

21 October 2013

Mr D Vickery
The Planning Inspectorate,
3/25 Hawk Wing,
Temple Quay House,
2 The Square, Temple Quay,
Bristol BS1 6PN

Dear Mr Vickery,

Response on behalf of the GNDP Councils to Main Modifications Consultation

This response is submitted on behalf of Broadland District, Norfolk County, Norwich City, and South Norfolk Councils. In summary:

- The Councils consider the effectiveness and clarity of MM2 can be significantly improved by amendment to policy 22. A revised version of the policy and supporting text is suggested. A minor consequential change would follow to MM8 if accepted.
- No comment is made on MM1 and 3-7 as these reflect material submitted by the Councils in advance of the resumed hearings or accepted by witnesses at the hearings.
- No further comment is made on the SA report addendum or HRA report addendum.
- No further comment is made on emerging government policies. The Councils consider the public interest is best served by proceeding to adoption as quickly as possible.

1. Response to the Main Modifications Consultation

At the hearings the Councils accepted that in view of the Inspector's concerns regarding risk of delay in delivery of the strategic scale development in the North East Growth Triangle (NEGT) it was appropriate for the Plan to be modified to include a policy setting out how such circumstances should be addressed.

The version of the proposed MM2/policy 21 submitted by the Councils to the resumed hearing shows that it is accepted that there is a need to closely monitor progress on implementation of the part JCS and ensure appropriate action is taken collectively so that identified needs are met.

The Councils have already accepted (in para 7.18 of the adopted JCS) that if there is no possibility of the timely construction of the Norwich Northern Distributor Road (NDR) then a review of the strategy needs to be triggered.

The major risks of non-delivery of the NDR have receded considerably since the formulation of the JCS as:

- The DfT has confirmed the availability of funding to help deliver the route;
- The County Council has confirmed their willingness to underwrite other costs;
- CIL has been successfully introduced and the local authorities are working to formulate a Greater Norwich Growth Board to pool resources, identify other funding mechanisms and support delivery of infrastructure;
- Planning permission has been issued for the fully funded Postwick Hub scheme; and
- The Side and Slip Roads Inquiry into Postwick concluded at the end of July and a decision on them is expected imminently.

The risks of further delay to the NDR have also been substantially reduced with the Secretary of State's recent direction that it is a project of national significance and therefore should be dealt with under the NSIP process. The application is programmed for submission to PINS in November and assuming the scheme receives consent it should be commenced in spring 2015.

Furthermore there have been other notable successes in bringing forward the growth associated with the North East Growth Triangle (NEGT) minimising risks of further delay:

- Planning permission has been issued for the Brook Farm/Laurel Farm development providing for 600 homes. It includes a link road and enhanced cycle access between the NEGT and Broadland Business Park;
- On 25th September Broadland District Council resolved to delegate authority to its officers to grant outline planning permission for a major development (proposed by Beyond Green) located to the north of the built up area of Sprowston and Old Catton, within the parishes of Sprowston, Old Catton, Beeston St Andrew and Spixworth, in the western portion of the NEGT. The development comprises up to 3,520 dwellings; 16,800m² employment space; 8,800m² space for shops, services, cafes, restaurants & drinking establishments; plus hotel accommodation; schools and

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community facilities; energy centre; landscaping and public open space; and other supporting infrastructure and accesses;

- Broadland District Council has consulted on a draft version of the Area Action Plan for the NEGТ;
- The Cycle City Ambition grant bid was successful. Work has now commenced to bring forward £5.5m investment in the next two years to improve the cycle route linking the NEGТ to Norwich Research Park via the City Centre.
- Adjacent to the NEGТ, large scale employment development has been permitted at Norwich Aeropark. Norwich City and Broadland District Councils issued planning permission in August 2013 for a major expansion on the northern apron of Norwich Airport (which spans the boundary of the two LPAs) which included detailed consent for a first phase providing 15,035sqm of aviation related B1(c), B2 and B8 floorspace and outline consent for further phases of up to 80,000sqm of aviation related B1(b), B1(c), B2, B8 and D1 use floorspace; and
- Market conditions continue to improve. Residential transaction levels and sales values are increasing reducing viability challenges to delivery.

The Councils remain committed to continue working positively together to bring forward development in the NEGТ and are increasing the focus on delivery through the establishment of a Growth Board. They will also continue to discharge the duty to co-operate in relation to implementation, monitoring and ultimately review of the JCS.

2. Representations on MM2

It is noted that MM2 as currently being consulted on is different from the version proposed by the Councils in a number of significant ways. A number of these differences are not thought to be problematic. Including:

- having two separate policies rather than one single one;
- the wording of proposed policy 21; and
- the removal of references to employment land from policy 22.

The Councils consider that policy 22 can be made considerably more effective, and its soundness enhanced, by being amended in the following three ways:

2.1 Changing the period before the policy could be triggered to three years to encourage investment in the implementation of the JCS.

The housing market and developer confidence needs time to re-establish. Developers and infrastructure providers need comfort that they can safely invest to bring forward the strategic scale of development in the NEGТ and implement the JCS fully before a review is triggered. Investment requires certainty and risk minimisation. In addition, sustainable planning and the need to facilitate and stimulate growth require early up-front investment in infrastructure. Public sector resources are scarce and investment committed to support the NEGТ will not then be available to support any alternative or additional sites. Alternatively early

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development in the NEGТ may remain unsupported by strategic infrastructure dependent on a large customer base (such as a high school or comprehensive BRT) for many years if the rate of development is further slowed by the competitive effects of alternative sites.

To give a realistic prospect that the private and public sectors can gear up for sustained delivery before any focussed review is commenced it will be necessary for the policy to refer to three rather than two years. Such a timescale is appropriate in the light of the position on housing land supply.

Evidence submitted to the Examination (ref DV21) demonstrated that the 5 year housing land supply from existing sites across the NPA had improved significantly between March 2012 and 2013. Up from 67.9% of required supply in March 2012 to 87.2% of supply the following year. However, the picture varies over the constituent parts of the NPA with Norwich at 156.2%, the South Norfolk part at 88.8%, and the Broadland part at 42.7%.

Once the supply data is amended to include provision arising from allocations in emerging site allocations documents which have not yet reached submission stage, but on which delivery is expected in the 5-year period the land supply position improves even further. In March 2013 housing land supply including these emerging sites was 135% of the required supply across the whole NPA with the Broadland part being at 91% of the supply for that area.

This evidence was updated immediately before the examination (in DV35) which demonstrated:

- a) that a total of 902 additional units on existing sites that could be delivered within the 5 year supply period had been identified by permission or committee resolution between the end of March and mid-July; and
- b) that the total number of units with planning permission was over 10,000, higher than at any point since the adoption of the 1999 Norfolk Structure Plan.

Since mid-July progress has continued with regard to boosting housing land supply in accordance with the NPPF and delivering a 5 year supply of housing. Between 15th July and the end of Sept the local planning authorities have granted or resolved to grant consent for around 4,000 further homes across the NPA of which a quarter are likely to be able to be deliverable within the next 5 years. The vast majority of this additional supply is in the Broadland part of the Norwich Policy Area as a result of the progress on the Beyond Green application referred to above.

