The Planning Inspectorate

Appeal Decision

Inquiry held on 3, 4, 5 and 6 November 2015
Site visit made on 6 November 2015

by Anne Napier BA(Hons) MRTPI AIEMA

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

Decision date: 07/01/2016

Appeal Ref: APP/B3030/W/15/3006252
Land at Southwell Road, Farnsfield, Nottinghamshire

- 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 Hollins Strategic Land LLP against the decision of Newark & Sherwood District Council.
- The application Ref 14/01469/OUTM, dated 14 August 2014, was refused by notice dated 14 November 2014.
- The development proposed is the erection of up to 48 dwellings (access only).

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 48 dwellings (access only) at Land at Southwell Road, Farnsfield, Nottinghamshire in accordance with the terms of the application, Ref 14/01469/OUTM, dated 14 August 2014, subject to the conditions in the attached Annex.

Preliminary Matters

2. The planning application that is the subject of this appeal was submitted in outline, with all matters except access reserved. A plan showing the position of the proposed access and visibility splays, Ref 0618-F01, was submitted as part of the application process and was taken into consideration by the Council in its determination of the proposal. I shall do the same. In addition, a masterplan showing a site layout and a plan of site sections, Refs (0-)A001 and (0-)A003, formed part of the application but were confirmed to be indicative only. I intend to consider the appeal on this basis.

3. During the Inquiry, a further plan was submitted, showing the proposed access in relation to trees on the site and providing an indication of the number and type of trees that would be removed, together with the extent and type of mitigation that could be provided. Whilst the plan provides some detail in this respect, it is marked 'for information only' and matters regarding landscaping are reserved. I am satisfied that my intention to consider this plan as indicative in relation to this appeal would not be prejudicial to any party.

4. It also became apparent, during the Inquiry, that the originally submitted completed planning obligation, dated 2 November 2015, contained typographical issues with regards to the areas of amenity open space and children's play area specified. A revised version of this legal agreement, dated 10 November 2015, has subsequently been submitted to resolve these issues.

Given the very limited nature of the changes involved, I am satisfied that my intention to accept this revised version of the planning obligation as part of the appeal submissions would not be prejudicial to any party.

Main Issues

5. The main issues in this appeal are:

   - whether or not the relevant policies of the development plan are out-of-date, having regard to whether the Council can demonstrate a five year supply of deliverable housing land; and
   - whether or not the appeal site would be appropriate for housing, having particular regard to the principles of sustainable development in the National Planning Policy Framework (the Framework) and local development plan policies.

Reasons

Development plan policy

Spatial strategy for housing development

6. The appeal site is located on the edge of Farnsfield, on land adjacent to but outside the defined village envelope and it is not disputed that, as such, the site is located within the countryside. The *Newark and Sherwood Allocations and Development Management Development Plan Document 2013* (DPD) Policy DM8 generally seeks to restrict development within such locations, unless the proposal meets one of a number of specified exceptions. Cumulatively, the *Newark and Sherwood Core Strategy Development Plan Document 2011* (CS) Policies SP1 and SP2 define a hierarchy of settlements within the area and specify how development should be distributed between those settlements. DPD Policy DM1 supports appropriate development within these settlements. CS Policy SP3, amongst other matters, seeks to protect the countryside, increase biodiversity and enhance the landscape. The submitted Statement of Common Ground confirms that it is a matter of agreement between the parties that these policies are relevant to this appeal and I see no reason to disagree with this view.

7. It is also a matter of common ground that the level of housing provision within the CS was in accordance with that identified in the East Midlands Regional Strategy and specifies a requirement for 740 dwellings per annum (dpa) within Newark and Sherwood (N&S). However, since the adoption of the CS, this Regional Strategy has been revoked and, in any event, it is not disputed that the specified housing requirement for N&S within the CS was not derived to meet the full objectively assessed needs (FOAN) for market and affordable housing within the housing market area (HMA). As such, it is not consistent with paragraph 47 of the Framework. On this basis, I concur with the views of the main parties that the identified housing requirement within the CS of 740 dpa is out-of-date.

8. Furthermore, I am mindful that the current extent and location of growth identified within the specific allocations and housing supply policies of the CS and DPD stems from and reflects the CS housing requirement. Accordingly, I am not satisfied that the relevant policies identified above and the overall distribution of housing growth within the settlement hierarchy can be

considered as up-to-date. Moreover, the definition of the village envelope forms an important part of this overall policy strategy for the supply of housing within the district. Accordingly, within this context and insofar as it restricts the supply of housing in accordance with this strategy, I find that the village envelope for Farnsfield is also out-of-date.

9. At the Inquiry, the Parish Council referred to the relatively recently adopted DPD and the resulting two allocated sites for Farnsfield that followed from this process. These matters were also raised in a number of submitted written representations. However, whilst these allocations provide for a level of housing provision that is somewhat above that specified in the CS, it is not disputed that the figures referred to within the CS in this respect are minimum numbers. In any event, this matter does not address my findings above, that the housing policies within the CS and DPD are out of date.

10. A need for a review of the development plan has been identified and the Council has recently produced, with others, a final draft of the *Nottingham Outer Strategic Housing Market Assessment October 2015* (SHMA) and an *Issues Report*, which contribute to this process. Identifying the overall location and distribution of housing growth within N&S are matters for the local plan process and are not before me as part of this appeal. Furthermore, the *Issues Report* is at a very early stage of the process, which considerably limits the weight that I give to it, in accordance with paragraph 216 of the Framework.

11. Nonetheless, whilst recognising that an assessment of need is materially different to the policy process that will be followed to determine the most appropriate locations to distribute growth in order to address that need, there is nothing before me to suggest that the level of housing requirement identified within the CS, or the potential respective distribution of housing within the area, have little prospect of change as part of this review process. As such, neither the SHMA nor the Issues Report leads me to alter my conclusions that the housing requirement identified within the CS is out-of-date.

Five year supply of deliverable housing land

Full objectively assessed need (FOAN)

12. I heard evidence on the final draft of the SHMA, which identifies a HMA that covers the area of N&S and two adjacent local authority administrative areas, those of Ashfield and Mansfield. There is nothing before me that leads me to consider that the identified HMA is inappropriate. Whilst considering housing need across the whole HMA, the SHMA also identifies a level of housing need for each authority within the HMA.

