

Mr Glenn Godwin
Director
Pegasus Planning Group
Queens Business Centre
Cirencester
Gloucestershire GL7 1RT

Our Ref: APP/U3935/A/11/2155834

19 March 2012

Dear Mr Godwin,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY SWINDON GATEWAY PARTNERSHIP
APPLICATION REF: S/10/0842/IH
LAND AT COMMONHEAD TO THE SOUTH OF MARLBOROUGH ROAD (A4259),
ADJOINING GREAT WESTERN HOSPITAL, SWINDON SN3**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Geoffrey Hill DipTP MRTPI, who held a public local inquiry which opened on 15 November 2011 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Swindon Borough Council to refuse planning permission for the erection of up to 890 no. residential dwellings, employment (classes B1, B2), local centre (classes A1-A5), community uses (classed D1), primary school, extension to hospital site including provision of land for emergency services, public open space, landscaping, 2 no. vehicular accesses to A4259 (details of eastern access only), site roads and associated infrastructure, in accordance with application Ref S/10/0842/IH, dated 25 May 2010.

2. The appeal was recovered for the Secretary of State's determination on 12 July 2011, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and outline planning permission be granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendation. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matters

4. The Secretary of State notes those amendments made to the proposal, as detailed at IR3-4, and has determined the application on that basis. He does not consider that there has been any prejudice to any party in doing so.

5. Following the close of the Inquiry, the Secretary of State received written representations (mostly in a standard format) from a large number of individuals in objection to the proposal, which he has carefully considered. However, he does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching his decision.

6. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and Addendum submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR8-10 and IR239). Like the inspector (IR10), the Secretary of State considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

Policy Considerations

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises Regional Planning Guidance for the South West (RPG 10), the Wiltshire and Swindon Structure Plan 2016, and the Swindon Borough Local Plan 2011. Development plan policies most relevant to the appeal are set out at IR23-25.

8. The Core Strategy and Development Management Policies 2026 Development Plan document (DPD) is a material consideration. However this is some way from adoption so it has been afforded limited weight.

9. Other material considerations the Secretary of State has taken into account include those documents set out at IR27-28. Of those, the draft National Planning Policy Framework is a consultation document and subject to change, so he has given it limited weight. Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy (CIL) Regulations (2010 and 2011), are also material considerations.

Main Issues

10. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR237.

Prematurity

11. The Secretary of State agrees with the Inspector's reasoning and conclusions on prematurity, as set out in IR240-255. He agrees that to refuse the scheme on the grounds that it is premature has to be seen in the context of the Council's own views on the acceptability of this site. That is, the principle of development has a long pedigree of active support by Swindon Borough Council, having been allocated for development since 2003 and being included as Policy NC3 in the emerging Core Strategy (IR252). Furthermore, the Secretary of State also notes that there is an undeniable need for the release of deliverable housing land in Swindon, lending further weight to the proposal (IR250).

Road capacity/rat running

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on road capacity/rat running, as set out in IR256-267. He agrees that the likely very small increase in traffic cannot represent a serious or significant increase in traffic using these lanes and cannot be seen to unacceptably harm the conditions of highway safety (R262).

Quality of urban design/spine road

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on the quality of urban design/spine road, as set out in IR268-277. He agrees that the spine road could be designed to meet all of its functions without offering a poor standard of urban environment and being perceived as an unattractive area in which to live and work (IR277).

Effect on the AONB

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on the effect on the AONB, as set out in IR278-291. He agrees that; the proposal would be visible in views from the AONB, but this would not represent a major change in the landscape; the impact would be softened and even offer a limited degree of improvement insofar as views of the hospital are concerned; and, that the degree of harm would not be overwhelming and would not significantly detract from the essential qualities of the AONB or its setting (IR291).

Other matters

Richard Jefferies Land

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on Richard Jefferies land, as set out in IR292-299. Whilst he agrees that there are associations between the area around Coate and the work of Richard Jefferies, he notes that neither Swindon Borough Council nor English Heritage have sought to define Jefferies Land, nor to protect it as a heritage asset on the strength of its association with the writer (IR296). He agrees that the strength of these links are not a strong basis to overturn the long history of this land being allocated for development in current and emerging development plan documents, and that the association of the appeal site land with Richard Jefferies does not represent a substantive reason for dismissing this appeal (IR299).

Coate Water Country Park

16. For the reasons given in IR300-305, the Secretary of State agrees with the Inspector that the proposal would achieve a reasonable balance between safeguarding the setting and ambience of the Coate Water Country Park, and creating an acceptable urban extension along the lines envisaged in the Local Plan. He agrees that overall, the proposal can be seen to be in conformity with Policy DS3 insofar as it applies to Coate Water Country Park (IR305).

Great Western Hospital

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on the Great Western Hospital, as set out in IR306-308. He notes that it is accepted that land will be needed to accommodate an expansion of the hospital – as required by Local Plan Policy DS3 d) - and that the Hospital Trust supports the proposed scheme as the means of achieving this. He agrees that making the expansion land available as an associated benefit of the proposal before him does not represent an overriding consideration that of itself would justify allowing the appeal (IR306).

Other matters raised by interested persons at the inquiry and in the written representations

18. The Secretary of State agrees with the Inspector's reasoning and conclusions on those other matters set out in IR309-332. He agrees that none of these additional points raised at the inquiry and in the written representations can be seen to represent substantial objections which would justify dismissing the appeal. For example, he agrees that there is no substantive case to conserve the site as a pre-historic landscape (IR310-311); that the site is in a sustainable location (IR314-318); and, that suitable measures have been put in place to protect wildlife interests (IR331).

Conditions and obligations

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations as set out in IR214-236. He is satisfied that the proposed conditions are reasonable and necessary and comply with Circular 11/95, and that the s106 agreement accords with Circular 05/2005 and the CIL Regulations.

Overall conclusions

20. The Secretary of State agrees with the Inspector's overall conclusions as set out in IR333-341. The Secretary of State agrees that there are a number of differences between the proposal before him and that which he previously considered (IR335-337).

21. The Secretary of State considers that the proposal would be in conformity with the development plan, including the principle of development on the site, and in terms of urban design, highways impact, effect on the AONB, and in meeting the Council's five year housing land supply. He does not consider that the area's links with Richard Jefferies represent a reason for dismissing the appeal.

22. In reaching his decision the Secretary of State has taken into account the local opposition to the scheme. However, he has, like the Inspector (IR340), also taken into account local support for the scheme, which is manifested by way of allocation of the site in the extant development plan (which has been open to consultation, objection and examination) - support which is taken forward in the emerging Core Strategy (albeit not yet subject to examination). He is also satisfied that it would not be premature to decide this case ahead of the examination of the Core Strategy.

23. Overall the Secretary of State concludes that the proposal accords with the development plan and that there are no material considerations of sufficient weight which would justify refusing planning permission.

Formal Decision

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for the erection of up to 890 no. residential dwellings, employment (classes B1, B2), local centre (classes A1-A5), community uses (class D1), primary school, extension to hospital site including provision of land for emergency services, public open space, landscaping, 2 no. vehicular accesses to A4259 (details of eastern access only), site roads and associated infrastructure, in accordance with application Ref S/10/0842/IH, dated 25 May 2010 (as amended) subject to the conditions listed at Annex A of this letter.

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

26. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

27. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

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

29. A copy of this letter has been sent to Swindon Borough Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours sincerely

Richard Watson
Authorised by the Secretary of State to sign in that behalf

CONDITIONS

Annex A

Timing and Duration

1. The development hereby permitted shall be commenced either before the expiration of 3 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reserved Matters

2. Approval of the details of the layout, scale, appearance, access (other than that now approved in respect of the eastern junction), and landscaping of the development herein known as the “reserved matters” for each Development Phase or Sub Phase shall be obtained from the Local Planning Authority prior to the commencement of any development within that particular Phase or Sub Phase. The first application for the approval of reserved matters shall be submitted to the Local Planning Authority before the expiration of 2 years from the date of this permission. All subsequent reserved matters applications shall be submitted no later than 10 years from the date of this permission.

Master Plan

3. The submission of all reserved matters and the implementation of development shall be in broad accordance with the Land Use Master Plan (drawing number 10494/9319 revision M) and the related Scale Parameter Plan (drawing number 10494/9601 revision C), Landscape Parameter Plan (drawing number 10494/9602 revision D) and Access and Movement Parameter Plan (drawing number 10494/9600 revision E) or any subsequent amendment that may be submitted to and approved in writing by the Local Planning Authority.

Phasing Programme and Details

4. Prior to the submission of the first reserved matters pursuant to condition 2 above, a plan shall be submitted to the Local Planning Authority to show how the development shall be divided into phases and a phasing programme for the entire site shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved phasing programme.