It is clear from this that housing land supply is not constraining housing delivery at present and that it is highly unlikely to do so over the next three years.

In this context a three year period before a focussed review of the JCS could be triggered is entirely appropriate.

Additionally it should be noted that to seek to produce a focussed NPA wide plan review alongside the later stages of production of one or more site allocation document or AAP would have the potential to cause significant public confusion and wastage of scarce local authority resources. While this is not an expectation, it could arise within two years if there is unforeseen delay to the production of site allocation or area action plans through delays at Examination or legal challenge.

2.2 Increased clarity with regard to the trigger point to be used in determining whether the focussed review is necessary.

The potential trigger for the focussed plan review is solely the 5 year housing land supply. This will mean that whether a review is triggered will depend on planning decisions made in the period up to March 2015 and the projected supply covering the 5 year period April 2016 – March 2021.

Unlike the trigger proposed by the Councils in their proposed version of MM2, this approach would pay no regard to the potential land supply over the period April 2021 – March 2026 in reaching the decision about whether to commence the focussed review. This is the period in which the majority of sites identified in any focussed review would be likely to be delivered so should be taken into account in any assessment of supply.

The basis for this assessment of land supply will be the footnote to para 47 of the NPPF. This requires sites to be deliverable (ie available and suitable now, and with a realistic prospect that housing will be delivered within five years) for inclusion within the five year supply.

Issues about methodology for assessing supply were discussed at the examination and it is right that the detailed methodology to be applied will depend on advice and guidance that is applicable at the time. However, it should be noted that Inspector's elsewhere have supported the Liverpool methodology where significant urban extensions are planned.

In Land East of Groby, Leicestershire (APP/K2420/A/12/2181080/NWF) the Core Strategy Inspector had anticipated that there would be shortfalls in housing land supply in the early years and that these would be made up later in the Plan period when, for example, the Sustainable Urban Extensions came on stream. The appeal inspector accepted that the Liverpool approach chimed with the approach in the Core Strategy.

In Land east of Springwell Lane, Whetstone, Leicestershire (APP/T2405/A/13/2193758) the Inspector found that "the Council has demonstrated a five year supply of deliverable housing sites in accordance with the Framework" using the Liverpool methodology where it was accepted that there was less than a 5 year supply if the Sedgefield approach was used (see paras 6-11 of the decision letter). This was in accordance with the approach in the Blaby Core Strategy which sought to meet needs via a major Sustainable Urban Extension, included a Housing Trajectory which only met housing needs if calculated using the Liverpool methodology, and was adopted in February 2013.

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Both appeal decisions are appended.

The logic underpinning these decisions is clear and is very relevant to the part JCS. Having considered all reasonable alternatives in the plan preparation process and determined that an approach involving significant urban extension is the preferred option, it is appropriate to allow for the extensions to be implemented before alternative sites are considered, as failure to do this could undermine investor confidence and the plan-led approach to long-term sustainable development.

In the circumstances the Councils can see the merit in the specific methodological approach and buffer to be used not being mentioned in the policy. However, the Councils maintain that the Liverpool approach is more appropriate to local circumstances faced in the Norwich Policy Area as a whole and especially in the Broadland part of it where significant strategic growth locations are proposed to boost housing delivery over a prolonged period. .

The trajectory for the delivery of homes expected from previously remitted growth locations in the Broadland part of the NPA expects delivery to commence in 2014/15. It is considered that, logically, this should provide the basis for the calculation of backlog rather than the base date of the plan and could be applied whatever methodological approach is taken.

2.3 Including reference to the housing land supply over the entire NPA being relevant to the scale of shortfall to be addressed in the focussed review.

Section 1.4 of the Councils evidence ref DV21 set the approach to the area over which housing land is assessed. This stated:

“The aim of the GNDP authorities is to achieve and maintain a 5 year plus 5% supply of deliverable housing sites across the whole NPA. Where there is a supply across the whole NPA, this should be considered to apply to all of the constituent parts. Where a 5 year plus 5% supply cannot be demonstrated across the whole NPA each of the constituent parts will be considered individually, so that the release of additional sites addresses the specific areas of underperformance and does not undermine the overall strategy.”

In the light of this approach, and the fact that the part JCS relates only to the Broadland part of the NPA, it is right that any trigger should be calculated on the land supply position in the Broadland part of the NPA and whether sufficient supply exists to enable the delivery trajectory to be achieved. However, the fact that the consequences of the policy (ie the area to be covered by the focussed plan review) stretch across the entire NPA mean that it is appropriate also to have regard to the overall land supply position in the NPA before determining the level of shortfall that needs to be addressed in the review.

2.4 Further comments on MM2

Additionally the Councils further comment that:

- the title of the policy 22 would more accurately refer to housing land supply rather than delivery; and
- as the NPA is already defined in appendix 4 of the JCS there is no need for any further definition in the policy

3. Conclusion

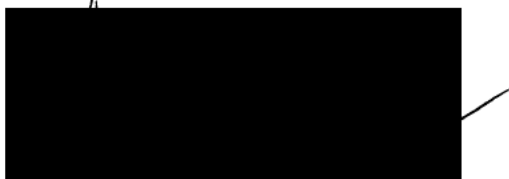
Taking all the above issues into account a revised version of MM2 is proposed, and attached as Appendix 1.

If this is accepted then there would be a need to change the target in MM8 (Spatial Planning Objective 2) to read:

To have more than 90% of the required deliverable housing land in the Broadland part of the Norwich Policy Area. Deliverable housing land supply is defined as that needed to deliver the housing trajectory set out in Appendix 6a to be calculated in accordance with current national policy including any relevant buffer and the backlog arising since 2014.

The Councils hope this response is useful to your deliberations and look forward to receiving your report in due course.

Yours sincerely



Cllr Andrew Proctor
Leader, Broadland District Council



Cllr Brenda Arthur
Leader, Norwich City Council



Cllr John Fuller
Leader, South Norfolk Council

21 October 2013

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Appendix 1 - Councils' suggested version of MM2

The proposed amendments are expressed in the conventional form of ~~striketrough~~ for deletions and underlining for additions of text

MM2

Implementation and delivery within the Broadland part of the Norwich Policy Area

7.19 Following the adoption of the Joint Core Strategy in March 2011 a court judgment remitted parts of the previously adopted plan for further consideration. This judgment remitted specific elements of the proposals within the Broadland part of the Norwich Policy Area and in particular: a) the Old Catton, Sprowston, Rackheath, Thorpe St Andrew Growth Triangle (including employment growth at Rackheath but excluding employment land at Broadland Business Park and the airport); and b) 2000 homes proposed on smaller sites throughout the Broadland part of the Norwich Policy Area. These proposals were resubmitted for further examination, and policies 21 and 22 were necessary in order to ensure the soundness of this part of the JCS. For the avoidance of doubt, policies 21 and 22 below apply only to the proposals previously remitted by the Court order.

