in the face of the Council's changed position in accommodating the new footpath link I have not factored it into my assessment of the general accessibility of the development site.
317. Therefore, in these circumstances the appeal proposal would present a sense of permeability providing ease of pedestrian movement with acceptable access to local facilities and public transport services taking into account the

³⁴³ Wooliscroft proof Appendix 23.

³⁴⁴ Inquiry Doc 18.

guidance within the Council's own SPD. In this way the development would meet the sustainable transport objectives of the Framework and the terms of CS Policies CS1 and CS14 would not be compromised.

Other matters [134-135, 189-196]

318. There is dispute between the parties as to whether the Council can demonstrate a 5YHLS or not. Future jobs growth (uplift) and the application of different economic activity and employment rates goes to the heart of the dispute along with some differences regarding supply. The Council's evidence in respect of the pressing need to improve the skills pool and employability through training and learning initiatives was persuasive, particularly as they illustrated a significant drop in the number of public sector jobs which will prove a challenge to address. However, an overall strategy of economic growth bringing skills into the Borough either through in-migration or through commuting will almost certainly be part of the strategic response.
319. Since the Inquiry closed the Revised Framework has been issued and the Council has adjusted its position through a re-calculation using the new standard method. The appellant company's position is that its approach as set out at paragraphs 70-126 of this report presents a justified alternative approach³⁴⁵. However, paragraph 60 of the Framework is clear that exceptional circumstances are required to justify a departure from the standard method set out in the national planning guidance (NPPG). I am not clear what the extent of the exceptional circumstances being claimed for the consideration of the alternative approach are in this instance.
320. This leaves the consideration of this appeal in respect of considering the delivery of a sufficient supply of homes in a quandary. The adoption of the standard method by the Council in response to the Revised Framework has left any meaningful comparison of the two approaches promoted by the main parties, like comparing apples and pears.
321. Through this section 78 appeal, in the circumstances of this case, I would not wish to bind the Council to a determination of its position on housing land supply, whether positive or negative, in this period of flux and change. This is particularly so as the Council is currently producing the ELP which would provide an appropriate vehicle for the examination of a co-ordinated and evidenced approach in the context of the Revised Framework and the NPPG.
322. That said, in any case whether the Council can demonstrate a 5YHLS is of no consequence in this case in respect of triggering the tilted balance of Paragraph 11 of the Framework as the relevant out of date policies of the UDP have already instigated this and the paragraph 11 balance is engaged.
323. In respect of the weight to be given to the provision of the proposed 600 dwellings I advocate a pragmatic approach taking the lead from the Framework which is clear that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed³⁴⁶. Further

³⁴⁵ Framework Glossary – Local Housing Need.

³⁴⁶ Framework para 59.

the number of homes needed is expressed as a minimum and so additional homes supported by appropriate infrastructure in sustainable locations which do not compromise Government planning policy set out in the Framework and are in accordance with the Development Plan as a whole should not be resisted³⁴⁷.

324. I am also mindful that the Council is in the position of identifying a need for new housing to support growth and regeneration within the CS but this has not translated into actual site allocations due to the change in direction of production of the policy vehicle to take on this function (ELP). The Council also readily admit that to achieve their strategy there is a need to extend beyond the existing MUA boundaries. Therefore, the Council are dealing with housing development sites on an ad hoc basis – case by case. Consequently, in these specific circumstances that is the approach this assessment of the appeal proposal has taken.

Planning Balance

325. As already indicated above the tilted balance of paragraph 11 of the Framework has been engaged due to UDP saved Policies ENV 2 and ENV 4 being out of date. It is now necessary to consider what needs to go into the various sides of the balance.

326. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the Development Plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework which is of course a material consideration to which substantial weight should be attached.

327. It has already been established that the appeal site lies outside of the MUA, the main focus of growth and regeneration in the CS³⁴⁸, although it does immediately adjoin its edge. The site is washed over by the CPA³⁴⁹ but no evaluation has been made of the quality or value of sites in the landscape in its designation. Further the CPA was linked to the delivery of historic objectives in the UDP of some 20 years ago. The updating and translation of the CPA into the CPPA has yet to happen being reserved to the formulation of the ELP.