Design Codes

5. Prior to the submission of the reserved matters (within each Phase) pursuant to condition 2 above, Design Codes relating to the Phase shall have been submitted to the Local Planning Authority and approved in writing. The Design Codes shall provide details and guidance in respect of:

- a) form, character areas, densities, block types, building types, the palette of materials, slab levels, building heights, building lines, boundary treatments, recycling and waste provisions and Inclusive Design principles;
- b) details of internal highways, cycle ways and footpaths; street lighting strategy, street patterns, permeability and street landscaping including street trees;
- c) highway matters, car parking, cycle parking, traffic management for Day House Lane and service principles;
- d) green infrastructure, landscape and open space areas including external lighting and street furniture;
- e) conservation of flora and fauna;
- f) biodiversity mitigation measures;

- g) noise attenuation measures; and,
- h) Sustainable Urban Drainage Systems.

The development shall be carried out in accordance with the approved Design Codes.

Design and Access Statements

6. The reserved matters referred to in condition 2 above shall be accompanied by a Design and Access Statement for each Phase which shall explain how the proposal accords with the provisions of the Design Codes as referred to in condition 5.

Business (Class B1) Development

7. The total floor space for development falling within Classes B1a, B1b and B1c of the Town and Country Planning (Uses Classes) Order 1987, (as amended or re-enacted) within the site shall not exceed 50,000 sq. m.

General Industrial (Class B2) Development

8. The total floor space for uses falling within class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) uses shall not exceed 20,000 sq m. In any event, such areas shall not exceed a total area of 50,000 sq. m. in aggregate with the floor space identified in Condition 7.

Local Centre

9. Unless otherwise agreed in writing by the Local Planning Authority, the total retail trading floor space falling within class A1 of the Town and Country Planning (Uses Classes) Order 1987, (as amended or re-enacted) of the anchor retail store located within the proposed local centre as defined within the Master Plan shall not exceed 400 square metres (gross) of which no more than 280 sq. m. shall be net sales area floor space, and the floor space of the remaining 6 units shall not exceed a cumulative total of 600 sq. m. (gross) with no more than 425 sq. metres net sales area. The units shall comprise uses that fall within classes A and D of the Town and Country Planning (Uses Classes) Order 1987, (as amended or re-enacted). The mix of uses will be:

- a) at least 2 units in addition to the anchor within Class A1;
- b) no more than any 2 units are to be occupied by uses falling within Class A2, Class A3 or Class A5;
- c) no more than 1 unit to be for uses within Class A4; and,
- d) no more than 1 unit to be for uses within Class D1.

No subdivision or amalgamation of the units shall take place without the express planning permission of the Local Planning Authority.

Biodiversity

10. Prior to the commencement of any works on site, a Biodiversity Management Plan for the site as a whole shall have been submitted to and approved in writing by the Local Planning Authority. Such measures shall include specific detailed proposals for Nature Conservation Areas identified on the Master Plan, including Day House Copse County Wildlife Site comprising:

- a) advanced mitigation and protective measures during construction;
- b) timing of implementation;
- c) long term protection objectives;

- d) management responsibilities;
- e) a maintenance schedule and proposals for allowing and restricting public access;
- f) details of the proposed road construction which, shall provide for the means of achieving habit connectivity; and,
- g) the provision of facilities for information or interpretation where appropriate.

The approved Biodiversity Management Plan shall be implemented to the advance mitigation and construction protection stage within each Phase prior to the commencement of any development on site within that Phase. All Management Plan measures shall thereafter be permanently retained. Further protection and mitigation works pursuant to the Management Plan shall then be completed all in accordance with the timing set out in the Management Plan.

Bird and Bat Boxes

11. Prior to the commencement of works in any residential Development Phase or Sub Phase, full details of bird and bat boxes including numbers of boxes of each type, locations, a timetable for their installation and a plan to demonstrate how the boxes shall be retained thereafter shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details and timings.

Wildlife Protection

12. No demolition or partial demolition of existing buildings or the felling and lopping of trees shall take place until a survey has been undertaken to confirm whether or not bats or bat roosts are present. If bats or their roosts are present, any proposed works shall take place in accordance with mitigation measures for that Development Phase that have first been submitted to and approved in writing by the Local Planning Authority.

Badger Setts

13. Prior to the commencement of works within each Development Phase, surveys of the area for the presence of badgers and occupied setts shall have been completed. The result of each survey, together with details of mitigation measures – as appropriate - shall be submitted to the Local Planning Authority for approval in writing. The approved scheme shall be implemented prior to the commencement of any works within the Development Phase, in accordance with an agreed scheme of mitigation.

Tree / Hedgerow Survey and Planting Plan

14. Prior to the submission of any Reserved Matter in any Phase, a survey and report in each Development Phase showing the location, species, crown spread, girth and condition of all trees with a stem diameter of 100mm or greater, and the location, mix and spread of all hedgerows shall be submitted to the Local Planning Authority. The survey and report will indicate which trees and hedgerows are to be retained, removed and created. All new planting shall comprise local native species, unless otherwise agreed by the Local Planning Authority.

Tree / Hedgerow Protection

15. Prior to any approval of measures under condition 14, no existing trees or hedgerows on the site shall be lopped, topped, felled, uprooted, destroyed (including severance of roots), or wilfully damaged without the prior written consent of the Local Planning Authority. Where works to trees and hedgerows which have not been approved in writing by the Local Planning Authority result in any part of any tree or hedgerow being uprooted, dying or becoming diseased, it shall be replaced before the end of the next available planting season with a

species details of which shall have been submitted to and approved in writing by the Local Planning Authority. Any replacement tree or hedgerow shall thereafter be retained for a period of five years from being planted. Furthermore, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking and re-enacting that Order, no fence or other means of enclosure shall be erected within or closer to any existing tree or hedgerow other than as shown on the approved plans unless otherwise approved in writing by the Local Planning Authority.

Proposed Landscaping relating to Open Space Provisions

16. Prior to the commencement of development in each Phase, pursuant to Condition 4, a scheme for the landscaping of each of the open spaces and equipping of the 3 children's play areas shall be submitted to and approved in writing by the Local Planning Authority. The open spaces to be covered by the landscaping schemes shall include those areas described on the Master Plan, as local open space, green corridors, urban green spaces, existing watercourses and their associated buffer zones, noise bunding, nature conservation areas and the Boulevard and principal footpath/cycle and footpath networks and all other public open space as indicated on the approved Master Plan. The development hereby permitted shall be carried out only in accordance with the approved landscaping schemes, and phasing schemes. All planting approved pursuant to Condition 2 shall be carried out in accordance with the approved details and any tree or shrubs which, within a period of 5 years of being planted, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with other(s) of similar size and species unless the Local Planning Authority give written approval of any variation.

Archaeology (Preserved *in situ*)

17. Prior to the commencement of any development within each of the archaeological areas shown on Plan (ref Figure 7.3 of the Environmental Statement) as sites 3, 4, 10, 11, 12, 13 and 14, a Management Plan for each of the sites for the preservation of archaeological interests *in situ* shall have been submitted to and approved in writing by the Local Planning Authority. The management of each site shall take place in accordance with the approved plans.

Archaeology (Further Investigation)

18. No development shall take place within each of the archaeological areas shown on Plan (ref Figure 7.3 of the Environmental Statement) as sites 1, 2, 5, 6, 7, 8 and 9 within the site until there has been submitted to and approved in writing by the Local Planning Authority a programme of archaeological work for each of the sites providing a written scheme of investigation. The development of the sites shall be carried out in accordance with the approved programme.

Archaeological Watching Brief

19. The developer shall afford access at all reasonable times during construction to any archaeologist nominated by the Local Planning Authority, and shall allow him or her to observe the excavations and record items of interest and finds.

Particular requirements in the vicinity of the former Badbury Brickworks

20. No development shall commence within 50 metres of the edge of the landfill site at the former Badbury Brickworks at Day House Lane until a Remediation Scheme to include measures to prevent the ingress of landfill gas into properties constructed within that zone of influence has been submitted to, and approved in writing by the Local Planning Authority. The development shall be constructed in such a way as to prevent soil gas from entering the structure, details of which shall also be submitted for approval in writing by the Local Planning Authority. The scheme shall include an implementation timetable and monitoring protocols and methodology which shall be carried out in accordance with the approved timetable. Any

variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.

Reporting of Unexpected Contamination

21. In the event that contamination is found at any time when carrying out the approved development that has not been previously identified it must be reported in writing within 2 days to the Local Planning Authority and development must be halted on the part of the site affected by the unexpected contamination. An assessment must be undertaken that determines the nature, extent and risks posed by the contamination, in accordance with procedures set out in Environment Agency publication CLR11. Where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to the Local Planning Authority for approval in writing. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme written confirmation that all works were completed must be submitted to and approved in writing by the Local Planning Authority.

Foundations

22. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Minimising Flood Risk

23. The development hereby permitted shall be carried out in accordance with the approved Environmental Statement, Chapter 12 and Flood Risk Assessment (FRA) Addendum dated October 2010 Rev 2 (to be read in conjunction with the original FRA dated November 2008 Rev 6 carried out by WSP) and the mitigation measures detailed within the FRA and in accordance with the specifications as required by the Environment Agency in their letter to the Local Planning Authority dated 1 March 2011.