7.20 Between the original adoption of the JCS and consideration of the remitted proposals, key infrastructure items serving the Broadland part of the NPA were not progressed at the rate envisaged in the original JCS. Because of this, and the further scrutiny of the remitted elements of the plan in the light of updated government guidance about the housing land supply and deliverability of the plan proposals, it was considered necessary to strengthen policy with regard to a positive approach to sustainable development, monitoring and housing land supply. Progress regarding delivery of housing land will be rigorously monitored against targets. If monitoring reveals that the Broadland part of the NPA will significantly under deliver in terms of a 5-year housing land supply (~~plus the "additional buffer" required in national policy~~), then action will be taken to address this as set out in policy 22.

Policy 21: Implementation of proposals in the Broadland part of the Norwich Policy Area

When considering development proposals in their part of the Norwich Policy Area Broadland District Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- Specific policies in that Framework indicate that development should be restricted.

Policy 22: Possible action to ensure the delivery adequate supply of housing land in the ~~Broadland part of the Norwich Policy Area~~

In addition to the JCS review “trigger” set out in paragraph 7.18, if any Monitoring Report (MR) produced after ~~two~~ three full years from the adoption of this part-JCS Local Plan demonstrates that there is a significant shortfall (as defined below) in the 5-year supply of housing land (plus the “additional buffer” required in current national policy) affecting in the Broadland part of the Norwich Policy Area (NPA) ~~as set out in the whole JCS~~, then the Councils will take the course of action specified below to address the identified shortfall.

The Councils will consider that a significant shortfall has arisen if the MR (produced annually) shows there to be less than 90% of the required deliverable housing land supply set out in the trajectory in Appendix 6a for the Broadland part of the NPA ~~(as defined in current national policy)~~.

In the event of an identified shortfall, the Councils will produce a short, focussed Local Plan which will have the objective of identifying and allocating additional locations within the whole NPA ~~area~~ for immediately deliverable housing land to remedy that shortfall in the 5-year supply across the entire NPA. The Local Plan will be prepared in accordance with the settlement hierarchy set out in paragraph 6.2 of the JCS and ensure that the delivery of planned strategic infrastructure (as set out in Appendix 7a) is not prejudiced. The Local Plan will cover such a time period as may reasonably be considered necessary for the ~~delivery delay or~~ shortfall (however caused) to be resolved.



Appeal Decisions

Hearing held on 11 July 2013

Site visit made on 12 July 2013

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Decision date: 1 August 2013

Appeal A: APP/T2405/A/13/2193758

Land east of Springwell Lane, Whetstone, Leicestershire LE8 6LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by David Wilson Homes East Midlands against Blaby District Council.
 - The application Ref 12/0952/1/OX is dated 21 November 2012.
 - The development proposed is residential development of up to 150 dwellings and parkland with associated access, infrastructure and landscaping.
-

Appeal B: APP/T2405/A/13/2193761

Land off Countesthorpe Road and Springwell Lane, Whetstone, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by David Wilson Homes East Midlands against Blaby District Council.
 - The application Ref 12/0951/1/PY is dated 20 November 2012.
 - The development proposed is formation of access for use by construction traffic in conjunction with proposed residential development.
-

Decisions

1. Appeal A is allowed and outline planning permission is granted for residential development of up to 150 dwellings and parkland with associated access, infrastructure and landscaping on land east of Springwell Lane, Whetstone, Leicestershire LE8 6LT in accordance with the terms of the application, Ref 12/0952/1/OX, dated 21 November 2012, subject to the conditions in the attached schedule.
2. Appeal B is allowed and planning permission is granted for formation of access for use by construction traffic in conjunction with proposed residential development on land off Countesthorpe Road and Springwell Lane, Whetstone, Leicestershire in accordance with the terms of the application, Ref 12/0951/1/PY, dated 20 November 2012, subject to the conditions in the attached schedule.

Preliminary Matters

3. The Appeal A application was submitted in outline form with all matters of detail, except access, to be reserved for later consideration. However, at the hearing the appellant confirmed that access is now to be considered as a reserved matter.

4. Subsequent to the submission of these appeals, the Council's Development Control Committee resolved on 28 March 2013 that it would have refused planning permission for both developments for the following reason: *'the residential development of this Greenfield site located within countryside (and its associated construction access road) would cause significant harm to the character and appearance of the landscape and thus would be contrary to Policy C2 of the Blaby District Local Plan (1999) and Policy CS18 of the Blaby District Local Plan (Core Strategy) Development Plan Document (Adopted February 2013).'*

Main Issues

5. The main issues in both appeals are whether a 5 year supply of deliverable housing land has been demonstrated in accordance with the National Planning Policy Framework (Framework); and the effect of the proposal on the character and appearance of the surrounding countryside.

Reasons

Housing Supply

6. The Council has provided a housing trajectory that demonstrates about a 6.2 year housing supply at 1 April 2013. This is based on a 20% increase due to a record of persistent under delivery and the previous shortfall spread over the remaining years of the plan up to 2029. The Council adopted its Local Plan Core Strategy Development Plan Document (DPD) in February 2013. Policy CS5 sets out the approach to the distribution of housing in the District. The Inspector's Report on the Examination of this document indicates in paragraph 52 that he is satisfied that the Core Strategy will provide a five year supply of deliverable housing sites, based on the shortfall in housing delivery since 2006 being accommodated over the remaining plan period and including a 20% buffer in the early years until the issue of persistent under delivery has been addressed.
7. The Council's trajectory allows for a contribution of about 1000 new houses from a Sustainable Urban Extension (SUE) in Lubbethorpe over the 5 year period. The appellant has suggested that a more realistic maximum delivery of housing within this development would be about 650 houses in the 5 years, based on the required access bridge over the M1 being completed in 2015, 50 dwellings being completed in 2014-15 and 200 dwellings per annum in 2015-16 and 2016-17. Taking account of the evidence presented at the hearing, I find that the appellant's suggested figures would be more likely to reflect the actual delivery, given the levels of delivery on other sites within the District and that the appellant is one of the 6 potential developers of the SUE. On this basis, the Council has indicated that it can demonstrate a 5.56 year supply of deliverable housing sites.
8. The appellant has not provided sufficient evidence of under delivery on specific sites to justify a 10% reduction in the housing trajectory, even though some of the planning permissions are in outline form.
9. With regard to the method of spreading the shortfall, the 'Sedgefield approach', whereby the accumulated shortfall is spread over the 5 year period, is favoured. On this basis, and the reduced contribution from the SUE, the appellant has indicated that the Council would only have demonstrated a 4.52 year housing supply. In support of this approach, the appellant has referred to

the advice given in the Planning Advisory Service (PAS) Document¹ and other appeal decisions, including one in Essex where the appellant has claimed that the Examination Inspector applied the residual approach to the shortfall. However, the previous appeals involve significantly different circumstances from the current appeal, particularly with regard to the relative date of the Examination Inspector's Report and adoption of the relevant development plan policies. Therefore, whilst I note the points raised, no direct comparisons can be made with the current appeals.