13. The SHMA will be tested in due course as part of the development plan process and full details in relation to the HMA as a whole are not before me. Nonetheless, having regard to the Planning Practice Guidance (PPG) relating to the calculation of the five-year housing supply[1] and in relation to this appeal, I consider that it is necessary for me to reach an evidence based conclusion about the FOAN for N&S, before assessing whether there is any shortfall in housing supply to meet that need. The Council considers that the SHMA represents the best evidence presently available in respect of housing need, which is capable of being a robust and sound assessment of that need. It is an

[1] PPG, ID 3-030-20140306

assessment that has very recently been produced and undertaken following a detailed analysis of the issues, as well as some limited consultation. As such, I regard it as an important consideration in respect of this appeal.

14. The scale of housing supply identified as necessary for N&S within the SHMA amounts to some 454 dpa, which is substantially below that previously identified as required within the CS (740 dpa). Whilst not disputing that the CS housing figures are out-of-date, the appellant's assessment of housing need identifies that a level of housing of between 500-550 dpa would be required to meet need within N&S. In broad terms, the difference between the parties on this matter relates to three areas of assessment – the appropriate extent of adjustment that should be made to household projections to take account of longer term migration trends and unattributable population change (UPC), economic growth and market signals. I shall consider each of these in turn.

15. The evidence provided indicates that the SHMA's assessment of FOAN broadly follows the approach outlined within the PPG[2]. Its starting point for the estimation of overall housing need is the 2012-based Office of National Statistics Sub-National Population Projections (SNPP) and the 2012-based Department for Communities and Local Government household projections, which give an FOAN figure for N&S of 399 dpa. It is not a matter of dispute between the parties that it is appropriate to adjust these initial projections to reflect other evidence on population and household change in the area. Having regard to the evidence provided, I concur with the views of both the main parties that such an adjustment would be reasonable in this case.

16. An adjustment to take account of longer term migration trends results in an identified need for some 499 dpa in N&S. The Council contends that it is necessary to make an adjustment to this figure to take into account the SNPP adjusted for UPC in order to ensure that the overall figure for the HMA would be sufficiently accurate in relation to individual local authority areas, particularly in respect of Mansfield. Such an adjustment would reduce the level of housing need for N&S to 446 dpa.

17. Whilst accepting that the HMA is greater than that of the administrative area of N&S, the FOAN for Mansfield is not a matter that is before me as part of this appeal. Furthermore, from the evidence provided, the overall assessment for the HMA is generated in part from an approach that requires a combined assessment of the relevant data sources of the respective individual local authority areas. As such, I find the justification for making an adjustment to the identified need in N&S to address a specific sensitivity issue within a neighbouring local authority area not to be compelling in respect of this appeal.

18. Whether or not some adjustment is required to the population projections for Mansfield, the evidence before me is not sufficient to demonstrate that a downward adjustment to the identified longer term migration trends to take account of UPC for N&S is necessary. Furthermore, I am not satisfied that it has been adequately demonstrated that the absence of such an adjustment in N&S would necessarily have an unacceptable impact on the robust assessment of FOAN within the HMA as a whole. As a result, on the evidence available to me, I find that the figure of 499 dpa represents an appropriate demographic figure for N&S.

[2] PPG, 2a 'Housing and economic development needs assessments'

19. The PPG advises that it is also necessary to consider whether any further adjustment is appropriate to take account of economic circumstances and market signals, amongst other matters. This approach is followed within the SHMA, which concludes that no adjustment is required to the demographically derived housing need figure to take account of projected levels of economic growth, but that this figure should be increased by 8 dpa within N&S to reflect market signals.

20. I understand that the SHMA's assessment of economic growth derives from the forecasts used in the *Employment Land Forecasting Study 2015* undertaken for the Council and other local authorities in the area. Whilst I acknowledge that the use of a common source may be useful, it is nonetheless important to consider whether this forecast appears reasonable in relation to the particular circumstances of the area and to understand the subsequent implications for housing growth.

21. The SHMA indicates that the level of housing need identified in relation to population change forecast would be able to support the expected level of economic growth within the area. However, whilst recognising this level of growth exceeds that of some national forecasts and reflects the forecast growth rate for the HMA as a whole, the appellant's evidence indicates that it would be below past growth for N&S. The PPG advises that 'establishing the future need for housing is not an exact science'.[3] Furthermore, the appellant has accepted that methodological issues result in some uncertainty in the analysis of current employment and past rates of change within sectors. Nonetheless, taking into account past trends and the level of economic growth seen within N&S since 2012, it appears to me that the level of economic growth anticipated within the HMA as a whole may under-estimate that likely to occur within N&S.

22. I accept that some of the new jobs resulting from economic growth within N&S would be met by the population increases factored into the calculations previously, through the initial assessment of population change. However, even if the level of economic growth projected within the SHMA is shown to be appropriate, it appears that the economically active proportion of the population would have to increase significantly amongst some cohorts in order to support projected future increases in jobs, unless an increase in inward migration occurred.

23. From the evidence provided, I am not persuaded that the projected increases in economic activity are sufficiently realistic amongst all cohorts, including that of women above the age of 65. Whilst I recognise that it is very likely that, in the future, the proportion of women in this age group who are economically active may well increase, I am not satisfied that it has been adequately demonstrated that a labour force supply that includes some 17% of all women in this age group is reasonably likely to occur. Similar concerns also exist with other cohorts, such as men aged 35-49 and over 65, and women aged 25-49, although to a lesser extent.

24. As a result, whilst taking into account the advice in the PPG referred to above and recognising that economic growth projections and the resulting implications for housing need are difficult to quantify, I consider that the balance of the evidence provided suggests that some further upward

[3] PPG, ID 2a-014-20140306

adjustment to the demographic housing need figures is likely to be justified in this case.

25. In respect of market signals, the advice within the PPG indicates that, where such an adjustment is required, this should be set at a level that is reasonable. The basis for such an adjustment refers to the balance between the demand for and supply of housing. Planned supply should be increased by an amount that, on reasonable assumptions and consistent with the principles of sustainable development, could be expected to improve affordability. [4]

26. Whilst there was some debate about the longer term trends of market signal indicators, and whether or not these are worsening, the SHMA recognises a need for an upward adjustment to reflect market signals. It was argued, by the Council, that the identified level of housing need within the HMA incorporates such an adjustment and, as such, the increase in 8 dpa should not be considered in isolation, particularly with regard to the formation of households from the 25-34 age cohort of the population.