328. Nonetheless, whilst UDP Policies ENV 2 and ENV 4 have been identified as being out of date all of the above factors reduce the weight to be given to them but does not neutralise them. The harm to the Development Plan by reason of an 'at face value' breach of UDP policy does go into the negative side of the balance, but in the circumstances of this case can only be ascribed limited weight.

329. Having considered other material considerations including policy impacts no other adverse impacts have been identified³⁵⁰.

³⁴⁷ Framework para 60.

³⁴⁸ CS Policy CS2.

³⁴⁹ UDP Policy ENV 2.

³⁵⁰ It is clear from paragraph 11 of the Framework that it is the adverse impacts of any development which needs to be weighed against the benefits

330. Therefore, it is necessary to consider the benefits. The appeal site would make use of undistinguished land which immediately adjoins the MUA, in a location accessible to services and facilities of an already established settlement. The upgrading of the existing public footpath, encouragement of cycling, implementation of the Travel Plan, along with the provision of the extended bus route would provide options for other modes of transport other than the car. The development would benefit from the WMDS, for which there is already some commitment, safeguarding highway safety with resultant future traffic flows being appropriately dealt with.
331. The proposal would represent good quality development presenting an opportunity to enhance the ecology and biodiversity of the adjacent Long Plantation, as well as establishing a community park whilst respecting the character of the wider countryside. At present the appeal site offers only limited recreational value, access being restricted to the public footpath crossing the site from Mere Lane. The Park would include public access open space, equipped children's play space, formalised sports pitch, circular foot/cycle way around the site's perimeter. It would be part of the mitigation for the proposed development but would also enhance the landscape environment, whilst maintaining the identity of Edenthorpe. This proposed open space would also be likely used by existing residents of Edenthorpe for recreation purposes enhancing the well-being and enjoyment of life in general.
332. The proposal would contribute to the provision of housing in the Borough, in an area with access to existing services, recognising the significant role the delivery of housing has in the sustainable economic well-being of the Borough, which is one of the specific CS objectives supporting the overall vision as well as in boosting the supply of homes.
333. Based on all the evidence the appeal site is an appropriate site for housing and the illustrative material is convincing that some 600 homes could be acceptably accommodated subject to the mitigation promised and the details required in the planning conditions³⁵¹.
334. Taking into account the limited weight of the specific Development Plan offence, the presumption in favour of sustainable development prevails as the identified harm does not significantly and demonstrably outweigh the benefits of the scheme. Sustainable development is about change for the better. This scheme has been assessed as being sustainable.
335. Even if I had found that the Council had a 5YHLS whether marginal or robust the weight of the benefits of the proposed scheme, taking into account the lack of offence to the Development Plan as a whole, would still have prevailed.

³⁵¹ The offer of the land for the new school was not added into the balance, the benefit being difficult to ascribe weight to and in any case there is no need as the balance has already tipped into a positive position in favour of development without such addition.

Recommendation

336. Consequently it is recommended that planning permission be granted subject to the conditions set out in Annex A below.

Frances Mahoney

Inspector

Annex A – Schedule of recommended conditions

- 1) The development to which this permission relates must be begun not later than whichever is the later of the following dates: -
 - i) The expiration of three years from the date of this permission or
 - ii) The expiration of two years from the final approval of the reserved matters for the first phase (as agreed in Condition 3 (Phasing Plan)).
- 2) Approval of the details of the appearance, landscaping, layout, access and scale for each phase (hereinafter referred to as reserved matters) shall be obtained in writing from the Local Planning Authority before the commencement of any works within a phase to be agreed. Development shall thereafter be implemented in accordance with the approved plans.
- 3) The development and all reserved matters applications shall broadly accord with the following parameters:
 - i) The Parameters Plan (Ref:5428-L-02-Rev P)
 - ii) The point of vehicular access as shown on the Parameters Plan (Ref:5428-L-02-Rev P)
 - iii) A minimum of 12.5ha of public open space including formal and informal play areas
 - iv) A footpath within the site connecting the south western corner of the housing area to Mere Lane
 - v) Key surface drainage infrastructure
 - vi) A temporary construction corridor through the open space to facilitate access for vehicles during the construction process
 - vii) Key areas of the public realm to be the subject of a lighting design strategy taking into account the terms of condition 11.