Sustainable Urban Drainage

24. No part of the development hereby permitted shall be commenced in any Phase pursuant to Condition 4 above until a surface water drainage scheme for each Phase has been submitted to and approved in writing by the Local Planning Authority in accordance with the principles of the addendum FRA dated October 2010 Rev 2 and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall be implemented in accordance with the approved details. The scheme shall also accord with the specifications as required by the Environment Agency in their letter to the Local Planning Authority dated 1 March 2011.

Phase 1 Highway Improvement Works

25. No more than 500 dwellings, and no more than 20,870 sq. m. (gross) of employment floor space or any other development mix generating the same level of peak hour traffic, or if constructed as single elements either, no more than 800 dwellings or no more than 24,000 sq. m. (gross floor area) of employment floor space shall be occupied before there has been submitted to, and approved in writing by, the Local Planning Authority a scheme for the improvement of Junction 15 of the M4 and the A419 to allow the safe and efficient operation of the Strategic Road Network to provide:

- a) A419 northbound exit from the M4 Junction 15 roundabout to be 3 lanes reducing to 2 lanes by the bridge over Day House Lane; and,

- b) A419 Commonhead southbound merge to M4 Junction 15; a TD22 Type E Lane Gain; to provide 3 lanes between Commonhead and Junction 15; and,
- c) the removal of the bus/lay-bys on the northbound and southbound carriageways between M4 Junction 15 roundabout and the Commonhead junction; and,
- d) M4 Junction 15 roundabout – widening of the circulatory on the southern side to 4 lanes between the off and on slips; and,
- e) M4 Junction 15 roundabout – provision of a dedicated left slip from the A419 southbound to the eastbound on slip.

No occupation or use of the development beyond the thresholds stipulated shall occur until the works have been completed and have been certified in writing by the Local Planning Authority unless either;

- i. an alternative scheme of works which fully mitigates against the impact of the development on the A419 and M4 Junction 15 has been submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with such scheme, or;
- ii. a strategic Road Network Roads Agreement as defined in the Section 106 Agreement accompanying this planning permission has been made.

Phase 2 Highway Improvement Works

26. No more than 800 dwellings and 42,870 sq. m. (gross) of employment floor space or any other development mix generating the same level of peak hour traffic shall be occupied before there has been submitted to and approved in writing by the Local Planning Authority a scheme for the improvement of the A419 to allow the safe and efficient operation of the Strategic Road Network including;

- a) A419 southbound diverge to Commonhead roundabout; a TD22 Type B Ghost Island (Option 1) diverge; and
- b) remarking of the southern circulatory system of Commonhead Roundabout;

No occupation or use of the development beyond the thresholds stipulated shall occur until the works have been completed and have been certified in writing by the Local Planning Authority unless either;

- i. an alternative scheme of works which fully mitigates against the impact of the development on the A419 and M4 Junction 15 has been submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with such scheme, or
- ii. a Strategic Road Networks Agreement as defined in the Section 106 Agreement accompanying this permission has been made.

Eastern Access Road

27. Prior to the first occupation of the dwellings hereby permitted, the means of access to the site as show on drawing number SK/102 revision A from the A4259 Marlborough shall have first been completed and made available for use before any new dwelling or building is occupied and shall be permanently retained thereafter as the vehicular access to the site. The development shall be carried out in accordance with the approved means of access to the scheme.

Bicycle Parking / Storage

28. Before the first occupation of each building, provision shall be made for bicycle storage that accords with the Council's standards in respect of all commercial, employment, hospital, school or local centre buildings. Any bicycle storage provision shall thereafter be retained for the storage of bicycles in connection with the development hereby permitted.

Residential Garage Standards

29. The internal dimensions of all single residential garages to be constructed in connection with the development hereby permitted shall be a minimum of 3 metres in width by 6 metres in length with no internal obstructions, in accordance with the adopted parking standards. The garage shall thereafter be available at all times to give the opportunity for parking a vehicle.

Day House Lane

30. No works shall commence in respect of the business park development and no motor vehicular connection shall be made between Day House Lane and the Spine Road until a Method Statement for the treatment of and introduction of a turning head at Day House Lane has been submitted to and approved in writing by the Local Planning Authority. The approved works shall have been completed before the business park development is commenced and no vehicular connection shall be made to the west of the junction with Day House Lane.

31. Prior to the commencement of the business park development hereby approved, a detailed plan showing alterations to the junction of the Spine Road and Day House Lane shall be submitted to and approved by the Local Planning Authority in writing. Such works shall be for the purposes of changing the appearance of the entrance to Day House Lane to deter rat running. Such design may include localised narrowing of the junction, gateway features, planting, change of surfacing or such other design features that constitute a deterrent to rat running. The approved design shall be fully implemented to the satisfaction of the Local Planning Authority in accordance with an approved timetable.

Travel Plan

32. Prior to first occupation of the development hereby approved, a travel plan based on the WSP Framework Travel Plan (November 2010), which shall include modal shift targets and a programme of implementation, monitoring and review, shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated in accordance with the approved details.

Renewable Energy

33. Prior to the submission of an application for reserved matters, a feasibility report for the development of each Phase to identify how at least 10% of the energy to be used in the new development will come from decentralised and/or renewable sources including sustainable construction methods shall be submitted to and approved in writing by the Local Planning Authority. The feasibility reports shall identify how the development will minimise CO₂ emissions, how the minimum 10% renewable energy target is to be achieved for that Phase and the mechanisms by which this will be achieved. The development shall be carried out in accordance with the approved reports.

Non-residential Development

34. All non-residential development (except where otherwise agreed in writing) shall achieve a minimum BREEAM rating of very good, evidence of which shall be submitted to and approved in writing by the Local Planning Authority that:

- a) demonstrates that the development is registered with the Building Research Establishment (BRE) under BREEAM (either a 'standard' BREEAM or a 'bespoke'

BREEAM) and is accompanied by a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of very good for all non-residential development; and,

- b) through a BRE issued Design Stage Certificate that demonstrates that the development has achieved a BREEAM rating of very good for all non-residential development.

None of the non-residential development hereby permitted shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a BREEAM rating of very good has been submitted to, and approved in writing by, the Local Planning Authority.

Lifetime Homes

35. At least 10% of the affordable housing shall be constructed to comply with the Lifetime Homes Standard. Prior to the occupation / use of these homes details to demonstrate how that rating is to be achieved shall be submitted to the Local Planning Authority for approval in writing, accompanied by the BREEAM Certificate. The development shall be carried out in accordance with the approved details.

Wheelchair Accessible Housing

36. Not less than 2% of the total residential development shall provide ramped access with flush thresholds into all doorways, doorway widths, space for internal circulation and for through-the-floor lift vertical circulation, and for use of a bathroom, toilet and kitchen at entry level designed to provide for wheelchair user occupiers in accordance with a plan or schedule which shall have been submitted to and approved in writing by the Local Planning Authority. These features and provisions shall be retained for so long as the buildings hereby permitted remain in use as dwelling houses.

Noise Mitigation

37. Prior to the commencement of each individual Phase of residential development pursuant to Condition 4 above, details of measures to attenuate the break-in of external noise to the proposed dwellings, and the means to provide adequate ventilation to the dwelling shall be submitted to and approved in writing by the Local Planning Authority.

Minimising Noise

38. The internal noise levels to be achieved in bedrooms and living rooms in residential properties post construction is respectively 30 dB L_{AeqT} (where T is 23:00 - 07:00) and 35 dB L_{AeqT} (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L_{Amax} when measured in bedrooms and living rooms internally between 23:00 and 07:00, post construction. Noise levels in private gardens and public open spaces should not exceed 55 dB $L_{Aeq1\text{ hour}}$ when measured at any period unless otherwise agreed in writing by the Local Planning Authority.

Maximum Noise Levels from Construction and Commercial Activities

39. No commercial activities will be permitted where these will produce noise rating levels (measured in accordance with BS 4142) at the nearest occupied residential premises greater than -10 dB(A) below the background noise levels, without the prior written agreement of the Local Planning Authority. For the purposes of this condition, noise from customers will be considered a rateable noise and will incur an additional 5 dB(A) acoustic correction.

Storage of Oils, Fuels or Chemicals

40. There shall be no storage of oils, fuels or chemicals on the site other than in storage facilities constructed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

External Storage

41. No goods or materials of any kind shall be stacked or stored, or processes undertaken outside any unit within the employment, retail, commercial or institutional areas unless otherwise agreed in writing by the Local Planning Authority.

Construction Routes / Management Plan

42. Prior to the commencement of works on site a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The plan shall include:

- a) details of the number and frequency of construction vehicle movements,
- b) a scheme for the on-site maintenance and repair of plant and other machinery,
- c) construction operation hours,
- d) construction vehicle routes to and from and within the site with distance details,
- e) construction delivery hours,
- f) car parking for contractors,
- g) buildings, enclosures and staff facilities,
- h) specific measures to be adopted to mitigate construction impacts (including infrastructure improvements if appropriate),
- i) methods to control noise, dust, smoke and fumes during construction,
- j) a Construction Workers' Travel Plan, and
- k) a detailed Traffic Management Plan to control traffic during the construction phases.