27. Nonetheless, increasing the amount of housing to meet future levels of projected housing growth or population change would not, to my mind, address identified issues regarding affordability. Furthermore, the evidence provided within the SHMA indicates that, in respect of house prices and ownership levels, the situation within N&S is not materially better than in the remainder of the HMA. The SHMA can be interpreted to imply that, in some respects, the affordability situation is more challenging in N&S in comparison to the other two local authority areas within the HMA.

28. The Council accepted, in cross-examination, that an upward adjustment of 8 dpa would not have any material effect on the relationship of the demand for housing to its supply. I recognise that house prices are affected by macro-economic issues and the housing market in N&S does not operate in isolation. Nonetheless, this does not justify making only a very limited adjustment to the supply within N&S. If such an approach were followed more widely, then broader issues regarding affordability would remain unresolved.

29. Examples of such adjustments made elsewhere have been drawn to my attention. Whilst I understand that a percentage increase in upward adjustment has been proposed or accepted in some cases elsewhere, which have been in the order of 10-20%, this has not been applied universally. Furthermore, these other examples relate to considerations undertaken as part of a development plan process. As such, the areas concerned and the circumstances in which they have been considered are materially different to those of the appeal before me. In any event, no such figure is before me in this case. Nonetheless, considered overall and for the reasons given above, I regard the evidence before me as supporting the need for a greater level of upward adjustment than that identified within the SHMA, to take account of market signals within N&S.

30. In addition, the Framework and the PPG identify a requirement for the assessment of the need for affordable housing. The SHMA identifies an affordable housing need of 177 dpa for N&S. However, it does not specifically seek to add the identified need to the FOAN figure. It is common ground between the parties that the calculation of the specific number of houses

[4] PPG, ID 2a-019-20140306 and ID 2a-020-20140306

required to meet this need can be difficult to quantify, as this need may potentially be addressed in a number of ways, such as by the private rented sector or within broader demographic changes, such as future household formations. As a result, the provision of a percentage of affordable housing within new build developments is not necessarily the only method of addressing this need.

31. Nonetheless, the need for affordable housing identified within the SHMA is supported by the *Newark and Sherwood Housing Market and Needs Assessment 2014 Draft Final Report* and the Council's *Affordable Housing Supplementary Planning Document 2013*, which identify a significant need for affordable housing within the area, including within Farnsfield. There is nothing before me to demonstrate that the identified need for affordable housing is no longer required or could be fully met in other ways. As such, considered overall, it is reasonable to conclude that some level of further upward adjustment would be appropriate in order to contribute towards the need for affordable housing.

32. Bringing together the above factors, I consider that the minimum housing need figure resulting from demographic change for N&S should be 499 dpa. Furthermore, in order to achieve a meaningful level of upward adjustment, which I consider to be necessary for the above reasons to reflect likely future economic growth, address issues of affordability and make some contribution towards meeting the identified need for affordable housing within the area, I conclude that, on the balance of the evidence available to me, a reasonable assessment of the FOAN for N&S would be in the order of 550 dpa.

Five year housing requirement

33. It is common ground that the five year land supply period is 1 April 2015 – 31 March 2020. The FOAN for N&S identified above would result in a five year housing requirement of 2750 units. It is common ground between the parties that a 20% buffer for persistent under-delivery of housing should be added to this figure. Furthermore, it is not disputed that the shortfall in housing provision compared to FOAN in the two years since 2013 should also be added to this figure, reflecting the base date of the SHMA and the available data for housing completions for the following two years. The Council have identified this shortfall to be some 187 dwellings. Given my findings above regarding FOAN, this shortfall figure should be increased to 379 dwellings.[5]

34. Both the parties agree that it would be appropriate to add the shortfall figure to the total following the addition of the 20% buffer to the FOAN figure, to avoid double-counting. I note that this approach does not accord with that suggested in the Planning Advisory Service (PAS) guidance[6] and I acknowledge that the alternative approach used in the PAS guidance (adding the 20% buffer to both the FOAN and the shortfall) has been followed in other decisions. However, I do not propose to divert from the agreed approach between the parties in this case. As a result, the housing requirement for the five year period, taking into account the 20% buffer, would be increased to 3300 dwellings.

[5] This calculation adds a figure of 96 dpa (550-454 dpa) for each of the years 2013/14 and 2014/15 to the Council's figure of 187 dwellings, to arrive at a shortfall figure of 379 dwellings.
[6] PAS Technical Advice Note on Objectively Assessed Need and Housing Targets

35. It is disputed whether the identified shortfall of 379 dwellings should be addressed within the next five years (the 'Sedgefield' method) or spread across the remaining plan period (the 'Liverpool' method). I understand that the Council has previously been consistent in its use of the Liverpool method. Having regard to the strategic urban extensions (SUE) proposed for Newark, it continues to consider that this represents the most appropriate method in respect of N&S. In addition, although I consider the advice within the PPG to suggest a preference for the Sedgefield method,[7] my attention has also been drawn to other examples of the use of the Liverpool method subsequent to this PPG advice being published.

36. Whilst I have had regard to these examples, I am not satisfied that the circumstances in this case are directly comparable to these other situations. In particular, the SUE sites for N&S are allocated in the CS, which was adopted in 2011. The evidence before me indicates that it was anticipated that these sites would begin to deliver housing as early as 2012. For various reasons, this has not transpired. Nonetheless, it has not been suggested that the planned delivery of housing across the SUE sites will be, or was intended to be, later in the plan period. As such, in this case and having regard to the advice within the PPG and the aim of the Framework policy at paragraph 47, to boost significantly the supply of housing, I find the Council's argument, to adopt the Liverpool method, not to be a compelling one in this case.

37. As a result, I consider that it would be appropriate to require the shortfall for N&S to be addressed within the next five years. As such, I find the overall five year housing requirement for N&S to be 3679 dwellings.[8]

Supply of deliverable housing sites

38. An agreed respective position statement between the main parties was prepared in advance of the Inquiry and this was updated during the Inquiry process. A final agreed position statement was submitted on the last day of the Inquiry and I intend to consider the appeal on the basis of this document, together with the supporting evidence provided.

39. By the end of the Inquiry, a total of twelve sites remained in dispute, which included three sites with planning permission, three sites allocated within the CS and six other allocated sites. The Council considers that it can demonstrate an overall supply of 3929 sites for housing that are deliverable in the next five years, some 250 houses above the requirement figure identified above. In contrast, the appellant contends that a supply of only 2718 houses will be deliverable within the next five years, some 961 units below this figure.