The above parameters shall be illustrated in a composite Development Framework Plan to be submitted to and approved in writing by the Local Planning Authority prior to the submission of the first Reserved Matters application. The Framework shall include the extent of the phases of development, including the timescales for submission of details, commencement and implementation across the development (the Phasing Plan). The development and all reserved matters shall thereafter broadly accord with the approved Development Framework Plan and the Phasing Plan shall be adhered to during the overall construction period.

- 4) Application for approval of the reserved matters for the first phase of development (as identified in the Phasing Plan approved under Condition 3) must be made not later than the expiration of three years beginning with the date of this permission.
- 5) Prior to the submission of the first Reserved Matters a Design Guide shall be submitted to and approved in writing by the Local Planning Authority. The Design Guide will be applied to all subsequent Reserved Matters submissions for

development. The Guide shall follow the principles established in the Design and Access Statement, dated July 2017 Update and the Development Framework Plan required by Condition 3. The Design Guide shall refer to and reflect the Council's current design guidance and cover the following key detailed design matters:

- a) Movement hierarchy and street types- the network of streets, footpaths and car free routes and how these integrate into existing networks, using street sections and plans to illustrate the hierarchy, including details of the verged and tree lined avenue to be created within the public highway along the principal routes and the footpath connecting the housing to Mere Lane within the site;
 - b) Urban design principles - how the development will create a permeable and secure network of blocks and plots with well-defined, active and enclosed streets and spaces;
 - c) Legibility strategy - how the scheme will be easy to navigate using gateways, views, nodes and landmarks for orientation;
 - d) Residential character areas - the different areas of housing within the site and details of the key characteristics of each zone in terms of layout, scale, siting, appearance, and landscape;
 - e) Architectural appearance, building details and materials- informed by a local character appraisal;
 - f) Open space character areas - the function, appearance and design principles for each key area of open space;
 - g) Vehicle and cycle parking - including details of allocated and visitor parking strategies in line with the Council's parking standards;
 - h) Hard and soft landscape - including street surfacing, junction treatments, street furniture, signage, management and maintenance, + boundary treatments - details of front, side, rear and plot division boundaries for each street type / character area;
 - i) Building for Life Statement - how BFL principles are to be met by the development (applicable to residential areas);
 - j) The layout of the proposed development shall be based on the findings and recommendations of a tree survey in accordance with British Standards Institute 5837 (2012): Trees in relation to design, demolition and construction - Recommendations. The siting and design of the development platform, all proposed buildings, access roads, private drives and parking spaces shall be informed by the tree survey and shall give full regard to the root protection area and future growth of trees taking into account the aspect and topography of the site. The required tree survey shall be submitted to the local planning authority as part of the Design Guide illustrating the design response to the outcome of the survey. The position and proximity of the protected trees within Long Plantation shall be taken into account, accommodated and safeguarded.
- 6) Prior to the commencement of development in each phase (as set out in the Phasing Plan), details of the proposed external materials for the buildings in that phase shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.

- 7) Prior to the commencement of development in each phase (as set out in the Phasing Plan) a scheme for the protection of all retained trees in that phase that complies with section 6.2 of British Standard 5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations shall be submitted to and approved in writing by the Local Planning Authority. Tree protection shall be implemented on site in accordance with the approved details (including a timetable for implementation) and the local planning authority notified of implementation to approve the setting out of the tree protection scheme before any equipment, machinery or materials have been brought on to site for the purposes of the development. Thereafter, all tree protection shall be maintained in full accordance with the approved details 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 prior written consent of the Local Planning Authority.

- 8) No development shall take place in each phase until a detailed hard and soft landscape scheme to cover the public realm consistent with the Development Framework Plan (condition 3) and the Design Guide (condition 5) including a timetable for implementation and details of future maintenance for that phase has been submitted to and approved in writing by the Local Planning Authority. Hard landscaping details should include; street surfacing materials and materials for drives, footpaths and patios to individual paths. The scheme shall include a soft landscape plan; a schedule providing details of the species, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock – Specification for Trees and Shrubs Part One and planting distances of trees and shrubs; a specification of planting and staking/guying; a timescale of implementation; and details of aftercare for a minimum of 5 years following practical completion of the landscape works. Thereafter the landscape scheme shall be implemented in full accordance with the approved details/timetable and the Local Planning Authority notified in writing within 7 working days to approve practical completion. Any soft landscaping which fails to achieve independence in the landscape or that is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme, unless the local planning authority gives its written approval to any variation.