The development shall be carried out strictly in accordance with the approved Construction Management Plan.

Construction and Delivery Hours to Sites during Construction

43. Unless otherwise agreed in writing by the Local Planning Authority, the hours of construction work including the waiting of vehicles to undertake deliveries and collections during construction shall not take place outside the following hours:

0730 to 1830 Monday to Friday;

0830 to 1300 Saturdays; and

Not at all on Sundays, Bank Holidays and Public Holidays.

Wheel Washing

44. Prior to the commencement of works on site in connection with the development hereby permitted, a procedure for the wheel washing of all construction traffic leaving any of the construction sites shall be submitted to the Local Planning Authority for approval in writing. The approved procedure shall be implemented and continued for the entire duration of works on site in connection with the development hereby permitted.

End

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

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

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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



Report to the Secretary of State for Communities and Local Government

by Geoffrey Hill BSc DipTP MRTPI

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

Date: 23 January 2012

TOWN AND COUNTRY PLANNING ACT 1990

SWINDON BOROUGH COUNCIL

APPEAL BY

SWINDON GATEWAY PARTNERSHIP

Inquiry opened on 15 November 2011

Land at Commonhead to the south of Marlborough Road (A4259), adjoining Great Western Hospital, Swindon SN3

File Ref: APP/U3935/A/11/2155834

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GLOSSARY OF ABBREVIATIONS AND ACRONYMS

AOD	Above Ordnance Datum
AONB	Area of Outstanding Natural Beauty
DPD	Development Plan Document
ES	Environmental Statement
ha	hectare
HGV	Heavy Goods Vehicle
Km	Kilometre
LDF	Local Development Framework
LPA	Local Planning Authority
LVIA	Landscape Visual Impact Assessment
m	metres
MfS	Manual for Streets
NPPF	National Planning Policy Framework
PPG	Planning Policy Guidance
PPG 13	<i>Transport</i>
PPS	Planning Policy Statement
PPS 1	<i>Delivering Sustainable Development</i>
PPS 3	<i>Housing</i>
PPS 5	<i>Planning for the Historic Environment</i>
RPG	Regional Planning Guidance
SBC	Swindon Borough Council (the LPA)
SCAAP	Swindon Central Area Action Plan

File Ref: /U3935/A/11/2155834

Land at Commonhead to the south of Marlborough Road (A4259), adjoining Great Western Hospital, Swindon SN3

- 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 Swindon Gateway Partnership against the decision of Swindon Borough Council.
- The application Ref S/10/0842/IH, dated 25 May 2010, was refused by notice dated 17 June 2011.
- The development proposed is the erection of up to 890 no. residential dwellings, employment (classes B1, B2), local centre (classes A1-A5), community uses (classed *[sic]* D1), primary school, extension to hospital site including provision of land for emergency services, public open space, landscaping, 2 no. vehicular accesses to A4259 (details of eastern access only), site roads and associated infrastructure.

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

Procedural and Preliminary Matters of Clarification

1. The power to determine the appeal was recovered by the Secretary of State by letter dated 12 July 2011. The reason for recovery being that the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact upon the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed and inclusive communities.
2. Letters sent to the parties in this appeal dated 12 August 2011 notified that the Inspector appointed to hold the inquiry was Mr E Grace. I was appointed by letter of 9 November 2011 in substitution for Mr Grace.
3. The description of development noted above is one amended by agreement between the applicant and Swindon Borough Council (the Local Planning Authority) before the inquiry opened.
4. Before the inquiry opened revised plans were submitted to, and accepted by, Swindon Borough Council. The revision is to exclude a small parcel of land in the south-west corner of the site adjacent to Green Hill and the M4. The Illustrative Master Plan (Plan A.2) which supports the application does not show that built development was proposed for this now excluded parcel. It was agreed that the revision does not affect the interests of any party not connected with the application and this appeal.
5. The application is for outline planning permission with all matters reserved for subsequent approval, except for the eastern point of access off Marlborough Road (A4259).
6. The inquiry opened on 15 November 2011 and ran for six days, closing on 23 November. An accompanied site visit was carried out on the afternoon of 23 November and a further unaccompanied visit on 24 November.

Reasons for Refusal

7. The application was refused for the following reasons.

1. The proposed development by reason of its substantial scale and location is considered to be so significant to the future growth of the Borough of Swindon when considered against other suitable locations that it will be premature in advance of the examination and adoption of the Swindon Core Strategy Revised Proposed Submission Document. This document is still under review and neither public consultation nor examination of the issues has yet been completed. The Council considers that if planning permission were to be granted it would prejudice the outcome of the plan process by predetermining decisions about the appropriateness of the location, the scale and phasing of new development that should properly be taken in the development plan context. The proposal therefore does not comply with national planning policies PPS1 and PPS3; is contrary to policies DS1 and H4 of the Swindon Local Plan 2011 (2006).
2. The proposed development by virtue of the increased levels of traffic associated with this mixed use development will have an unacceptable impact on traffic flows on Day House Lane – compromising highway safety. Furthermore, the location of the employment land, its sole vehicular access via the spine road / boulevard and expected weight of traffic within the site will result in car dominated development and unacceptable level of severance to the detriment of residential amenity. The proposal is therefore contrary to national guidance in Manual for Streets 1 and 2 and policies DS6 and DS7 of the Swindon Borough Local Plan 2011 (2006).
3. The proposed development by virtue of its scale and location will have an unacceptable impact on the setting and intrinsic qualities of part of the adjacent North Wessex Downs Area of Outstanding Natural Beauty in that the proposed mixed use development, some of which may be up to four storeys in height will fail to maintain an attractive and sympathetic vista from the Downs and a foreground that softens the urban edge of Swindon, or demonstrate that the intrinsic qualities of the AONB can be sufficiently protected. The proposal is therefore contrary to Planning Policy Statement 7, and fails to comply with policies DS6 and ENV10 of the Swindon Borough Local Plan 2011 (2006).

Environmental Assessment

8. The application was supported by an Environmental Statement (ES). The application was made before 24 August 2011 and hence The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 apply in this case.
9. The application was initially submitted in May 2010, but was subsequently revised before it was placed before the Planning Committee for determination. The modified proposals were supported by an Addendum to the ES, which sets out the amendments to the original application and responds to recent changes in policy that have been introduced by the Government. The Addendum comprises updated chapters for each specialist area, together with accompanying figures and appendices to revise or substitute for those originally submitted in May 2010. Where information in the May 2010 version is no longer relevant it has been deleted or re-written and included in up-dated chapters of the Addendum.
10. The ES, together with the responses from the statutory consultees and the evidence given at the inquiry, form the environmental information which must be taken into account. Overall the ES, as updated by the Addendum, meets

the requirements of the Regulations and provides the data and information required to adequately assess the impacts of the proposed development on the environment.

The Site and Surroundings

11. The site lies to the south of Swindon. A detailed site description is given at section 2 of the Planning Statement of Common Ground (Document INQ 4), with further detailed descriptions of the site and the surrounding areas at sections 2 and 3 in the Landscape Statement of Common Ground (Document INQ 6). A generalised description of the site and surroundings is given below.
12. The site is a long, narrow, irregularly shaped area, extending to some 74.5 hectares (ha). To the north the site is bounded by Woodbine Terrace, a road which runs off, and roughly parallel to, the A4259 Marlborough Road. Marlborough Road is one of the main access routes into Swindon off the primary road network, and is the access to the Great Western Hospital. The Great Western Hospital site marks the north-eastern boundary of the appeal site.
13. The eastern boundary of the site is the A419 Trunk Road, which runs north from Junction 15 of the M4. Part of the site extends to the west of Junction 15 on the north side of the M4 over an area known as Green Hill and marked as such on the Ordnance Survey base maps. The south-east – north-west boundary of the site is a minor road, known as Day House Lane.
14. The site excludes the small hamlet of Badbury Wick, which stands on the north-east side of Day House Lane.
15. The appeal site is predominantly of fields divided by well established hedgerows and trees. It is an area of gently undulating countryside, with a stream running approximately south-north through much of the northern part of the site, with its associated valley lying lower than the surrounding fields. Day House Copse is an area of well-established woodland and is a notable feature. The lowest part of the site is on its northern boundary which is at 106.4m AOD¹: the highest part is Green Hill at 127.5 metres AOD.
16. Around the site, the Great Western Hospital is a major institution, the main elements of which are large, six storey buildings of a modern design. There is a Highways Agency depot at Junction 15 of the M4, adjacent to Green Hill. Badbury Wick is a group of scattered buildings of a rural character. On the south-western side of Day House Lane is Day House Farm, which comprises a substantial house and associated agricultural buildings. On the north side of Woodbine Terrace is a linear group of houses and a public house which are known as the hamlet of Coate.
17. To the west of the junction of Day House Lane with Marlborough Road is a house (a listed building) which is currently used as the Richard Jefferies Museum. Beyond that is another public house and then the access to Coate Water Country Park, which is taken off a roundabout junction on the A4259. Coate Water Country Park lies to the west of the appeal site, separated from it by farm land which runs down to Day House Lane.