10. The PAS Document indicates that its advice is based on previous Inspectors' decisions, and the Sedgefield approach being more closely aligned with the requirements of the Framework and the need to boost significantly the supply of housing and remedy the consequences of persistent under delivery. However, the Document accepts that there is no guidance or advice that sets out the preferred approach. Taking account of the recent date of the Examination and adoption of the Core Strategy, it would be premature to take a different approach to housing supply than that taken in the Examination Inspector's Report. Furthermore, that Report considered that further flexibility is given by the housing trajectory not including an allowance for windfall sites.
11. Based on the above, I find on this main issue that the Council has demonstrated a five year supply of deliverable housing sites in accordance with the Framework. As such, the relevant policies for the supply of housing are to be considered up-to-date in accordance with paragraph 49 of the Framework. However, the Framework also indicates that housing applications should be considered in the context of the presumption in favour of sustainable development.

Character and Appearance

12. The appeal sites include arable fields and hedgerows. They are outside the settlement boundaries of Whetstone and form part of the surrounding open countryside. The Appeal A site is bounded to the north and west by residential roads and to the east by mature vegetation alongside Whetstone Brook. The Appeal B site consists of a strip of land that is at least 7m wide.
13. The Blaby District Landscape and Settlement Character Assessment 2008 (BDLSCA) identifies the main features of the landscape in the area. These are given as the strong urban fringe characteristics of settlements, fields bounded by hedgerows, linear woodland planting and open space, fairly rural and wooded views across high ground, and a fragmented character with many human influences. It also gives 2 key pressures in the area as relating to settlement expansion and expansion of the urban edges.
14. The Appeal A proposal would develop the appeal site with up to 150 dwellings at about 30 dwellings per hectare, together with public open space and landscaping that includes balancing areas, structural landscape to the south and the Brook corridor and associated infrastructure. Although access is a reserved matter, the Indicative Masterplan indicates that it would be provided from Wright Close to the north. The buildings would range from 3 to 2 storeys, rising to about 8.5m to ridge height.

¹ Planning Advisory Service Document: Ten Key Principles for Owning Your Housing Number- Finding Your Objectively Assessed Needs, July 2013

15. The appellant has carried out a Landscape and Visual Appraisal of the likely landscape effects of the proposed development, with reference to the BDLSCA and based on the Guidelines for Landscape and Visual Assessment. It concludes that there would be no significant effects in terms of landscape resources and character and, on balance, the proposal would provide some beneficial effects. The Council has not shown that it has conducted a similar appraisal.
16. With regard to the concerns expressed by the Inspector in the previous appeals against the refusal of planning permission for residential development on the current Appeal A site, the Indicative Masterplan indicates a number of changes. These changes include an increase in the area of the site to the south to allow a 10m to 12m wide woodland belt; a reduction in the overall housing density to allow for planted avenues across the development; and an increase in soft landscaping along Springwell Lane frontage.
17. At my site visit, I observed the site from some of the most sensitive public vantage points to determine the effect of the proposals on public views. Whilst the Appeal A proposal would result in an urban extension into the countryside, the proposed landscaping would ensure that the edge of the development would be well screened from nearby public vantage points to the south. As such, the proposed woodland planting would provide a greater level of screening to the edge of built development than is currently provided to the southern edge of the existing development, as advocated by the BDLSCA. This would be sufficient to mitigate the harm resulting from the foreshortening of views from the south across the open countryside towards the urban area.
18. Views of the site from a higher vantage point on the Cosby Road at the western edge of Countesthorpe would include the proposed housing, which would appear as an extension to the urban area. However these views are a significant distance away from the site and the landscape planting that would be able to be provided on the boundaries of, and within, the site would mitigate the adverse effect of this encroachment into the countryside.
19. Views of the development from Springwell Lane would be screened by additional planting to supplement the existing hedgerow. This planting would be sufficient to reduce the dominance of the proposed built development on the eastern side of this lane.
20. The Appeal B proposal would provide a temporary access road for use in the construction of the Appeal A development. It would involve the removal of a section of hedgerow on the eastern side of Springwell Lane and the paving of most of the land. Its route would be near to the hedgerow boundary of the fields to the east of Springwell Lane. The impact of the paved area and vehicles using the access road would be limited by the position relatively near to an existing lane and hedgerows. Furthermore, the access road would be removed and the area restored following the completion of the Appeal A development. As such, I agree with the previous Inspector that the Appeal B proposal would not cause any significant harm to the character and appearance of the surrounding countryside.
21. With regard to development plan policies, the Council has referred to Blaby District Local Plan 1999 Policy C2 which states: *'within the area identified as countryside on the Proposals Map, planning permission will not be granted for built development, or other development which would have a significantly*

- adverse effect on the appearance or character of the landscape*'. The interpretation of this Policy given in the accompanying text would prevent any significant housing development in the countryside. This is inconsistent with the balance that is required in the Framework. At the hearing, the Council accepted that the Policy is out-of-date but suggested that it has not been deleted as it identifies the boundaries of the countryside on the Proposals Map. Therefore, I have attached limited weight to Local Plan Policy C2, based on the inconsistency with the Framework and the date of the Local Plan.
22. The other development plan policy that has been referred to is Core Strategy Policy CS18. This Policy reflects the wording of the 1999 Local Plan Policy C2 but balances the need to retain countryside against the need to provide new development, including housing, in the most sustainable locations. The balance that it provides ensures that its consistency with the Framework is greater than that of Local Plan 1999 Policy C2. It also requires the details of the boundaries of the countryside to be established through the forthcoming Allocations, Designations and Development Management DPD. At the hearing, the Council indicated that this DPD would not be submitted until summer 2014. As such, the countryside boundaries are those given on the Proposals Map in the Local Plan 1999, which are due to be the subject of an update.
 23. Turning to the balance, the Core Strategy Examination Inspector has suggested in paragraph 54 of his report that the housing requirements of 380 houses per annum across the District should be regarded as a minima. Whetstone has been identified in the Core Strategy as one of the non Principal Urban Area parts of the District with regard to the provision of new development. It has an identified minimum requirement of 365 houses, of which the Council has indicated some 323 houses have been built or committed at 1 April 2013.
 24. The Appeal A proposal would be in a relatively sustainable location, as it would be easily accessible to the wide range of facilities within Whetstone, which include schools, shops, leisure and employment, and public transport. It would also provide contributions towards cycling and public transport improvements, secured through planning obligations.
 25. In terms of affordable housing in the District, the Council has accepted that there is a significant shortfall in delivery, including within Whetstone, as indicated in its latest update of the Strategic Housing Market Assessment. The Appeal A proposal would provide 25% of its dwellings as affordable housing, in accordance with Core Strategy Policy CS7.
 26. The Council has not contested the appellant's estimate for the implementation of the proposed development should planning permission be granted, which is an August 2014 start date with 40 dwellings completed per year. The appellant has suggested that, should the appeal proposal be implemented, the minimum requirement in Whetstone would be exceeded by about 30%. I find that this would not be excessive, given the sustainability of the site location and the environmental constraints on the scope for growth in Whetstone as a result of strategically important areas of Green Wedge and the former Great Central railway line. The appeal proposals would result in the provision of additional housing to help to address the previous shortfall, including affordable housing, which is consistent with the government's objective to significantly boost the supply of housing given in paragraph 47 of the Framework.