- 9) Prior to the submission of any reserved matters application, an archaeological evaluation of the application area will be undertaken in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. Drawing upon the results of this field evaluation stage, a mitigation strategy, including a timetable for implementation, for any further archaeological works and/or preservation in situ shall be submitted to and approved in writing by the local planning authority and then implemented.

- 10) Prior to submission of the first reserved matters application for the development of the site, a site wide drainage plan shall be submitted to and approved in writing by the Local Planning Authority. The drainage plan shall include details of the proposed sequence of development across the entire site,

the extent of the development phases /plots, including reference to the type and extent of development envisaged and include timing information (by reference to any date, the commencement or completion of development of any phase or provision of any element or to any other applicable trigger point) for: -

- a) Strategic foul water drainage features including the points of connection to public sewer, sewerage, pumping stations and any other necessary infrastructure. A pumped discharge of foul water into the public sewer shall not exceed 10 (ten) litres per second in total for the whole development;
- b) Surface water drainage features including SUDS, sewerage and outfalls plus any other necessary infrastructure identified as part of a surface /storm water management plan. Any off-site implications for surface water run-off should be considered. The details shall include:
 - i. information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, the points and rates of discharge and the measures taken to prevent pollution of the receiving groundwater and /or surface waters;
 - ii. a timetable for its implementation; and
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime .

The discharge of surface or foul water for each phase shall not commence until the approved scheme for that phase has been implemented in accordance with the approved details. The whole scheme shall be maintained in working order in accordance with the approved management and maintenance plan.

- 11) On the submission of reserved matters for each phase, a lighting design strategy for the public realm within that phase specifically relating to bats shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:

- likely presence and location of bats based on survey baseline data in relation to the proposed development;
- mitigation measures along with technical specifications to reduce /eliminate the impacts of lighting spill on bats.

The development for that phase shall be carried out in accordance with the approved strategy.

- 12) Prior to the commencement of construction on a phase a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP for each phase shall include:

- + A risk assessment of the potentially damaging construction activities in relation to wildlife and habitats;

- + A method statement for the protection of reptiles and other terrestrial fauna that may be encountered on site;
- + Measures to protect the adjacent Local Wildlife Site, Long Plantation;
- + The use of protective fencing, exclusion barriers and wildlife safety measures;
- + An assessment of the risks posed to groundwater quality during the construction phase, including foundation works;
- + The implementation of mitigation measures designed to protect groundwater;
- + Details of the size and design of any site compounds, including how any potentially polluting materials will be stored to minimise the risk of pollution;
- + Pollution incident management plan.

The development on that phase shall thereafter be constructed in accordance with the approved CEMP.

13) No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved in writing by the Local Planning Authority.

- a) The Phase 1 desktop study, site walkover and initial assessment must be submitted to the Local Planning Authority for approval in writing. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.
- b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved in writing by the Local Planning Authority prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the Local Planning Authority for approval in writing.
- c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved in writing by the Local Planning Authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