¹ AOD – Above Ordnance Datum

18. Plans C.1, C.2 and C.3 show the surroundings of the appeal site. In the wider area, north of the A4259 is the main built-up area of Swindon. To the east of the A419 is generally open countryside, which is included within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). This part of the AONB is generally flat, with a few small villages, including Liddington and Wanborough, and is referred to as part of the Vales landscape area.
19. The land to the south of the M4 is also within the AONB. This is an area of higher ground; a downland landscape with little built development, although the villages of Chiseldon and Badbury lie to either side of the A346 as it climbs up the scarp from Junction 15.
20. The area immediately south of the M4 is of fields which rise up to the scarp and the higher slopes of the Downs. A road (noted as The Ridgeway on Ordnance Survey base maps) runs generally parallel to the M4 about one third of the way up the downland scarp at about 200m AOD. To the south-east of Junction 15 is Liddington Hill, a downland promontory and visible over a wide area, including most of the appeal site. On top of Liddington Hill at 277m AOD is Liddington Castle, an ancient earthwork hill fort with public access via a permissive path off the bridleway which is part of the Ridgeway National Trail.
21. From the appeal site Day House Lane runs south and under the A419 at which point the road is called Meadow Way. The road joins Medbourne Road at the hamlet of Medbourne, where traffic can turn towards the north-east to join the B4192 Purley Way at Liddington, which itself then runs north-west to link into Commonhead roundabout. To the south-west of Medbourne, the road runs on a bridge over the M4 and into the village of Badbury, where the road joins the A346, which connects with Junction 15 of the M4.

Planning Policy

22. The development plan relevant to this appeal comprises Regional Planning Guidance for the South West (RPG 10) as the Regional Strategy, policies of the Wiltshire and Swindon Structure Plan 2016 (Document SBC.3) and the Swindon Borough Local Plan 2011 (Document SBC.4).
23. RPG 10 was issued in September 2001 and has not been superseded by another adopted Regional Strategy document. Although the Secretary of State has declared the intention to revoke regional strategies, RPG 10 is an extant development plan document, albeit now of some age and perhaps limited relevance in terms of details. However, Policy SS5 identifies Swindon as a Principal Urban Area; that is, a place where major growth is seen to be appropriate and where it is expected significant housing and employment development will take place.
24. The Swindon and Wiltshire Structure Plan 2016 was adopted in April 2006. Its strategy and policies take account of RPG 10. Of particular significance in this appeal is Policy DP3, which seeks to focus development at Swindon. Policy C8 seeks to protect Areas of Outstanding Natural Beauty. Although now no longer part of the development plan (ie not 'saved' by the Secretary of State), Structure Plan Policy DP10C did promote Commonhead as a strategic development location for a mixture of uses, including a university, hospital expansion, employment and up to 1,800 dwellings. Policy DP10C was

effectively duplicated by, and subsequently superseded by, Local Plan Policy DS3, which looks for the same range and level of development.

25. Swindon Borough Local Plan 2011 was adopted in July 2006. Its policies are explored in detail in following sections of this report which discuss the cases of the parties to this appeal. However, in general terms and amongst other matters, Policies DS1 and DS3 establish that the appeal site is within the defined urban area of Swindon and that is an appropriate location for an urban extension. Policies H3 and H4 identify that Commonhead is an appropriate location for a mixed use development, and that 1,800 houses will be built at Commonhead to 2011 and beyond. Policies DS6 and DS7 look for high standards of design in all development and promote good urban design. ENV10 and ENV11 seek to ensure that landscape character areas and the North Wessex Downs AONB, and their setting, will be protected.
26. Swindon Borough Council is preparing a Core Strategy and Development Management Policies 2026 Development Plan Document (DPD). The latest draft version was published for consultation purposes in March 2011 (Document SBC.5). Policy NC3 (pages 93 and 94) show Commonhead as an allocation for a new mixed-use community.
27. National planning policy guidance which is relevant to this appeal is:
 - The Planning System: General Principles
 - Planning Policy Statement 1: *Delivering Sustainable Development*
 - Planning Policy Statement 3: *Housing*
 - Planning Policy Statement 5 : *Planning for the Historic Environment*
 - Planning Policy Guidance 13: *Transport*
28. Other national planning guidance to which reference is made:
 - Manual for Streets (colloquially referred to as MfS1)
 - Manual for Streets 2 (MfS2)
 - Draft National Planning Policy Framework
 - Ministerial Statement *Planning for Growth*, published 23 March 2011.

Planning History

29. The most significant aspects of the planning history of the site in this appeal are the consideration of objections to the Swindon Borough Local Plan 2011, and an application made in July 2007 for a more extensive development (together with another, smaller, scheme) at Commonhead.
30. Objections to the inclusion of the site in the Local Plan were heard by an Inspector [at](#) a local plan inquiry in the spring of 2005. The conclusion was that, in broad terms, it would be appropriate to include the land at Commonhead within the urban area of Swindon and to allocate it for mixed development. This led to the adoption of policies DS1 and DS3 (amongst others) in the Local Plan. Relevant extracts of the Local Plan Inspector's report are included in Document APP4, appendix 12.

31. Appeals were lodged against the failure of the LPA to determine the 2007 planning applications. The appeal was heard at an inquiry held in February and March 2009. That appeal was dismissed by the Secretary of State in August 2009 (Refs. APP/U3935/A/08/2085605 and APP/U3935/A/08/2090316) because of concerns over the proposed university campus and its linkages with the employment element, potential conflict with the regeneration of central Swindon, and the harmful effect on Coate Water Country Park.
32. Having regard to the reasons for refusal given for the scheme which is the subject of this current appeal, and the objections raised by interested groups and persons, that decision did not accept there would be (amongst other matters) any harmful effects in the nearby villages arising from the traffic generation, and that there would be no unacceptable impact on the AONB. The Secretary of State also considered that the literary associations with Richard Jefferies would not justify standing in the way of development. The Secretary of State's decision on this previous appeal is included as Appendix 2 in Document APP.7.

The Proposals

33. The proposed scheme is an outline application for a mixed development, to include two areas of residential development (Coate and Badbury Wick), a local centre, a primary school, an employment area / business park and an extension for the Great Western Hospital. The scheme includes areas of land for landscaping or informal recreation, and proposes to retain much of the existing hedgerows and trees as well as Day House Copse.
34. The outline scheme is fully described in the Design and Access Statement which supports the application, and at section 5 of the Planning Statement of Common Ground (Document INQ 4). Two points of access are proposed off Marlborough Road, at either end of Woodbine Terrace. Only the eastern access is submitted for detailed approval at this stage, all other matters being reserved for subsequent approval.
35. The scheme is proposed to include up to 890 houses, up to 50,000 square metres of employment land and a 5.5 ha area for expansion of the hospital. Building heights would be generally of two storey housing, with three and four storey buildings at the local centre and at the hospital site. The business park is envisaged to be buildings of three storeys. The employment area / business park would be at the southern end of the site, closest to the M4. A main spine road would run through the site from Marlborough Road, linking the housing areas with the local centre and school, and running on into the employment area / business park. A branch off the spine road would run through the Coate housing area and connect with Marlborough Road at the western end of Woodbine Terrace. The local centre and primary school would be at approximately the centre of the site, between the two housing areas.
36. The business park would extend on to Green Hill, on land on the opposite side of Day House Lane and alongside the M4 and the eastbound exit slip road at Junction 15. With elements of the business park on both sides of Day House Lane, this would require access onto Day House Lane where the spine road would cross it, but details of this arrangement are reserved for subsequent consideration.