40. Broadly speaking, in respect of these remaining disputed sites and with two exceptions, the appellant's view differs from that of the Council in terms of the anticipated timing of commencement on site and the likely build-out rate for the individual sites. The two exceptions concern sites which the appellant considers will not result in any housing being delivered within the next five years.

41. Footnote 11 of the Framework defines what constitutes a 'deliverable site' in the context of housing policy and the PPG[9] provides further advice on this

[7] PPG, ID 3-035-20140306
[8] FOAN for five year period plus 20% buffer (3330 dwellings) plus shortfall (379 dwellings)
[9] PPG, ID 3-031-2140306

matter. The remaining sites in dispute either have planning permission or are sites allocated in the development plan. As such, in accordance with the Framework policy and PPG advice, they should be considered deliverable, unless there is clear evidence that the schemes will not be implemented within five years.

42. Whilst this was not disputed, there was some discussion within the Inquiry about what is meant, in this context, by the term 'implemented'. However, although there was some evidence to the contrary, it seems to me that the evidence presented in support of the Council's case supports the view that a robust assessment of housing supply should include an assessment of the time it may take to commence development on site and the build out rates, including for sites with planning permission or allocated sites. It is clear, from the details provided, that the Council has taken the advice of developers and local agents in order to carry out just this type of assessment in respect of the sites identified.

43. Such an approach also appears to me to accord with the advice within the PPG in this respect. Notwithstanding the reference within the PPG to 'plan makers' rather than 'decision takers', to do otherwise would imply that, unless there is clear evidence that no development will take place within five years, the total number of houses included within any allocated site or site with planning permission should be considered deliverable within the next five years. In contrast to the alternative, this type of approach would not seem to me to take an appropriately realistic view of individual circumstances, particularly for larger sites, or represent a sufficiently robust assessment of the five-year housing supply.

44. Consequently, having regard to the Framework policy and PPG advice, I find it necessary to consider not just whether there is a realistic prospect that housing will be delivered on the identified sites within five years but, if so, the amount of housing that is reasonably likely to be delivered within this timeframe, taking into account the time it will take to commence development on site and build-out rates.

45. Turning first to the sites allocated in the CS, taken together, these represent the sites with the largest amount of disputed housing delivery. The first site, at Bowbridge Lane, Balderton (Ref NAP2A), concerns a site that is expected to deliver an overall total of some 3,150 houses. Of these, the Council estimates that 550 will be provided within the next five years. In contrast, the appellant considers that only some 110 will be delivered within this timeframe.

46. The dispute between the two parties concerns both lead-in times and build-out rates. This is a large strategic site with outline planning permission that requires the provision of a southern link road to unlock the delivery of housing across the site. Evidence was provided to demonstrate that the landowner will construct the link road, which I understand is due for completion in April 2016, with the benefit of grant funding from the Homes and Community Agency. However, whilst I have no doubt that the landowner will wish to secure the development of the site in order to repay this loan, there is no clear evidence before me to indicate that will occur swiftly.

47. I heard evidence from Mr Cove, for the appellant, of the likely potential timescales for the various stages of the development process, which would need to be completed before development commenced on site. Mr Cove was

able to draw on his experience of a range of housing developments elsewhere. I found the evidence to be clear and specific in this regard and, in my experience, the timescales suggested for these various elements were not excessive and, in some respects, could be potentially considered optimistic. As such, I do not regard them as unreasonable and consider that they provide a robust and useful basis on which to assess the likely lead-in time for development to start on site.

48. As I understand the situation, marketing is about to commence on the site and, before development starts, developers will need to be secured, with legalities completed, reserved matters approved and appropriate conditions discharged. Even if these processes occur without undue delay, having regard to the timescales likely to be needed for the various stages to be completed, I consider it very unlikely, on the evidence provided, that the construction of dwellings on the site would start before the middle of 2018.

49. This contrasts with the Council's estimation of a start by the second half of 2016, which was accepted to be ambitious. Accordingly, adjusting the Council's trajectory to take into account this longer lead-in period, but using the build-out rates included within it, would result in some 150 dwellings being delivered within the next five years, a figure of 400 dwellings below that estimated by the Council.

50. In respect of the second disputed CS allocation, known as 'Land east of Newark' (Ref NAP2B), the information provided in a letter dated 22 October 2015, indicates that it is anticipated that formal pre-application discussions with the Council would be started in November 2015, together with scoping for an Environmental Impact Assessment (EIA). At the time of the Inquiry, the Council confirmed that, as yet, this had not taken place. The time periods provided in the letter anticipate the grant of a formal permission in September 2016, with the approval of reserved matters and a start on site in spring 2017, with completions from autumn 2017.

51. I heard compelling evidence from the appellant that suggested that this timescale was optimistic in its assessment of the amount of time likely to be required for the preparation of an application for EIA development. Taking that into account, it was suggested that the submission of the application would be more likely to occur in August 2016. Having regard to the scale of the development, a further three year overall period was also anticipated to be needed for the approval of the application, the completion of any planning obligations required, the approval of reserved matters applications, the discharge of conditions, site preparation and civil works, and mitigation works required in connection with the country park element of the scheme.

52. As a result, the appellant does not foresee the delivery of dwellings on the site until mid-2019. From the level of detail provided and having regard to the time periods involved for the remaining strategic urban extension site, I find the appellant's assessment of lead-in times to be more persuasive than those provided by the Council in this case. As such, using the trajectory and build-out rates provided by the Council, but increasing the lead-in times indicated, this would result in some 30 dwellings being delivered within the next five years, reducing the Council's figure on this site by 100 dwellings.

53. The circumstances are somewhat different with regards to the third disputed site allocated in the CS, known as 'Land around Fernwood, Newark' (Ref

NAP2C). I understand that there are several developers with an interest in the site, although only one (Barratt David Wilson - BDW) has made a planning application, submitted in March 2014 which, at the time of the Inquiry, remained undetermined. The Council's evidence on lead-in times on the site as a whole relied in part on information provided by a different developer (Persimmon), although I accept that this is likely to have been produced in conjunction with others with an interest in the site.

54. Nonetheless, even if the existing BDW application were to be approved imminently, I consider that an anticipated start on site for Persimmon in late 2017 to be overly-ambitious, taking into account the length of time taken to consider the current outline application for BDW and details provided within the letter from Persimmon, dated 22 October 2015.