- d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The Local Planning Authority must be given two weeks written prior notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease and the Local Planning Authority notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the Local Planning Authority for approval in writing. The associated works shall not re-commence until the reports have been so approved by the Local Planning Authority.
- e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved in writing by the Local Planning Authority.
- 14) Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the Local Planning Authority prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the Local Planning Authority prior to any soil and soil forming material being brought on to site.
- 15) No development shall take place in each phase until a scheme including an acoustic fence, if deemed necessary, to protect residents in the proposed dwellings in that phase from road traffic noise along the A630 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be in line with the recommendations of the noise assessment, reference 14/0085/R01, submitted with the application. All works which form part of the approved scheme shall be completed before occupation of any of the dwellings within that phase, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.
- 16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) The hours of construction operation including any piling activity;
 - ii) Contact details for a nominated person responsible for dealing with any complaints about construction activity;
 - iii) The location of site compounds;
 - iv) The parking of vehicles of site operatives and visitors;
 - v) Loading and unloading of plant and materials;
 - vi) Storage of plant and materials used in constructing the development;
 - vii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii) Measures to control noise and the emission of dust and dirt during construction, including wheel washing facilities;
 - ix) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - x) Management and timing of deliveries.
- 17) No phase of development shall commence until a Construction Traffic Management Plan (CTMP) for that phase of development has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction phase. The CTMP shall contain information relating to (but not limited to):
- + Volumes and types of construction vehicles;
 - + Identification of delivery routes;
 - + Identification of agreed access point;
 - + Contractors method for controlling construction traffic and adherence to routes;
 - + Size, route and numbers of abnormal loads;
 - + Swept path analysis (as required);
 - + Construction Period;
 - + Temporary signage;
 - + Measures to control mud and dust being transferred to the public Highway; and
 - + Timing of deliveries.
- 18) Notwithstanding the submitted plans, prior to the commencement of development, drawings illustrating the general arrangements for access and egress and carriageway re-alignment shall be submitted to the Local Planning Authority for approval in writing, and shall include as appropriate:
- 1. A design for a roundabout related to the current arrangements of the A630, suitable to accommodate the whole development hereby permitted and/or,
 - 2. A design for a roundabout suitable to accommodate the whole development hereby permitted on the basis that the A630 is dualled as part of the West Moor Link Dualling scheme.

Such details shall be accompanied by a scheme setting out the timing/timetable and delivery of the proposals and the transition between them, as is necessary to ensure their implementation, removal and replacement or amendment as the case may be, to accommodate the development safely and in accordance with the current or future arrangements for the A630.

No development shall take place until written approval to such details and such delivery scheme has been given by the Local Planning Authority. The development shall be carried out in full accordance with the approved drawings and scheme of delivery.

19) No development shall commence until a scheme of works (including timing relative to dwelling occupation) in accordance with the Highways Statement of Common Ground dated December 2017 prepared by Croft Transport Solutions has been submitted to and approved in writing by the Local Planning Authority to deliver the highways improvement works at the following junctions in general accordance with the associated plans, adjusted where necessary to take into account any works that have already been undertaken. The scheme of works shall then be implemented in accordance with the approved plans and to the approved timings. The junctions and associated plans are as follows:

- *Junction 1 - A630/Hatfield Lane - Plan 22A.*
- *Junction 2 - A630/West Moor Lane/Yorkshire Way - Plan 24.*
- *Junction 4 - Mill Street/Church Street/Nutwell Lane - Plan 28.*
- *Junction 5 - A18 Leger Way/Armthorpe Road - Plan 29.*
- *Junction 6 - A18 Thorne Road/A18 Leger Way/Leger Retail Centre - Plan 25.*
- *Junction 7 - A18 Thorne Road/A630 Wheatley Hall Road/Ogden Road - Plan 20A.*
- *Junction 8 - A630/A18 Thorne Road/Sainsbury's Access - Plan 16A.*

20) Prior to the occupation of the first house in each phase as set out in the Phasing Plan, that part of the site within the phase to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

21) Prior to the occupation of the first dwelling hereby permitted a Travel Plan along with a scheme for its implementation both in the short and long term, as well as the means for monitoring shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be based on the submitted Framework Travel Plan and shall include a timetable for implementation and provision for monitoring and review. All measures contained within the approved Travel Plan shall be implemented in each relevant phase in accordance with the timetable and scheme of monitoring and review.

22) Prior to the commencement of work on a particular identified phase of development (condition 3), details of electric vehicle charging provision, along with a timetable for installation, for the dwellings in that phase shall be submitted

to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. Each dwelling in any particular phase shall not be occupied until the approved connection for that dwelling has been installed and is operational. The approved infrastructure shall thereafter be retained.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

John Hunter Of Counsel	Instructed by Karen Winnard Head of Litigation & Regulatory Services
He called	
David Edwards	Principal Planner – Local Plans Team
Tim Goodall	Senior Planning Officer – Development Management
Andy Brown	Senior Strategy and Performance Manager
Cristina Howick	Partner of Peter Brett Associates LLP

FOR EDENTHORPE PARISH COUNCIL – RULE 6 PARTY:

Andrew Wood	CPRE Planning Officer (Mr Wood also appeared as an expert witness)
He called	
Paul Bissett	Chairman of the Edenthorpe Parish Council