27. Taking account of the above, I find that neither of the appeal proposals would have a significant adverse effect on the character and appearance of the surrounding countryside. Also, the need to retain countryside is outweighed by the benefits that the Appeal A proposal would provide in terms of additional housing in a sustainable location, particularly as the boundaries of the countryside are subject to a review. As such, both the Appeal A proposal and the Appeal B proposal would accord with Core Strategy Policy CS18.

Planning Obligations- Appeal A

28. The appellant has submitted an engrossed Section 106 Agreement for Appeal A after the close of the hearing. The planning obligations would secure 25% affordable housing, contributions towards public transport, cycling, a travel pack, highway improvements, healthcare, libraries, police and the maintenance of the public open space that would form part of the scheme. I have considered the evidence provided in writing and at the hearing in support of the contributions to satisfy myself that the obligations meet the tests in Community Infrastructure Levy (CIL) Regulation 122. These tests are that the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonable related in scale and kind to the development.

29. The affordable housing obligation accords with Core Strategy Policy CS7 and the provision of affordable housing is an important consideration in deciding whether the proposed development would be an acceptable form of development in the countryside. Without the affordable housing that the obligation would secure, the proposal would have an adverse effect on the provision of affordable housing in the District.

30. At the hearing, the appellant confirmed that it is not contesting any of the contributions secured by the planning obligations. The contributions towards public transport, cycling and a travel pack are necessary to promote sustainable transport modes, in accordance with the Framework objectives and to ensure that future residents of the proposed housing would be able to access necessary facilities by means of sustainable transport. The off-site highways improvement contribution is necessary to ensure that the proposal would not have an adverse effect on the free flow of traffic at the A426/Enderby Road roundabout, as identified in the traffic analysis.

31. The healthcare contributions have been calculated by the Primary Care Trust with the aim of funding additional capacity at the Hazelmere Medical Centre, which is near to the appeal site. The evidence provided shows that the contribution secured by the obligation is reasonable to cater for the additional demands due to the future occupants of the proposed dwellings.

32. The County Council has provided sufficient evidence to demonstrate that the proposed development would place additional demands on library facilities that would not be able to be addressed without increased funding. The contribution has been calculated in accordance with the standards contained in the County Council's adopted *Statement of Requirements for Developer Contributions in Leicestershire*. I am satisfied that this contribution would be required to ensure that there would be adequate library provision to cater for future occupants of the proposed dwellings.

33. Leicestershire Police (LP) has supported the need for contributions towards policing services and facilities in its statement and at the hearing. The required contributions are significantly less than those considered by the previous Inspector, and LP have suggested that it has used a different method of calculation, based on the impact of the development itself. Therefore, I am satisfied that the sum provided for in the obligation is necessary to make the development acceptable in planning terms, having regard to the requirements in paragraph 58 of the Framework to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.
34. A contribution towards the maintenance of the public open space that would be provided by the proposed development is required due to the additional expenditure that would be incurred. The amount of the contribution would be calculated in accordance with the Council's adopted policy document.
35. Having regard to the above, I conclude on the Section 106 Agreement that all the planning obligations meet the tests in CIL Regulation 122 and paragraph 204 of the Framework. Without the obligations, the proposal would fail to accord with the relevant development plan policies and would have unacceptable impacts on local facilities and services and affordable housing in the District.

Other Matters

36. I have considered the concerns expressed by local residents. With regard to wildlife, one of the reasons given by the previous Inspector for dismissing the appeals was the effect on protected species. However, since those appeals, the appellant has submitted an ecological report, including a recently updated survey of the area for the presence of water voles which confirms that there are no issues with relation to water voles on the development site. Natural England has not objected but has requested that it is contacted should any water voles be found during construction or the status of the species changes or the plans differ during the works. The Council has not given this matter as a reason why it would have refused planning permission and I am satisfied that a suitable planning condition would address it. Although the proposal would result in the loss of agricultural land, I have insufficient evidence to show the importance of the land for agriculture to give this matter any significant weight.
37. With regard to concerns about flooding, a Flood Risk Assessment has been provided, the Council has not expressed any concerns about this matter, and the Environment Agency has not objected to the proposals subject to conditions. I have not been provided with sufficient substantive evidence to support a refusal of planning permission on this basis, even though some of the identified open space would be liable to flooding. In terms of this open space, the Council has indicated that it is satisfied that the Indicative Masterplan identifies that there would be sufficient land outside the constraints provided by the flood zones to enable the provision of an equipped children's play area and a flood attenuation pond, in addition to landscaping.

Conclusions

38. For the reasons given, I have found that a 5 year supply of deliverable housing land has been demonstrated in accordance with the Framework and neither of the Appeal proposals would have a significant adverse effect on the character

and appearance of the surrounding countryside. On balance, the benefits of the Appeal A proposal outweigh the resulting harm due to the loss of countryside. Both of the proposals would represent sustainable development in accordance with the Framework. Therefore, having regard to all matters raised, I conclude that both Appeal A and Appeal B should succeed.

Conditions

39. I have considered the conditions suggested by the Council should the appeals be allowed. With respect to Appeal A, conditions regarding the submission of reserved matters details and the standard timescales are necessary as a result of the application being in outline form. Further details of the requirements for reserved matters, including reference to the Illustrative Layout and implementation of a landscaping scheme, are necessary for the avoidance of doubt and in the interests of proper planning and to protect the character and appearance of the surrounding area. A condition requiring adherence to a Construction Method Statement is necessary in the interests of residential amenity and health and safety.
40. A condition regarding drainage is necessary to reduce the risk of flooding and pollution, and secure the provision of adequate and sustainable drainage. A condition regarding contamination is necessary for health and safety reasons. A condition regarding bats and water voles is necessary to safeguard species protected under the Wildlife and Countryside Act 1981, given the evidence provided and the presence of Whetstone Brook.
41. A condition requiring archaeological survey work is necessary for historical recording reasons, based on the expert evidence provided. A condition to ensure that the proposal would meet the Leicestershire County Council design standards is necessary to make the development acceptable in terms of residential amenity and highway safety.
42. With regard to Appeal B, a condition regarding the standard time for commencement of development is necessary and I have included a condition to ensure compliance with the plans as being necessary for the avoidance of doubt and in the interests of proper planning. A condition requiring the restoration of the site is necessary in the interests of the character and appearance of the area, given the temporary nature of the permission. A condition requiring archaeological survey work and a condition regarding water voles are necessary for the same reasons as in Appeal A.
43. I am satisfied that all the conditions in Appeal A and Appeal B are reasonable and necessary. I have combined some of the suggested conditions and worded them to reflect the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*.
44. A condition in Appeal A regarding a Travel Plan is unnecessary to provide a choice of sustainable modes of travel, as this would be adequately secured by the Section 106 Agreement.