55. This indicates an intention to proceed by way of outline and reserved matters applications, but with no firm date provided for the submission of the outline application and only a very limited period allowed for the approval of the reserved matters application and the discharge of conditions. Whilst it was accepted that these applications do not need to be sequential, I recognise that it is often the case that proposals are progressed in this way, due to the financial and other commitments required on behalf of the developer in the preparation of a detailed scheme. As such, in this context, I consider a more realistic lead-in time would anticipate a start on site by Persimmon in 2018.

56. As a result, I consider that there is clear evidence that calls into question the anticipated extent of delivery on this site within the next five years. The Council's estimate is for some 530 dwellings (increased from 330 in the Council's *5 Year Land Supply Statement March 2015*, as a result of information provided by Persimmon). Even accepting the build-out rates provided within the Council's trajectory, if this is adjusted to reflect a later start on site by Persimmon in 2018, the number of dwellings delivered within the next five years would be reduced by some 110 dwellings.

57. Accordingly, whilst accepting that firm predictions are difficult, the clear evidence before me indicates that, even accepting the build-out rates provided, the Council has materially under-estimated the likely lead-in times on these three sites, resulting in an over-estimation of the number of dwellings reasonably likely to be delivered on these sites within the next five years. The consequent cumulative reduction in housing numbers, considering just these three sites, is in the order of some 610 dwellings.

58. This would reduce the Council's identified overall supply of housing sites that are deliverable in the next five years from 3929 to 3319. Given my findings above, that the overall five year housing requirement for N&S is 3679 dwellings, I am therefore unable to find, on the evidence available to me, that the Council can demonstrate a five-year deliverable supply of housing to meet its identified needs.

59. Furthermore, even if I were to find in favour of the Council for the other nine disputed sites, the housing numbers for those sites are such that this position would not alter. Conversely, the numbers involved in these other disputed sites are such that, even if I were to find in favour of the appellant in respect of all of them, the overall level of deliverable housing supply would not fall below four years. Consequently, taking this into account, it is not necessary for me to consider in detail each of the remaining sites.

60. The Council has confirmed that, in calculating its housing supply, it does not rely on windfall sites. It is argued by the Council that this approach to the calculation of deliverable supply results in a robust process and, as some delivery will take place on unallocated sites, provides an element of flexibility to the figures. However, the evidence before me about the contribution of windfall sites to supply is limited and, in any event, the Council confirmed that it is not intended that these sites should contribute to the assessment of its deliverable supply. As a result, this matter is not one that leads me to alter my findings above.

61. Overall therefore and for the reasons given above, although it is not disputed that the Council is able to demonstrate a more than four-year supply of deliverable housing sites, I conclude that, on the evidence available to me, it is unable to demonstrate a five-year supply.

Overall conclusion on housing policy

62. My attention has been drawn to comments made in the examination of the CS, including the concerns raised in relation to the potential implications of a materially higher level of growth for settlements including Principal Villages such as Farnsfield. However, having regard to the scale of development proposed in this case, either individually or cumulatively with other development on allocated sites, I consider that the proposal would not result in an unacceptable level of growth for the village.

63. As such, the appeal scheme would not conflict with CS Policies SP1 and SP2, which respectively identify a settlement hierarchy within the district and minimum levels of housing provision, or with DPD Policy DM1, which supports appropriate development within those settlements. The proposal is situated within the countryside, in a location where CS Policy SP3 and DPD Policy DM8 would generally restrict development, and the appeal scheme would not be in accordance with these policies. Nonetheless, having regard to my overall findings above in relation to both housing requirement and housing supply and to paragraphs 47-49 of the Framework, I conclude that these relevant policies for the supply of housing are out-of-date, and therefore of limited weight, and find paragraph 14 of the Framework to be engaged.

64. Where the relevant policies of the development plan are out-of-date, paragraph 14 of the Framework and DPD Policy DM12 require permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Furthermore, in relation to the final phrase of paragraph 14, it has not been suggested, nor do I consider having regard to the evidence provided, that there are specific policies within the Framework that indicate that development should be restricted.

65. As the presently calculated level of FOAN for N&S, on any evidence before me, results in a housing requirement of fewer dpa than that required by the CS, it was argued by the Council that the engagement of paragraph 14 would be odd in such circumstances and unlikely to be the intention of the Framework. However, I am not persuaded by this argument.

66. There is nothing before me to indicate that, having concluded that the relevant policies within the development plan are out-of-date, paragraph 14 should not be engaged if the more up-to-date housing requirement figure is less than the

previously calculated figure. The Framework provides an appropriate context in which to assess the proposal in the situation where paragraph 14 is engaged and, in so doing, I am mindful of the need to assess the proposal against the policies in the Framework taken as a whole, including those of paragraph 47, to boost significantly the supply of housing.

Whether or not appropriate site for housing

67. Paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. The three dimensions of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built and natural environment as well as in people's quality of life'.

The social and economic roles

68. It is not disputed that the scheme would have a number of benefits, including its contribution to the local housing stock and the supply of housing. In light of my findings above and the encouragement within the Framework for such development, I consider that this represents a significant benefit in support of the proposal, to which I give great weight.

69. Furthermore, it is also proposed that, in line with local policy requirements, a proportion of the dwellings would be affordable. As referred to above, the evidence before me demonstrates a local need for affordable housing and, having regard to paragraph 50 of the Framework, including its aims to deliver a wide choice of high quality homes, create inclusive, mixed communities, and plan for a mix of housing based on the needs of different groups in the community, this adds significant further weight to these benefits.

70. In addition to these benefits, the proposal would also have economic benefits, including support for local services, both during construction and following occupation. Whilst some of these benefits may be temporary and some may reflect people moving from within the area, they are nonetheless also matters that weigh in favour of the scheme and reflect the aims of paragraph 55 of the Framework, for housing in rural areas to enhance or maintain the vitality of rural communities.

The environmental role

71. The site is located within comfortable walking distance of a good range of local services and facilities and in close proximity to bus stops, with relatively frequent services to larger settlements nearby. As such, notwithstanding the local concerns that have been expressed about the impact of the proposal on some of these local facilities and services, considered below, the location of the site is such that potential future occupiers of the appeal dwellings would have ready access to many of the facilities reasonably likely to meet their day-to-day needs, without necessarily being reliant on the use of private motor vehicles. Given the encouragement within paragraph 17 of the Framework, to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, this also weighs in favour of the proposal.