FOR THE APPELLANT:

Richard Sagar	Partner Walker Morris LLP Solicitors
He called	
Phil Rech BA, B Phil LD CMLII	Director FPCR Environment and Design Limited
Brett Coles BA (Hons) DipLA DipTP MRTPI MLA	Director FPCR Environment and Design Limited (Appeared as a substitute for Mr Rech in January 2018)
Mike Palmer MSc PhD MISoilSci	Director Land Research Associates Limited
Phil Wooliscroft MSc	Director Croft Transport Solutions
Fiona Braithwaite MA (Hons)	Senior Housing Consultant - Lichfields
Michael Hepburn BA	Senior Director Lichfields

(Hons) MTP MRTPI

INTERESTED PERSONS:

Paul Bissett	Local Resident
Dr M Griffiths	Local Resident
Patrica Cooney	Local Resident
Fredrick Gee	Local Resident
Cllr David Nevett	Member for Edenthorpe and Kirk Sandall
Cllr Andrea Robinson	Member for Edenthorpe and Kirk Sandall

INQUIRY DOCUMENTS PRESENTED AT THE INQUIRY

Document Number	Document Title
1	Inquiry Note – Access as a Reserved Matter and Submission of Alternative Plans
2	Opening Remarks on behalf of the Local Planning Authority
3	Opening Statement to the Public Inquiry Edenthorpe Parish Council
4	Appellant’s Opening Submissions
5	Armthorpe Neighbourhood Development Plan – Submission Version 30 August 2017
6	Statement of Paul Bissett
7	Statement of Patricia Cooney
8	Statement of Cllr David Nevett
9	R(oao Skipton Properties Limited) and Craven District Council – [2017] EWHC 534 (Admin) case no CO/5521/2016
10	Statement of Dr M Griffiths
11	Statement of Cllr Andrea Robinson
12	Statement of Frederick Gee
13	Doncaster Borough Council and Secretary of State for Communities and Local Government and Faith Homes Limited CO/3836/2017 - Acknowledgement of Service, Second Defendant’s Summary Grounds
14	Agricultural Land Classification Note – September 2017
15	Doncaster Borough Council and Secretary of State for Communities and Local Government and Faith Homes Limited CO/3836/2017 Acknowledgement of Service, Second Defendant’s Summary Grounds of Resistance
16	Edenthorpe – We remember when it was “Our Little Garden of Eden”
17	The History of Edenthorpe – A Pictorial History by Peter J Ramsden
18	Certified copy of S106 agreement
19	Draft Unilateral Undertaking
20	Update note on landscape & urban design matters + details of Brett Coles
21	Update note – agricultural land Palmer
22	Update Howick Evidence - Doncaster job change

23	Hepburn Evidence Update
24	Note of David Edwards and Tim Goodall in response to additional submissions of appellant
25	Highways Statement of Common Ground Hallam Land Management and Doncaster Metropolitan Borough Council – December 2017
26	Weight to be given to various appeal decisions
27	Rule 6 response to the Statement of Common Ground Highways
28	Planning for the right homes in the right places: consultation proposals
29	The Queen on the application of Wynn-Williams v Secretary of State for Communities and Local Government [2014] EWHC 3374 (Admin) CO/781/2014
29A	Ekosgen Sheffield City Region Integrated Infrastructure Plan
30	Planning obligations – CIL Compliance Statement
31	Summary of S106 Agreement
32	Draft conditions
33	Original Unilateral Undertaking dated 12 January 2018
34	Council’s Closing Submissions
35	Edenthorpe Parish Council’s Closing Submissions
36	Appellant company’s Closing Submission
37	Submissions on the effect of the Revised National Planning Policy Framework – Edenthorpe Parish Council dated 9 August 2018
38	Submissions on the effect of the Revised National Planning Policy Framework – Council dated 9 August 2018
39	Submissions on the effect of the Revised National Planning Policy Framework – Appellant Company dated 10 August 2018
40	Appellant Company response to Council’s submissions dated 9 August 2018
41	Council’s response to appellant company submissions dated 10 August 2018
42	Appellant Company’s final comments

Inquiry Plans

A	Green Wedge Plan – extract from Core Strategy
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Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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