M J Whitehead

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jenny Wigley	Of Counsel, instructed by Pegasus Planning Group
Jeremy Peachey BSc(Hons) MLD CMLI	Landscape Design Director, Pegasus Planning Group
Gary Lees BA(Hons) BTP MRTPI	Director, Pegasus Planning Group
Robert Blaney	Appellant Company

FOR THE LOCAL PLANNING AUTHORITY:

Rob Thornhill BSc(Hons) DipSP MA	Principal Policy Officer, Blaby District Council
Ian Davies BSc(Hons) DipTP MRTPI	Planning Delivery Team Leader, Blaby District Council
Tony Greenwood	Deputy Leader of Blaby District Council

INTERESTED PERSONS:

Victoria Hutton	Of Counsel, instructed by Leicestershire Police
Michael Lambert	Leicestershire Police
Andrew Tyrer	Leicestershire County Council
Steve Kettle	Leicestershire County Council
Lee Breckon	Clerk, Whetstone Parish Council
Alice Tyler	Whetstone Parish Council
Alan Tanner	District and Parish Councillor
L Phillimore	Local Resident
Mark Jackson	Councillor, Whetstone Parish Council

DOCUMENTS SUBMITTED AFTER OPENING THE HEARING

- 1 Note on behalf of the Police and Crime Commissioner for Leicestershire, submitted by Leicestershire Police on 11 July.
- 2 Crime Mapping and trends, submitted by Leicestershire Police on 11 July.
- 3 Note by Michael Lambert addressing the 24 January 2012 Report, submitted by Leicestershire Police on 11 July.
- 4 Copies of submissions made by Leicestershire Police, submitted by Leicestershire Police on 11 July.
- 5 Draft Section 106 Agreement, submitted by the appellant on 11 July.
- 6 Local Government Association Planning Advisory Service Ten key principles for owning your housing number- finding your objectively assessed needs, submitted by the appellant on 11 July.
- 7 Addendum to Hearing Statement on Planning Issues, submitted by the appellant on 11 July.
- 8 Summary Note on 5 Year Housing Land Supply Calculations, submitted by the appellant on 11 July.
- 9 Amendment to Proof of Evidence of Rob Thornhill (para 7.17), submitted by Blaby District Council on 11 July.
- 10 Copy of Appeal Decision Ref APP/T2405/A/10/2135068, submitted by Blaby District Council on 11 July.

- 11 Copy of High Court Judgement: Anita Colman and Secretary of State for Communities and Local Government and others, submitted by the appellant on 11 July.
- 12 Copy of contributions requested by Leicestershire Policy for previous development of 178 Units, Springwell Lane, Whetstone, submitted by Leicestershire Police on 11 July.
- 13 Extracts from Secretary of State Report Ref APP/M1520/A/12/2177157, submitted by the appellant on 11 July.
- 14 Copy of Secretary of State Decision and Report Ref APP/F1610/A/10/2130320, submitted by the appellant on 11 July.
- 15 Extracts from Secretary of State Report Ref APP/M1520/A/12/2177157, submitted by the appellant on 12 July.
- 16 Copy of e-mail from Neill Talbot, Senior Conservation Officer, Leicestershire & Rutland Wildlife Trust, submitted by Mr Breckon on 12 July.
- 17 Statement by Mark Jackson, dated 11 July 2013, submitted by Mr Breckon on 12 July.
- 18 Statement and points made by Lee Breckon, read and submitted by Mr Breckon on 12 July.
- 19 Copy of a Section 106 Agreement, dated 16 July 2013, submitted by the appellant after the close of the hearing.

PLAN SUBMITTED AT THE HEARING

- A Plan of sites to visit, submitted by Mr Breckon on 12 July.

SCHEDULES OF CONDITIONS

Appeal A

- 1) Details of the access, appearance, landscaping, layout, and scale, (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 reserved matters details required under Condition 1 shall be in accordance with the principles and parameters indicated on the Illustrative Layout Drawing No EMS.2271_07-1E and shall include a landscaping scheme that shall be carried out within one year of completion of the development. Any trees, hedges, shrubs or plants as part of the approved landscaping scheme which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 5) 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 parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) the routing of construction vehicles; and
 - viii) the hours of construction and the hours for the loading/unloading of materials.
- 6) Notwithstanding the submitted details, no development shall commence on-site until full details of the means of foul and surface water drainage for the site have been submitted to and approved in writing by the local planning authority. The details shall include the Sustainable Urban Drainage System including the proposed surface water balancing facility, with cross sections and boundary treatment, and oil separators that shall be designed and constructed to have a capacity compatible with the site being drained. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water from parking areas and hard standings susceptible to oil contamination shall be passed through an oil separator. Roof water shall not pass through the interceptor. The drainage shall be carried out in

accordance with the approved details before any of the development is occupied and retained as such thereafter.

- 7) The development hereby permitted shall be carried out in accordance with remediation measures contained in the Phase II Site Appraisal document by GRM Development Solutions Ltd. If during the course of development contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until an amendment to the remediation strategy giving details on how to deal with this contamination has been submitted to and approved in writing by the local planning authority. The remediation measures shall be carried out in accordance with the approved amended details.
- 8) Notwithstanding the submitted details, no development shall take place within the site until precautionary surveys for the presence of bats and water voles have been secured in accordance with a written scheme that shall have been submitted to and approved in writing by the local planning authority. The surveys shall be undertaken in full accordance with the approved written scheme. If the surveys identify the presence of bats or water voles, a scheme of mitigation measures shall be undertaken in accordance with details and a timescale that shall have been submitted to and approved in writing by the local planning authority prior to the commencement of development.
- 9) No development shall take place within the site until a programme of archaeological work has been secured in accordance with a written scheme of investigation and reporting programme that has been submitted to and approved in writing by the local planning authority. The development shall be undertaken only in full accordance with the approved written scheme. No variation shall take place without the prior written approval of the local planning authority.
- 10) All details of the development hereby permitted shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document: The 6 Councils Design Guide. The details shall include parking and turning facilities, access widths, gradients, surfacing, external lighting, signing and lining (including that for the cycleway and shared use footway/cycleway) and visibility splays and shall be submitted to and approved in writing by the local planning authority before the development commences. Development shall be carried out in accordance with the approved details.

Appeal B

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:2500 Scale Location Plan and Drawing No NTT/540/004 Revision P4.
- 3) Within three months following the first occupation of the final dwelling constructed as part of the residential development to be accessed by the temporary access hereby permitted the use shall discontinue, construction material shall be removed from the site, hedgerows shall be replaced or

replanted and the land shall be restored to its former condition in accordance with a scheme of work that shall be submitted to and approved in writing by the local planning authority.

- 4) No development shall take place within the site until a programme of archaeological work has been secured in accordance with a written scheme of investigation and reporting programme that has been submitted to and approved in writing by the local planning authority. The development shall be undertaken only in full accordance with the approved written scheme. No variation shall take place without the prior written approval of the local planning authority.
- 5) No development shall take place within the site until precautionary surveys for the presence of water voles have been secured in accordance with a written scheme that shall have been submitted to and approved in writing by the local planning authority. The surveys shall be undertaken in full accordance with the approved written scheme. If the surveys identify the presence of water voles, a scheme of mitigation measures shall be undertaken in accordance with details and a timescale that shall have been submitted to and approved in writing by the local planning authority prior to the commencement of development.