72. Although not explicitly articulated in the Council's single reason for refusal, the evidence provided clearly indicates that the Council considers that the impact of the proposal would result in harm to the character and appearance of the

area, including in relation to landscape. The appellant has been provided with an opportunity to respond to these concerns and those of other interested parties, such as the Parish Council, as part of the appeal process.

73. The site largely comprises an open field, as well as part of the rear and front gardens of an adjacent dwelling, Broadlands. Hedgerows and intermittent trees exist along most of the boundaries of the site, with a prominent group of trees situated within part of the front garden of Broadlands, including within an area that would be used to provide the site access. Although the proposal is in outline, the details provided indicate that, in the main, these boundary hedges and trees are intended to be retained. The indicative details also suggest that the landscaping proposed for the site could incorporate a landscape buffer and additional planting, which would be important measures to assist in reducing the impact of the development on the surrounding countryside. However, the development of the site as proposed would undoubtedly change its current open character and rural appearance.

74. In addition, it is accepted that the provision of an access to serve the development would result in the loss of trees, including some which have been categorised as grade A and considered to be of high quality. The impact of this loss could be mitigated to some extent by replacement planting and, in addition, the potential for the scheme to incorporate measures that would enhance biodiversity has been identified within the submitted *Extended Phase 1 Habitat Survey and Arboricultural Assessment.* Nonetheless, the loss of these trees would be harmful to the character of the area and the streetscene. Furthermore, given the outline nature of the scheme and the level of detail provided, the full extent of this impact may be greater than that shown on the indicative plan provided at the Inquiry, which would potentially result in greater harm in this respect.

75. The appellant's Landscape Appraisal of the scheme indicates that the proposal is not likely to alter the wider landscape character, but accepts that it would have some minor adverse visual impacts. Having regard to the surrounding topography, the character of the landscape, the views available of the site and the close relationship of the appeal site to the existing development adjacent to it, I concur with this view. Furthermore, in its current form, I consider that the largely undeveloped site makes a positive contribution to the intrinsic character and beauty of the surrounding countryside. The proposal would result in some degree of harm to this and would materially diminish the rural appearance of the immediate locality.

76. Whilst this is a matter that counts against the scheme, I have also had regard to the Council's *Landscape Character Assessment* (LCA) for the area. The appeal site falls within an area identified as the Mid Nottinghamshire Farmlands Character Area and the LCA indicates that, to conserve the rural character of this area, development should be limited to sites around existing specified settlements, including Farnsfield. The proposal would not conflict with this approach. Furthermore, the appeal scheme would be located on the edge of a relatively sizeable village, which has a range of services and facilities, but is predominantly residential character. As such, notwithstanding the other developments that have taken place, or are likely to take place, within the village, I consider that, in this case, the scale of development currently proposed would not result in a significant change to the overall character of Farnsfield.

77. Consequently, considered overall, including in respect of its potential impact on trees, I consider that the harm identified to the character and appearance of the area, including its landscape, whilst material, would be relatively limited and I have given this moderate weight.

78. I understand that the current appeal site formed part of a larger site, which was considered by the Council in its *Strategic Housing Land Availability Assessment 2010*, as part of the development plan process for the DPD. This larger site was not taken forward as a proposed allocation within the DPD. The visual prominence of this larger site was a reason given for this, together with a number of other reasons. However, whilst I understand that the DPD Inspector did not disagree with the Council's proposed allocations in Farnsfield, there is nothing before me to demonstrate that this previous Inspector reached a view on the specific merits of the appeal site. As such, whilst I am mindful of this planning history, this matter does not lead me to alter my findings above.

Section 106 agreement

79. The Council has identified a requirement for the proposal to make a contribution towards social infrastructure, to mitigate the impacts of the development. A completed planning obligation has been submitted in this regard, which would make provision for contributions towards education, amenity space, children's play areas, community facilities, libraries and transport, if the appeal were to be allowed. The obligation has been drafted so that the proposed area of amenity space and children's play area could potentially be provided on site, or a financial contribution made to off-site facilities. In respect of the other elements, the proposal would result in the provision of a financial contribution towards the improvement of existing facilities.

80. The appellant is clearly willing to make these contributions and there is nothing before me to suggest that they would threaten the viability of the scheme. However, notwithstanding the agreement between the parties on this matter, it is necessary for me to consider whether the planning obligation meets the relevant statutory tests of the Community Infrastructure Levy Regulations 2010 and the policy tests of the Framework.

81. In respect of the proposed education contribution, the consultation response on the application identified the primary school within Farnsfield is at capacity and cannot accommodate the identified additional places that would arise from the proposal. This was reinforced by the evidence given at the Inquiry by the Parish Council. The Council's *Developer Contributions and Planning Obligations Supplementary Planning Document 2013* (SPD) supports the policy requirements identified in CS Policies SP6 and SP8 and the DPD Policy DM3 in this regard and identifies a methodology to calculate existing educational capacity, the number of child places likely to be required as a result of the proposal and the basis for calculating a cost per dwelling. However, the sum per dwelling figure included within the completed planning obligation and referred to within the consultation response does not accord with the figure in the SPD. As such and on the evidence available to me, the basis on which this sum was derived is not clear.

82. Similarly, the justification for the proposed contributions to libraries, amenity space, child play areas, transport infrastructure and community facilities is limited. My attention has not been drawn to up-to-date and quantified

evidence of the extent to which the existing facilities in the village are unable to meet the additional demands likely to be generated by the proposal. Nor has the methodology been specified for calculating the sums required in respect of the transport contribution, or the library contribution, which also differs from that within the SPD. Furthermore, whilst a number of potential local community facilities have been identified, there is no detailed information on these facilities, or on specific projects for improvements to the facilities, open space or play areas to which the sums could contribute.

83. Consequently, for these reasons, I am not satisfied that it has been adequately demonstrated that the libraries, amenity space, child play areas, transport infrastructure and community facilities elements of the planning obligation would be necessary to make the development acceptable in planning terms, that the contributions for amenity space, child play areas or community facilities elements would be directly related to the development and that the library, education and transport elements would be fairly and reasonably related to it in scale. As a result, considered overall, I find that none of the elements of the planning obligation meet the relevant tests and, therefore, the agreement cannot be taken into account. Accordingly, in view of this finding, it is not necessary to consider whether the obligation would meet the regulatory requirements in respect of pooled contributions.