Other Agreed Facts

37. Statements of Common Ground in respect of planning, highways and landscape matters were submitted before the inquiry opened, and are included as Documents INQ 4, INQ 5 and INQ 6 respectively.
38. Section 10 of Document INQ 4 gives a good resume of the matters which are not in dispute between the Local Planning Authority (LPA) - Swindon Borough Council - and the appellants. The main points, in broad terms, are that it is acknowledged the site is identified for development of this kind in the emerging Swindon Core Strategy, and that the amount and scale of development is within the overall need identified in the emerging Core Strategy. The main highway access off Marlborough Road would be appropriate for the amount of development proposed. Nature conservation and listed buildings and archaeological interests both on the site and in the wider area could be adequately safeguarded either by retention of on-site features, by planning conditions or through works committed and funded through a Section 106 Planning Obligation. The setting and appreciation of Coate Water Country Park would not be adversely affected. There would be no unacceptable risk of flooding associated with the development.
39. Whereas the application was originally recommended for approval by Council officers, it was refused by Members for four reasons, as set out on the Council's Decision Notice dated 17 June 2011, referring to (in broad terms) prematurity, traffic impact both within the site and in the surrounding area, impact on the AONB and failure to respect the heritage of the area connected to the writer Richard Jefferies.
40. The reasons for refusal were subsequently revised to the three which are set out at Section 1.6 of INQ 4 and reproduced at paragraph 7 above. The first and second reasons referring to prematurity and highways impact are maintained, albeit revised to exclude reference to Policies ENV9 of the Swindon Borough Local Plan 2011 and DP3 of the Wiltshire and Swindon Structure Plan 2016, and to omit objections to the traffic impact on Marlborough Road. The AONB objection was maintained but Reason for Refusal No.4, relating to the failure to respect the connections with Richard Jefferies was wholly withdrawn.
41. It is agreed that the housing land supply in Swindon falls below the 5 year landbank of permissions capable of being implemented which is looked for in Planning Policy Statement 3 *Housing*, although the number of years of housing land which is available is not agreed.
42. It should be noted that, notwithstanding the areas of agreement and disagreement between the appellant and the LPA, the interested groups and persons who appeared at the inquiry, together with the majority of the written representations, object to the development altogether, including (amongst other matters) the landscape impact of the whole scheme, the impact on Coate Water Country Park and the failure to respect the site as a heritage asset relating to Richard Jefferies and his writings.

THE CASE FOR SWINDON GATEWAY PARTNERSHIP

43. The material points for the appellants are set out below.

Introduction

44. The general acceptability of the appeal proposals has been previously endorsed, either expressly or by inference, in earlier decisions of Planning Inspectors², the Secretary of State and the Council. Those decisions which were reached by the Local Plan Inspector and, subsequently, the Inspector and the Secretary of State on appeal in 2009 endorse the suitability of the site to meet development requirements, and have informed the design of the current scheme. The suitability of the proposals in planning terms is further reinforced by the conclusions of the officers' report³ and the opinions of Leading Counsel who advised the Borough Council that there was no sustainable basis on which it could refuse planning permission.

Previous Decisions

45. The question of the materiality of previous Inspectors' decisions has been assessed in a number of cases but, in particular, in the leading case of North Wiltshire District Council v Secretary of State for the Environment [1992] 65 P&CR 137, in which Mann LJ observed as follows at page 145:

"One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency in the appellate process. Consistency is self evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system. I do not suggest it would be wrong to do so, that like cases must be decided alike. An Inspector must always exercise his own judgement. It is therefore free upon consideration to disagree with the judgement of another but before doing so he ought to have regard to the importance of consistency and to give his reasons for departure from the previous decision.

To state that like cases should be decided alike presupposes that earlier case is alike and is not distinguishable in some relevant respect. If it is distinguishable then it usually will lack materiality by reference to consistency although it may be material in some other way. Where it is indistinguishable then ordinarily it must be a material consideration. A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in a previous case? The areas for possible agreement or disagreement cannot be defined but they would include an interpretation of policies, aesthetic judgements and assessment of need. Where there is disagreement then the inspector must weigh the previous decision and give his reasons for departure from it. These can on occasion be short, for example in the case of disagreement on aesthetics, in other cases they may have to be elaborate."

46. Having regard to that judgment, there are three points relevant to the consideration of this appeal scheme. Firstly, the previous decisions of the Local Plan Inspector in 2005 and the Inspector and Secretary of State in 2009

² Document APP.4, appendix 12: Local Plan Inspector's Report , and Document APP.7, appendix 2: 2009 Appeal decision

³ Document APP.7, appendix 4: Committee Reports

are material to the current decisions because they relate specifically to the development of the same site. It would therefore be unlawful to fail to have regard to them. Secondly, it appeared to be agreed between the appellant and the Council that the only material difference between the current proposals and those which were contemplated by the Local Plan Inspector and before the Inspector and the Secretary of State in 2009 is that these proposals are significantly smaller than those earlier schemes. The current scheme is both smaller in the extent of the area which is proposed for development and also in terms of the scale and height of the buildings. The relevant planning policies are identical, and the physical circumstances of the site are essentially unchanged. Whilst the Core Strategy has been out for further rounds of consultation⁴, the proposal which it envisages for the appeal site (Policy NC3) has not materially altered through those subsequent rounds of consultation. Thus, not only are the earlier decisions material, but the parameters in terms of the relevant policies, the physical circumstances of the site and the nature of the development proposals are also directly comparable. This gives considerable weight to those earlier decisions as material considerations.

47. Thirdly, the Council's objections are technical points and not matters of taste or aesthetics. The issues in relation to traffic and highways design can be assessed against technical guidance and are relatively hard-edged questions of engineering. The question of the impact on the AONB is also not a matter of taste or aesthetics but judgements which have to be reached within the framework of the recognised guidance in the Landscape Institute's "Guidelines for Landscape and Visual Impact Assessment" (LVIA). The conclusions which were reached in earlier decisions on such points are of significant weight in the present appeal.
48. Substantial reasons would be necessary in order to depart from those earlier conclusions. The Council's evidence does not provide a basis for such a departure. The authorities noted above and the reasoning consequent upon them underlines the point that a large number, and arguably all, of the issues in respect of the development of the appeal site have previously been examined by the Secretary of State in reaching the conclusions of the decision in August 2009.

The Development Plan

49. The appeal scheme is supported and endorsed by the development plan. The proposals meet requirements for housing and employment, together with the expansion of the hospital. All of which has been thoroughly examined through the development plan process.
50. The proposals are rooted in studies and inquiries from as long ago as 2003. In 2003 the first Babbie report⁵ identified the site as being an appropriate location for development. The Structure Plan earmarked it as a location to meet development requirements (Policy DP10C). It is clear that those proposals

⁴ Document APP.7, appendix 4: June Committee Report para 24 sets out the previous consultation stages.

⁵ Document APP.7, appendix 1 summarises the provisions of this exercise. Document SBC.2, appendix 23 has the second Babbie Report.

were advanced in parallel with the Local Plan⁶, which itself was promoted on the basis of advancing the site as an appropriate location for a university and also employment and housing uses together with an extension of the hospital.

51. The proposals in the Local Plan (Policy DS1 and Policy DS3) were supported by further research on a comparative basis identifying that Coate (ie including the current appeal site) was one of the best sites available to Swindon to meet identified development requirements. The Local Plan Inspector endorsed those proposals. The university scheme was an important part of the development then envisaged nevertheless, as can be seen from the Local Plan Inspector's report, the proposals were also endorsed in order to meet employment land needs. These were irrespective of the university proposal and were for the wider benefit of the local plan area. The suitability of the site for housing and employment uses was independently endorsed in respect of each of those uses by the Local Plan Inspector⁷.
52. Whilst the Local Plan Inspector reported the site was not required in order to meet housing needs at that time, by the time the Local Plan came to be adopted (owing to the slow development of the Southern Development Area⁸) housing on the site at Commonhead was required. That is, it was relied upon by the Local Plan irrespective of the university as a housing application.
53. After the university proposal had been abandoned and at a time when it was no longer supported as part of the development of this broader area by the Council, in July 2009 the Secretary of State specifically and separately saved policies DS3 and H3 of the Local Plan. The reasons which he did so were expressly in order to provide for housing delivery and to ensure that an unimplemented housing allocation was carried forward, no doubt for the purpose of meeting housing needs⁹.
54. It follows from this history of the development plan policies that the Council's contention that policy DS3 has outlived its purpose is nonsense, which ignores the current status of the policy. The Secretary of State saved policy DS3 at a time when the university proposal was historic and had been overtaken by the inclusion of a university site in the Swindon Central Area Action Plan (SCAAP) in 2008¹⁰. If the housing allocation at Commonhead was no longer seen to be relevant when the university was no longer required, there would be no sensible purpose in the Secretary of State saving the policy.
55. The SCAAP was adopted in 2008 and is part of the development plan. This makes provision for the university campus at North Star. Reading the development plan as a whole reinforces that the Secretary of State was saving policy DS3 to facilitate the use of the allocation for all of the other uses specified in that policy to provide for housing, employment, the hospital extension and the other elements of the policy at the appeal site.