Appeal Decision

Inquiry held on 11-13 December 2012

Site visit made on 14 December 2012

by A J Davison BA(Hons) LLB(Hons) MSc MBA DipLD RIBA FRTPi

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

Decision date: 22 January 2013

Appeal Reference: APP/K2420/A/12/2181080/NWF

Land east of Groby cemetery, Ratby Road, Groby

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Bloor Homes east Midlands Ltd against the decision of Hinckley & Bosworth Borough Council.
 - The application Reference 12/00250/FUL, dated 19 March 2012, was refused by notice dated 27 July 2012.
 - The development proposed is the erection of 91 dwellings with garages, parking spaces, open space, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues in the appeal. The first is the adequacy of the supply of housing in the Borough. The second is the effect of the proposed development on the character and appearance of the Rothley Brook Meadow Green Wedge. A further consideration in each of these issues is the impact of the appeal proposals on the emerging *Site Allocations and Generic Development Control Policies Development Plan Document (SAGDCP)*.

Reasons

3. The 4.4ha appeal site is in the Green Wedge that separates the villages of Groby and Ratby. Although within Ratby Parish, it borders residential development in Groby and there is open land between the site and Ratby village. There have been several unsuccessful planning applications for housing development on the site, the most recent resulting in a dismissed appeal in 2011. The Appellants have also sought to promote the site for housing at the local Inquiries into the Local Plan and Core Strategy.

Housing Supply

4. The *Hinckley and Bosworth Core Strategy* was adopted in December 2009. It envisages that the majority of housing development will be provided in the urban area or through sustainable amendments to the settlement boundary and in two Sustainable Urban Extensions (SUEs), with a proportion distributed around rural areas in order to meet local needs. The Core Strategy requires the provision of 9000 homes in the Borough between 2006 and 2026, at an average of 450 homes a year.

5. Policy 8 identifies Groby as one of the Key Rural Centres, where the Council will aim to allocate land for such housing. The parties agree (Statement of Common Ground paragraph 7.1) that at least 110 new dwellings will be needed in Groby and that this will involve the use of land outside the existing settlement boundary. The land to be allocated will be identified in the SAGDCP. That document, which is currently at Consultation Draft stage, identifies the appeal site as one of the preferred options.
6. The 2011 appeal was decided in the light of the 2009 Core Strategy and at a time when the Council did not have a five year supply of housing land. Since then, in March 2012, the *National Planning Policy Framework* (NPPF) has been issued. The Appellants have drawn attention to paragraph 49 of the NPPF, which says that housing supply policies should not be considered up to date if the local planning authority can not demonstrate a 5 year supply of deliverable housing sites.
7. The calculation of housing land supply is not an exact science. The dispute between the parties relates largely to the choice of predictive models. The Council prefers the "Liverpool" method, which spreads any shortfall in a given year over the remainder of the Plan period and is appropriate where there is not a severe shortage. On that basis the Council can show a supply of housing land extending to 5.27 years or 5.02 years if a 5% buffer is applied.
8. The Appellants prefer the "Sedgefield" model, which seeks to meet any shortfall earlier in the Plan period, on the basis that this approach accords with the views of the government, as set out in paragraph 47 of the NPPF with regard to boosting housing supply. They draw attention to a number of appeal decisions where this approach has been adopted. They also suggest that the 5% buffer is insufficient and that a 10% or 20% buffer would be more appropriate. This approach has some force given that the Council can only show a supply marginally in excess of five years.
9. Nonetheless, the Liverpool model is a recognised way of calculating housing supply. The Core Strategy Inspector anticipated that there would be shortfalls in housing land supply in the early years and that these would be made up later in the Plan period when, for example, the SUEs came on stream. It is clear from the Council's evidence that progress has been made with the Earl Shilton and Barwell SUEs and that planning permission for the Barwell SUE is likely to be granted in the spring of this year.
10. The Appellants point out that the Core Strategy Inspector's conclusions were based on the expectation that sites would be brought forward in the SAGDCP, the production of which has been delayed by several years. That situation was, however, known to the Inspector dealing with the 2011 appeal.
11. Given the inherent uncertainties in any prediction of future supply and the fact that it is a method that chimes with the approach in the Core Strategy, I consider that it does provide a reasonable basis for assessing future supply. On that basis I conclude that the Council has shown that it has a five year supply of housing land. Furthermore, it is clear that the Council is not averse to boosting the supply of housing. Specifically, it is proposing to allocate land for housing in Groby. In the context of this appeal, it is not the amount of housing that is in dispute but its location.

12. Paragraph 12 of the NPPF states that it does not change the statutory status of the development plan as the starting point for decision making and that development proposals that conflict with an up to date Plan should be refused unless other material considerations indicate otherwise. One of the 12 core principles set out in paragraph 17 is that planning should be genuinely plan led, empowering local people to shape their surroundings with succinct local and neighbourhood plans setting out a positive vision for the future of the area and providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.
13. The consultation period for the SAGDCP Preferred Options Report ended in April 2009 and the document is in the process of being amended in the light of the responses received. A pre-submission draft is due to be published in August of this year, followed by submission to the Secretary of State at the beginning of 2014. The fact that the Council has identified the appeal site as a preferred option for housing development is clearly a factor that lends support to the Appellants' position. Nevertheless, as in 2011, the weight to be attached to it is limited by the fact that the document in question is a consultation draft.
14. The local community, both as individuals and through the Parish Councils, have been actively involved in the consultation process. It may be that this process will result in the appeal site being allocated for housing development. To grant planning permission at this time, however, would pre-empt a decision that should properly be made through the development plan process. It would render futile the work done by the Council and the contributions made by the local community, thereby reducing public confidence in the planning process and would be contrary to the spirit of paragraphs 12 and 17 of the 2012 NPPF.
15. In conclusion I consider that the Council has an up to date development plan in the form of the 2009 Core Strategy, that it has shown the existence of a five year supply of housing land and that it would be premature to grant planning permission for the development of the appeal site in advance of the adoption of the SAGDCP.

Green Wedge

16. Green Wedge Policies have their origin in the 1987 *Leicestershire Structure Plan* and have been repeated in one form or another in successive development plans including the Core Strategy. Core Strategy Policy 9 seeks to protect the Green Wedges and lists various uses that would be acceptable within them. Since housing is not one of them, the appeal proposal conflicts with the Policy.
17. Policy 9 requires the carrying out of a Green Wedge Review which, along with the *Strategic Housing Land Availability Assessment* (SHLAA), will inform the SADPD. In July 2011 a methodology for the review was agreed by the various Leicestershire Authorities. This set out four objectives for the Green Wedges. They were to prevent the merging of settlements, guide urban form, provide a "green lung" and act as a recreation resource.
18. The review is currently in progress and will establish how much land should be released from different parts of the Green Wedge and allocated for development. The emphasis is on identifying land where development would have a limited impact on the Green Wedge while being in a sustainable location in terms of transport and access to services.