Other considerations

84. A number of other concerns have been raised locally about the proposal and its potential effects on the local environment. These include potential impacts on drainage, flooding, highway safety and capacity, ecology, the loss of agricultural land, water quality and power lines. However, little substantive evidence has been provided on these matters and there is nothing before me to indicate that the relevant statutory and specialist consultees have raised objections in principle to the proposal. I note the Council's assessment of these matters within its officer report and am also mindful that the current proposal has been made in outline and some of these concerns relate to matters that would normally be resolved at a later stage of the planning process. As a result, on the balance of the evidence before me and subject to the application of appropriate conditions on any permission granted, I am satisfied that none of these concerns would be an appropriate reason to find against the proposal in this particular case.

85. Concerns have been raised about the potential impact of the proposal on the living conditions of neighbouring occupiers, including in respect of the protection of property and the right to respect for privacy and family life. However, whilst recognising these rights and taking the personal circumstances of nearby occupiers into account, it is nevertheless necessary to balance the fundamental rights of the individual against the legitimate interests of other individuals and the wider community or public interest. Given the outline nature of the scheme, I am satisfied that these matters could be adequately addressed by appropriate conditions to control the detailed design of the development, including in relation to neighbouring living conditions, such as outlook, privacy, lighting and security. As such, I consider that any interference in these respects would be insufficient to given rise to a violation of rights under the Human Rights Act 1998. As such, these concerns do not represent compelling reasons to find against the scheme in this case.

86. It has been suggested that, should the appeal be allowed, this would set an undesirable precedent for other proposals of a similar nature, which the local planning authority may find difficult to resist and which could, cumulatively, have a harmful effect. However, my attention has not been drawn to other cases of a similar nature elsewhere but, should these come forward, it would be necessary to consider those cases on their merits, having regard to the policy context and evidence available at that time. Consequently, I am not persuaded that my decision in this case would be likely to provide support for unacceptable development elsewhere.

Conclusion on sustainability and the planning balance

87. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is such a material consideration.

88. The proposal would not conflict with CS Policies SP1 and SP2, or DPD Policy DM1. It would also achieve a proportion of affordable housing, in accordance with CS Policy Core Policy 1 and the Council's *Affordable Housing Supplementary Planning Document* (AHSPD). Furthermore, subject to the application of appropriate conditions, I am satisfied that other impacts of the scheme could be adequately addressed, so that the overall design of the proposal, and its potential effect on the local environment and neighbouring occupiers, would not be contrary to the aims of the development plan in these regards. The proposal would not be in accordance with CS Policy SP3 or DPD Policy DM8. However, I have found above that these policies cannot be considered up-to-date in the context of paragraph 14 of the Framework.

89. The three roles of sustainable development are mutually dependent. I have found above that the proposal would deliver significant social as well as economic benefits, and the development would be in a location that is within a reasonable distance of a range of local services and facilities. For the reasons given, I conclude that the relatively limited overall harm to the character and appearance of the area resulting from the proposal would be significantly and demonstrably outweighed by the clear benefits of the scheme when assessed against the policies in the Framework taken as a whole. Therefore, overall, I conclude that the appeal site would be appropriate for housing and a departure from the development plan would be justified in this case, as the proposal would be sustainable development that would meet the aims of paragraphs 47-49 and 14 of the Framework.

90. I understand that the community is at the early stages of preparing a Neighbourhood Plan. It has not been suggested, nor do I consider on the very limited information available to me in this respect, that this is a matter that should carry any material weight in relation to this appeal.

91. A number of other appeal decisions have been drawn to my attention. However, from the relatively limited details available to me in these respects, these examples relate to proposals in various other locations elsewhere and, whilst many of the issues raised may be similar, I am not satisfied that the particular circumstances of these other cases are directly comparable to those of the appeal before me, which I have considered on its merits and in light of all representations made.

Conditions

92. I have considered the Council's suggested conditions in the light of the Planning Practice Guidance (PPG). For clarity, to ensure compliance with the Guidance, and in light of discussion between the parties at the Inquiry, I have amended some of the suggested wordings.

93. As an outline application, it is necessary to specify and secure the submission of reserved matters. In view of the likely impact of the proposal on trees within the site, it is also appropriate to control details of the protection of trees to be retained during construction and the replacement planting proposed. It is necessary to control the number of dwellings to be developed on the site, with the maximum number not to exceed 48, in order that the scope of the permission is consistent with the submitted details.

94. It is also necessary to require the access arrangements to be carried out in accordance with the submitted details, for the avoidance of doubt and in the interests of good planning, and to require the approval of further details in relation to such matters as access, parking, surfacing and lighting, where these matters are not controlled by other conditions. Given the nature of these details, it is essential to require approval before development takes place on site.

95. Having regard to the findings of the submitted *Extended Phase 1 Habitat Survey and Arboricultural Assessment April 2014*, it is appropriate to require the reserved matters to be designed to secure the biodiversity improvements identified, in order to ensure that the overall environmental impact of the development proposed is acceptable.

96. In the interests of the character and appearance of the area and neighbouring living conditions, it is necessary to control details of ground and floor levels. In light of the previous use of the site and in the interests of the living conditions of the potential future occupiers of the appeal development, it is necessary to secure appropriate contamination assessment and remediation measures and to control the timing of these works. The site has been identified as having the potential to include heritage assets with archaeological interest and, in light of this, it is necessary to require that further investigation and recording takes place. In order to ensure that these matters are appropriately controlled, it essential to require details to be approved before development takes place on site.

97. I am mindful of the guidance within the PPG regarding the use of conditions to secure affordable housing provision. On the basis of the evidence provided, I am satisfied that, without the provision of affordable housing, the proposal would be unacceptable. Consequently, in the absence of a planning obligation to secure this necessary provision, I consider that the delivery of housing development on the site would be at serious risk. As such, notwithstanding the scale of the proposal, but in light of my findings above regarding housing delivery, I consider that in this case there are exceptional reasons to apply a condition requiring the provision of a scheme for affordable housing, in accordance with the CS Policy Core Policy 1 and the AHDPD, and I am satisfied that the wording used would meet the relevant tests of the PPG and the Framework. In order to control details of the scheme and secure its implementation, it is essential to require the approval of these details before development takes place.

98. To protect neighbouring living conditions and to prevent pollution and flooding, it is necessary to control details of foul and surface water drainage for the site and secure their implementation. This includes drainage during the construction phase of the development and, given the nature of this element, it is essential that these details are approved before development takes place on site.