⁶ Document APP.4, appendix 12: para 3.3

⁷ Document APP.4, appendix 12: para 6.1 *et seq*, para 7.2, 11.1 *et seq*

⁸ Document SBC.4; Swindon Borough Local Plan 2011, para 1.17.4

⁹ Document APP.7, appendix 8

¹⁰ Document INQ 4 - Planning Statement of Common Ground: p34 para 10.2

56. The fact that the Secretary of State was saving policies in order to secure housing delivery is further reinforced by the fact that alongside policy DS3 he also saved policy H3. Policy H3 is the policy which allocates Commonhead for 1,800 housing units and earmarks it for development continuing beyond 2011. The existence or non-existence of the university was irrelevant to the saving of H3, and reinforces that when the Secretary of State saved both policies he intended that they should continue in order to provide a favourable framework in the Local Plan for housing delivery to be secured on the site.
57. It is not correct to argue, as did the LPA at this inquiry, that the Secretary of State acts with a split personality. All powers are delegated to act consistently. It is not an answer to say – as contended by the Council's advocate – that different Civil Servants make different decisions in the name of the Secretary of State.
58. It is clear from the Officer's report to the Planning Committee for the current scheme that the Council itself has taken the view (and articulated in the 2009 Inquiry) that SCAAP had superseded the university proposal in DS3, but that the other elements of the policy needed to be brought forward¹¹.
59. Furthermore, in the reasoned justification for policy DS3 at paragraph 1.17.4, having noted that the housing which it provides is needed for the Local Plan period, it goes on to conclude that, regardless of the university proposals, the housing would still need to be developed.
60. All of these matters clearly show that, notwithstanding the absence of the university, the framework of the Local Plan's policy to use the Commonhead site as an allocation for meeting housing and employment requirements remains valid and necessary.
61. The Council has relied upon the evidence of Anthony Crean QC's opinion for its interpretation of the planning policy position; however, that is not a matter which could in the circumstances carry any weight in the decision-making process. Firstly and most importantly, that opinion has not been revealed so the extracts in the committee report are produced out of context in terms of the totality of the views which he was expressing and the analysis he may have undertaken. It is not known whether or not he was informed by the Council of the decision to save Policy DS3 by the Secretary of State. For the reasons set out above, that is a critical piece of information, and its absence would have a vital bearing on the validity of his opinion. It is significant to note that, although the Council seek to rely on Mr Crean's interpretation of DS3 that did not deter him from concluding that these proposals were on the merits incapable of sensible resistance. Thus, partial reliance by the Council on his view does not assist them.
62. Ultimately, the Council's case in respect of the development plan, as set out in the first reason for refusal, is incoherent. It cannot be said that these proposals are contrary to policy H4 – as noted in the reasons for refusal - as the proposals are allocated under policy H3 – which was specifically saved by the Secretary of State. It would lead to the Local Plan's housing strategy

¹¹ Document APP.7, appendix 4: p 4.43 para 75

evaporating if it were right to say in one breath that the proposals were allocated in H3 whilst in the next that they were contrary to H4.

63. So far as the reason for refusal relating to policy DS1 is concerned, that adds nothing since that policy identifies the site as within the urban area where new development would be appropriate. In relation to the AONB policy, the Council has not relied on the element of policy DS3 which relates to impact on the AONB¹². It therefore has not argued that the proposals conflict with DS3 on this or any other basis. So far as the transport matters are concerned, as will be demonstrated below, they are of no substance.
64. The analysis set out above demonstrates that these proposals are clearly in accordance with the development plan: indeed, they are the proposals which, following the removal of the university and the saving of the Local Plan policies DS3 and H3, have been required and envisaged both by the Secretary of State and by these policies in order to enable the housing and employment strategy of the development plan to be fulfilled, together with the development plan's requirement for hospital expansion to be accommodated.

The Main Considerations

Prematurity

65. Prematurity, as envisaged by paragraph 17 of *The Planning System: General Principles* is in relation to development which is being proposed in a new development plan document. The appeal site is land within the urban area, as defined in Local Plan Policy DS1, and subject to policy DS3 allocating it for employment and housing uses. Accordingly, the issue of prematurity cannot arise in this case. The land is already allocated and already subject to development plan proposals which need to be carried through. As the Small Scale Urban Extensions Study 2008 states, it is already an allocation in the development plan which is simply reviewed in that document. Thus, the objection on grounds of prematurity is wholly irrelevant and could not give rise to any ground for resisting the development. Nothing has changed since the policy was saved to show that it is no longer relevant.
66. For the previous appeal scheme in 2009, both the Inspector and the Secretary of State noted that, had they been satisfied on the other elements of those proposals, they would not have rejected the scheme on the basis of prematurity. No new policy has been adopted which supersedes the policies applicable at that time. There have been two further rounds of consultation as part of the emerging Core Strategy (one around the time of the Secretary of State's previous decision), but there is still not a Core Strategy which is at a submission stage.
67. In connection with the previous (2009) appeal the Secretary of State accepted that the appeal site continued to score highly in sustainability terms when assessed with other candidate locations, and that this was a suitable location in principle for an urban extension¹³. This followed from the Local Plan

¹² Document SBC.4: PolicyDS3 i

¹³ Document APP.7, appendix 2: Secretary of State's Decision Letter paras 14 and 17

Inspector concluding that it was very likely that large parts of the land allocated under DS3 would eventually be developed.¹⁴

68. Nothing has changed in terms of the status of the proposals on the appeal site. It remains identified and allocated for housing, employment and an extension to the hospital. There is no substantive change in the merits of the prematurity argument and the same conclusion should be reached as before.
69. As to what may happen in the future, the appeal site is identified as a proposed development area (Policy NC3) in the Core Strategy currently under preparation. The proposals in the Core Strategy are locally derived; that is, they are not derived from the Regional Strategy. They are based on a housing requirement which has been locally chosen. The identification of the site to meet development requirements is again a local choice. The selection of this site for development has been endorsed both by the Cabinet of the Council and by Full Council. Placing the decision making in the hands of the Local Planning Authority, one of the objectives of localism, has led to the Council promoting this site.
70. Nevertheless, the first bullet point of paragraph 18 of *The Planning System: General Principles* applies in this appeal, since this is a situation where there is "no early prospect of submission for examination" of the Core Strategy. That is set out by the Council in its letter to Mr Bawtree of 11 August 2011¹⁵, where it said that the Core Strategy had no early prospect of submission for examination. That is a stage which, in terms of the guidance, means that prematurity would seldom be justified.
71. The Council asserts that the scale of the scheme is such that it would prejudice decisions which ought to be taken in the forward-planning process. However, the sites which are identified in Mr Smith's evidence are the same sites that the Core Strategy itself identifies and are required in order to meet the needs for housing and employment growth in the Swindon area. The current appeal proposals have been foreshadowed for a lengthy period and effectively, so far as the Core Strategy is concerned, merely reallocate that which has already been identified in the Local Plan. Accordingly, the appeal scheme does not amount to proposals which could give rise to maintainable objections based on prematurity.
72. The status of prematurity arguments has to be considered in the context of the Ministerial Statement *Planning for Growth* of 23 March 2011. In contrast to the weight to be attached to the draft of the National Planning Policy Framework, this statement is a matter to which the Secretary of State has stated substantial weight will attach. That statement makes plain that proposals should be approved where plans are silent, absent or indeterminate. It follows that waiting for plans is no longer an excuse for not granting planning permission for schemes which meet identified needs on their merits. It is, therefore, in effect an end to prematurity as a respectable argument to

¹⁴ Document APP.4, appendix 12: para 11.3

¹⁵ Document APP.7, appendix 5: p5.2 second paragraph

resist development. The Secretary of State's recent decision on an appeal in St. Austell¹⁶ appears to have overlooked this point.

Rat running

73. The concerns about extraneous traffic in local lanes and villages long pre-date the 2009 inquiry and it is clear that they were raised at that inquiry. Nevertheless, they were not put forward in that inquiry as a matter which could justify the refusal of planning permission. The Statement of Common Ground which was agreed on that occasion¹⁷ concluded that there would be no adverse impacts from a much larger proposal on the highway network, and neither the Inspector nor the Secretary of State considered that there was any basis to disagree with those findings¹⁸.
74. Against that background, the Council's contentions in this appeal have no substance. Rat running is an obviously pejorative term. However, such traffic is using roads which are public highways and drivers are at perfect liberty to do so. The Figures appended in Document APP.1 show the routes where rat running is said to be problem. It would be necessary both to establish the extent of the flows and that those flows would give rise to some impact in terms of highway safety or local disturbance in order to justify a refusal of planning permission. In this context the highway witness for the Council at this inquiry confirmed that this is not an objection in principle to the proposals but rather a matter of detail.
75. The accident record of the local highway network shows safety is not an issue¹⁹. The only person who had been involved in an accident in the past five years is someone who had the misfortune to be run over by the bus from which they had just alighted. Clearly, that arose from either their own carelessness or the negligence of the bus driver, or as a pure accident. From the Council's witness' survey²⁰, it is clear that in terms of absolute numbers the volume of vulnerable users (pedestrians, cyclists, joggers and horse riders) in the PM peak hour on the network using Day House Lane is very small. That further reinforces the absence of likely conflict, and underlines the absence of any accident history. Day House Lane is publicised as a Sustrans route on the basis that it is seen to be safe for cyclists²¹. Thus, there is, on the basis of what is known about how the highway operates at present, no cause for concern based on the objectively verifiable facts rather than anecdote and assertion.
76. Congestion at Junction 15 of M4 is identified as the motivation for traffic to rat-run down the two routes identified. The survey showing origins and destinations over the two routes which were agreed as being those that might be affected by the appeal proposals shows that there was very little rat-