19. The site has been considered at three separate Inquiries, starting with the Local Plan Inquiry in 1996/97 followed by the Inquiry into the 2009 Core Strategy and that into the 2011 appeal decision. The approach taken by Inspectors - that development would detract from the open character and appearance of the area and would conflict with Core Strategy Policy 9 - has been consistent.
20. The appeal site is bounded to the east by a stream, beyond which is a public footpath that runs along the embankment of a disused railway line and currently marks the edge of the built up area of the village. To the south is a strip of open land lying between the site and Sacheverall Way. The northern boundary is formed by a stream, beyond which is a terrace of three houses, known as Brookvale Cottages. To the west is the road linking Ratby and Groby, a single large house, Ashdale, and the Groby Village cemetery. A public footpath runs between the cemetery and the appeal site.
21. In purely physical terms the proposed development would reduce the gap between Ratby and Groby. Although the site adjoins an extensive area of suburban housing, this is effectively screened by the railway embankment, which forms a logical boundary to the built up area. The Appellants point out, with reference to the 2011 appeal decision, that openness for its own sake is not one of the four objectives of the Green Wedge. However, the character of the land in question clearly has a bearing on its contribution to those objectives. The appeal site has an open and rural character while the cemetery and nearby school playing fields, though less rural in character, also have an open aspect that helps to emphasise the separation of the two villages.
22. The Appellants draw attention to the fact that the public do not have a right of access onto the site and say that it can not, therefore, have any recreational value. I see no reason, however, to restrict the definition of recreation to sporting or other activities taking place on the land itself. Recreation can also include walking and general enjoyment of the countryside. There are well used public footpaths along two of the site boundaries and the site provides an attractive complement to their use. In my view the site is, in that respect, a valuable informal recreation resource, the importance of which is enhanced by its proximity to the built up area.
23. The fact that the Council has included the site as one of the preferred options for housing development in Groby is clearly a material consideration and is one that favours the Appellants' proposals. The weight to be attached to it is, however, reduced by the fact that the SAGDCP and Green Wedge Review are still at draft stage. It may well be that the outcome of the process will be to amend the Green Wedge boundary in the area and allocate the site for housing but that is far from being a foregone conclusion.
24. While taking account of the possible future changes to the boundary of the Green Wedge in this area, I must consider the appeal proposal in the light of the development plan as it stands at present. I consider that the proposed development would detract from the character and appearance of the area and would conflict with Policy 9 of the Core Strategy. The Core Strategy is up to date, having been adopted in 2009, and I see no reason to disagree with the conclusion reached in the 2011 appeal decision.

Other Matters

25. The reason for refusal relating to infrastructure contributions was withdrawn prior to the Inquiry as the Council was satisfied with the figures in the Appellant's Unilateral Undertaking. The Parish Councils, however, remained unconvinced that this made adequate provision for education and health and maintained their objections. Following separate discussions between the County and Parish Councils during the Inquiry Groby Parish Council, withdrew its objection. I consider that the provisions made in the Unilateral Undertaking are adequate and meet the requirements of the CIL Regulations.
26. During the Inquiry Ratby Parish Council drew attention to the fact that, although the site is in Ratby Parish, the Appellants' contribution to the provision of open space was (Document 22) to be spent on facilities in Groby. However, the contribution would be made to the Borough Council as planning authority and the way in which the contribution would be best employed is primarily a matter for that Council to decide. As the site adjoins Groby it would seem sensible to provide the facilities there rather than in Ratby, which is some distance away.
27. I have also taken account of representations made by Groby parish Council to the effect that, although residents would be likely to use facilities in Groby rather than Ratby because of the location of the site, any financial benefit from the scheme in terms of the Parish Council precept and New Homes Bonus would accrue to Ratby. I do not, however, regard that as a planning consideration.
28. I have also taken account of the benefit accruing from the contribution that the development would make to the supply of affordable housing in the area. It seems to me, however, that this contribution is one that should be expected of any similar development.

Conclusion

29. Having regard to all of the above, I consider that the appeal proposal would harm the character and appearance of the Green Wedge and would conflict with Policy 9 of the 2009 Core Strategy. While taking account of the possible changes to the Green Wedge boundary resulting from consideration of the SAGDCP, I concur with the Council's view that the appeal proposal is premature. I do not accept that the housing supply situation is such as to require the granting of planning permission on this site in advance of decisions on the draft SAGDCP and the Green Wedge Review, both of which are well advanced. To do so would effectively pre-empt those decisions, overriding the public consultation process and contravening the aims of the 2012 NPPF.
30. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Anthony J Davison

Inspector

APPEARANCES

FOR THE APPELLANT:

Jeremy Cahill	Queens Counsel
He called	
Anthony Bateman BA(Hons)	Managing Director
TP MRICS MRTPI MCI MIoD	Pegasus Group

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader	Of Counsel
He called	
Erica Whettingsteel	Managing Director
BA(Hons) DipTP DipUD MRTPI	EJW Planning Limited

FOR LEICESTERSHIRE COUNTY COUNCIL:

John Prendergast	Senior Solicitor, Leicestershire County Council
He called	
Andrew Tyrer BA(Hons)	Developer Contributions Officer Leicestershire County Council
Sharon Townsend	Strategy Officer for Schools Administration and People Services, Leicestershire County Council
Stephen Kettle	Modernising Services Manager for Adults and Communities, Leicestershire County Council
Ian Braker	Senior Waste Officer Leicestershire County Council

FOR GROBY PARISH COUNCIL:

Simon Stanion	Solicitor, Marrons
He called	
Mr Coley	Chairman, Groby Parish Council

FOR RATBY PARISH COUNCIL:

Linda Fogg	Clerk to the Council, Ratby Parish Council
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INTERESTED PERSONS:

Peter Batty	Councillor Hinckley and Bosworth Borough Council
Ozzy O'Shea	Councillor Hinckley and Bosworth Borough Council

Chris Boothby

Councillor

Hinckley and Bosworth Borough Council

Martin Cartwright

Councillor

Hinckley and Bosworth Borough Council

Stuart Bray

Leader of Council

Hinckley and Bosworth Borough Council

DOCUMENTS

- 1 Lists of persons attending the Inquiry
- 2 Appellant's Opening Statement
- 3 The Council's Opening Statement
- 4 The Council's Document EJW11: Blaby District Core Strategy EIP Note from Inspector on modifications required for soundness
- 5 The Council's Document EJW12: Housing Supply – Permissions Granted
- 6 The Council's 2009 Core Strategy
- 7 The Planning System: General Principles (ODPM 2005)
- 8 Appellant's Rebuttal of Groby Parish Council's proof of evidence
- 9 Planning permissions relating to Martinshaw County Primary School
- 10 Documents relating to appeal at Stephenson Way, Coalville
- 11 Councillor Batty's written statement
- 12 *Hands Off Our Land*; press report on statement by David Cameron
- 13 Groby Parish Council observations on the Core Strategy
- 14 Minutes of Council Scrutiny Commission meeting, 8 December 2011
- 15 Minutes of Council meeting, 20 January 2009
- 16 Documents relating to Primary Schools in walking distance of appeal Site
- 17 Councillor O'Shea's written statement
- 18 Groby and Field Head Community Project Parish Plan, October 2005
- 19 Introduction to the draft Site Allocations DPD
- 20 R v Rochdale MBC ex parte Milne
- 21 The Appellant's S106 Unilateral Undertaking
- 22 Groby Parish Council's documents relating to off-site open space provision
- 23 The Council's revised list of planning conditions
- 24 Closing submissions on behalf of Ratby Parish Council
- 25 Closing submissions on behalf of Groby Parish Council
- 26 Closing submissions on behalf of the Council
- 27 Closing submissions on behalf of the Appellant