99. Furthermore, having regard to the consultation response of the Environment Agency and the submitted *Stage 1 Flood Risk Assessment and Surface Water Drainage Strategy*, it is appropriate to require an assessment to be made of the potential for disposing of surface water by means of a sustainable drainage scheme and to specify the details required. However, from the evidence provided, the specification wording included in the suggested condition appears to be unnecessarily overly-detailed and I intend to amend the wording accordingly.

100. In view of the site conditions and having regard to the recommendations of the *Extended Phase 1 Habitat Survey and Arboricultural Assessment April 2014*, it is appropriate to control the timing of vegetation clearance, in order to protect biodiversity on the site. In the interests of the living conditions of neighbouring occupiers, it is reasonable to control the hours of construction work on the site, including site clearance and deliveries.

101. I have had regard to the suggested condition that would require the approval of a training and employment management plan in connection with the proposal. However, on the evidence available to me, I am not satisfied that such measures would be necessary to make the proposal acceptable, or would be relevant to planning. As such, the condition would not meet the relevant tests of the PPG and the Framework and, as a result, it will not be applied.

Community Infrastructure Levy Contributions

102. The attention of the developer is drawn to the Council's Community Infrastructure Charging Schedule.

Conclusion

103. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Anne Napier

INSPECTOR

Annex

Conditions

Reserved Matters and details

1) Details of the appearance, layout, scale and landscaping, including details of trees to be retained, their protection during construction and replacement planting, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The number of dwellings hereby permitted to be constructed on the site shall not exceed 48.

5) The site access arrangements shall be carried out in accordance with Drawing Number 0618-F01 'Proposed Site Access Arrangement'.

6) No development shall take place until details of parking and turning facilities, access widths, gradients, surfacing, street lighting, structures and visibility splays have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.

7) The reserved matters for the scheme shall be designed to secure biodiversity improvements as identified within the conclusions of Section 7.7 of the submitted *Extended Phase 1 Habitat Survey and Arboricultural Assessment April 2014.*

8) No development shall take place until full details of the finished levels, above ordnance datum, of the floors of the proposed buildings, in relation to existing and proposed ground levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Contamination

9) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

   i. a survey of the extent, scale and nature of contamination; and

ii. the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.

10) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before the development is occupied.

11) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Archaeology

12) No works or development shall take place on the site, including in respect of potential contamination, until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance, the programme and methodology of site investigation and recording; and the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation. The development shall be carried out in accordance with the scheme as approved.

Affordable housing

13) No development shall take place until a scheme for the provision of affordable housing as part of the development, in accordance with the *Newark and Sherwood Core Strategy 2011* Core Policy 1 and the *Newark and Sherwood Affordable Housing Supplementary Planning Document 2013*, shall have been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;

ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; the arrangements for the transfer of the affordable housing to an affordable housing provider, or the management of the affordable housing (if no Registered Social Landlord involved);

iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

Drainage

14) No development hereby permitted shall take place until a scheme to treat and remove suspended solids from surface-water run-off during the construction phase of the development has been submitted to and approved in writing by the local planning authority. No development shall take place unless in accordance with the scheme as approved.

15) None of the dwellings hereby permitted shall be occupied until a scheme for the drainage of surface water has been provided on site, in accordance with details that shall have been first been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, including in respect of the hydrological and hydrogeological context of the development, and the results of the assessment shall have been provided to the local planning authority. The submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development to secure the operation of the scheme throughout its lifetime.

16) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Control of construction phase

17) No works for the clearance of vegetation on the site shall take place except between the months of October to February inclusive, unless a nesting bird survey has first been carried out by a suitably qualified ecologist immediately prior to the clearance taking place and written confirmation has been provided to the local planning authority that no

birds will be harmed and that appropriate measures will be put in place to protect nesting bird interest on the site. Any located nests must be identified and left undisturbed until the young have left the nest.

18) Demolition, site clearance and construction works, including the delivery of materials, shall take place only between 07.30-18.00 Monday to Friday and 08.30-13.00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Humphreys, QC	Instructed by Mr Daniel Marston, Solicitor – Senior Legal Officer, Newark and Sherwood District Council

He called

Mr Justin Gardner BSc Msc	Justin Gardner Consulting
Ms Melissa Kurihara MLPM MRTPI	Principal Planning Consultant, Urban Vision Partnership Ltd
Mr Simon Wood BA(Hons) BTP MRTPI	Regional Planning and Building Control Manager, Urban Vision Partnership Ltd

FOR THE APPELLANT:

Mr Ian Ponter of Counsel	Instructed by Nexus Planning

He called

Dr Ricardo Gomez BA MA PhD	Director, Regeneris Consulting
Mr Justin Cove BA MSc MRTPI	Associate Director, Nexus Planning
Mr Adam Ross BA DipTP MRTPI	Executive Director, Nexus Planning

INTERESTED PERSONS:

Mr Matt Hamilton	Chair of Farnsfield Parish Council

DOCUMENTS AND PLANS SUBMITTED AT THE INQUIRY

1 The Council's Statement of CIL Compliance
2 The Council's delivery evidence for the remaining disputed sites
3 Completed planning obligation, dated 2 November 2015
4 The Council's list of appearances
5 The appellant's list of appearances
6 The appellant's opening submissions
7 The Council's opening statement

8 Copy of permission to appeal, Oadby and Wigston Borough Council v SSCLG & Bloor Homes Limited, [2015] EWHC 1879 (Admin)

9 Agreed respective position in relation to remaining disputed sites, dated 2 November 2015

10 Agreed five year housing land supply calculations, dated 2 November 2015

11 Email update with regards to land off Warsop Lane, Rainworth dated 3 November 2015

12 Email update with regards to land off Warsop Lane, Rainworth dated 4 November 2015

13 Agreed list of suggested conditions

14 The Council's note on the Strategic Housing Market Area Consultation

15 The Council's response to additional queries raised, dated 4 November 2015

16 Agreed revised five year housing land supply calculations, dated 2 November 2015

17 The Council's list of documents distributed at the inquiry, dated 3 November 2015

18 Appellant's plan showing the position of the access in relation to trees on the site

19 The Council's note in relation to the Issues Report – returned and not accepted

20 Extract from the Planning Practice Guidance, Ref 21b-011-20140612

21 Agreed revised disputed sites summary, dated 6 November 2015

22 Agreed revised five year housing land supply calculations, dated 6 November 2015

23 The Council's closing statement

24 The appellant's closing submissions

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY[10]

25 Completed planning obligation, dated 10 November 2015

[10] See paragraph 4 of decision