¹⁶ Document SBC.106 – appeal ref. APP/D0840/A/10/2130022

¹⁷ Document APP.1, appendix A

¹⁸ Document APP.7, appendix 2: Secretary of State's decision letter para 19

¹⁹ Document APP.105

²⁰ Document SBC.104

²¹ Document APP.104

- running traffic associated with those highways at present²². Some of the journeys are on routes where there are reasons for vehicles to be travelling them irrespective of any desire to avoid congestion at Junction 15.
77. The mitigation measures proposed as part of the current appeal scheme would bring about an improvement in the congestion at Junction 15. These proposed improvements are included in the Section 106 Planning Obligation and reinforced by proposed planning conditions. In which case, the incentive to ran-run would be significantly reduced.
78. There is agreement that the potential number of rat runners is very low, but the Council's witness had not put forward any estimate of the number. Based upon what is known about existing traffic patterns from the agreed modelling work contained in the Transport Assessment it is possible to make such an estimate. This shows that a tiny number of vehicles, if current traffic patterns were to continue, would be rat-running along those routes²³. The numbers concerned (a maximum of four vehicles in the peak hour) are well within daily variation from the surveys of peak hour traffic that were before the inquiry. The numbers are so low as to be imperceptible.
79. The absence of actual figures fundamentally undermines the assertions made in the Council's witness' evidence purporting to follow the "Guidelines for the Environmental Assessment of Road Traffic"²⁴ which were relied upon in relation to demonstrate the alleged environmental impact of traffic. Firstly, the identified thresholds are merely thresholds for the purposes of assessment. In other words, they trigger a requirement to look in detail at a particular route: they are not a basis for concluding that that route will actually receive an adverse impact.
80. Secondly, in the absence of an understanding as to the actual number of rat-running vehicles Mr Buchan's Table 4.3²⁵ cannot have any evidential basis. What is necessary in order for the impact under the various headings to be assessed is for a proper calculation and evaluation of, for instance, the effects in terms of noise or vibration so that guidance and thresholds can be examined and then a conclusion reached. That has not been done in this analysis; it is simply a series of subjective assertions. Table 4.3 is effectively an evidence-free exercise which provides no sensible basis for decision-making.
81. The evidence before the inquiry showed up the frailty of such a purely judgemental assessment. It was demonstrated that once traffic-calming measures were introduced in Liddington there was a material beneficial impact upon the behaviour of traffic, and one which clearly justified and supported the imposition of the measures in the first place²⁶.
82. It follows, therefore, that this is no more a valid issue than it was in 2009. It is not a sensible basis for refusing planning permission.

²² Document SBC.2, appendix B and Table 4.1

²³ Document APP.116

²⁴ Document SBC.2, appendix C

²⁵ Document SBC.1, proof of evidence of Mr Buchan

²⁶ Document APP.117

The spine road

83. The principle of a boulevard as a central organising feature of the development is not new. As shown on the 2009 appeal scheme Master Plan²⁷, a boulevard was proposed as part and parcel of the previous proposals. It was supported by Halcrows on behalf of the Council as local highway authority who, through the Statement of Common Ground, agreed that it was an appropriate feature for carrying traffic. The employment park at the southern end of the boulevard was in the previous design (which was supported by the Council) and is the same in the present appeal scheme.
84. The design solution which is represented by the boulevard flows from the principles established by Manual for Streets 1 and 2. Manual for Streets 2 (MfS2), in particular, carries forward the design principles of multi-user streets to those roads which carry a heavier burden of traffic. It is clear from the definition of a boulevard given in MfS2²⁸ that they are meant to carry multi-purpose trips, and are designed to be lined with mixed uses. The appeal proposals are therefore unremarkable in that sense, and flow from the way in which that design guidance envisages creating vibrant and vital streets which are capable of being used both by traffic of all kinds and by slow modes.
85. It is the design principles that are important, and seeking to distinguish between the examples provided in MfS2 is to miss the point of both their inclusion and also the document itself. Park Lane is not put forward as an example either to suggest that the principles can only be deployed in a street like Park Lane, or that new streets should be designed to be like Park Lane. The point is that the design principles are seeking to encourage mixed use streets which have all movements within them catered for through their width, and provision of facilities for all types of road user.
86. Concerns that the flows of traffic on the boulevard would represent a barrier which severs the integration of the various elements of the proposed scheme can be satisfactorily addressed through the provision of appropriate surface-level crossings. It is clear that a broad range of such solutions is available²⁹, and this, like the other issues raised by the Council in terms of servicing, are all matters which are quite capable of being dealt with at the detailed design stage. These do not amount to an in-principle objection to the incorporation of the boulevard within the proposals.
87. A principal concern of the Council has been that the employment park is sited towards the southern end of the boulevard. This would mean that trips generated by the employment park would need to travel the whole length of the boulevard. That is, in fact, an advantage and not a disadvantage of the development. The use of the boulevard would draw business and activity into the development's local centre adding to its vibrancy and vitality, and would provide the opportunity to ensure that public transport is drawn through the entirety of the site. It would be an engine driving the public transport on a

²⁷ Document APP.4, appendix 9

²⁸ Manual for Streets 2, p21

²⁹ Manual for Streets 1, p64, para 6.3.9; Manual for Streets 2, p43, para 5.1.3

tidal flow basis and therefore properly located, in transport terms, at that part of the scheme.

88. The traffic analysis demonstrates that the Heavy Goods Vehicle (HGV) component of the flows would be relatively small³⁰. Suitable raised surfaces could be designed into the scheme for traffic calming, and the route designed as a public transport route. It can be seen from the illustrations provided in Document APP.2 that at a detailed stage a successful and multi-purpose street with a genuine sense of place can be created.
89. Concern has been raised over the location of the school being on the opposite side of the boulevard to the residential areas. However, as the committee report recognised, there is no objection raised from the local education authority to the proposed location of the school. Indeed, the location reflects sound design, bringing the school into the community hub of the development to provide activity and embed it within the local centre³¹. So far as the planning system is concerned, the important point is to have the development designed with the land uses in the right place, and that is what the development would achieve. The irony of the Council's points made at this appeal in relation to the location of both employment and the school is that, in its own Core Strategy in the diagram illustrating the development proposals for Commonhead, they are located in the self-same positions³². It seems bizarre for it to object to the detail of the appeal proposals when its own Core Strategy proposes precisely the same configuration.

North Wessex Downs Area of Outstanding Natural Beauty

90. The appeal scheme is not sited in the AONB and hence it has no direct impact on the interests of the AONB. The boundaries of the AONB are drawn alongside the A419 and M4 so as to exclude the appeal site from that designation.
91. The relationship of the site to the AONB to its east and south is not a new issue. The evaluation of that relationship, and the question of any impact in visual terms on the AONB, is not a matter of taste. Neither is it one to be resolved by whether or not the development can be seen. The judgement which is required is firstly, far more sophisticated and secondly, one which needs to be placed squarely within the framework provided by the LVIA Guidelines which are promulgated by the Landscape Institute for the purpose of undertaking these assessments.
92. The rigour of that assessment process enables the transparent evaluation of judgements so that it is possible to understand how the assessor has reached the conclusions which have been arrived at. It also allows those judgements to be tested in an open and transparent way, so that the decision-maker can be appropriately informed about the conclusions which need to be reached. Certainly, in the context of the 2009 appeal, that guidance was deployed as a means of openly examining the effect on views not only from the AONB but

³⁰ Document APP.1, appendix B B10

³¹ Document APP.7, appendix 4: p 4.87 para 235-6

³² Document SBC.5: Core Strategy March 2011, Fig 21 p 94

also from other areas around the site³³. The Council has not raised concerns about the visual impact of the scheme from any other areas of the AONB apart from Liddington Hill³⁴. That is, there is no objection relating to any possible adverse impact on the AONB in the area to the north of the M4 / east of A419. Here the land is flat and there are no views into or out of the AONB from the appeal site.

93. It is indisputable that the AONB as a designated landscape is an important material consideration. The LVIA accommodates that by regarding visual receptors from within the AONB as being highly sensitive, and therefore any impacts on those visual receptors is in the highest category of assessment. That is not in dispute in relation to the views from Liddington Hill. The issue relates to the magnitude of the change in the view and to evaluate this it is necessary to understand what the change in the view would be for a particular visual receptor.
94. The impact, in terms of the change to the view that can be seen from Liddington Hill, is classified as medium or moderate. This can be seen from the photographs taken from the ridge itself, from Liddington Castle and from below the trig point on Liddington Castle, on the outer edges of the earth banks³⁵. The first important issue to evaluate is the character of the view. The landscape character over which the view is taken is one of a settled vale. That view includes significant elements of settlement. It is not simply the Great Western Hospital: that is a prominent building but it occupies only a part of the view. The view also includes the wider aspect of the town of Swindon which is laid out in front of the viewer, including large industrial buildings in the middle / far distance at Dorcan Industrial Estate and the Honda car factory.
95. The appeal scheme would be clearly visible but would be a reflection of that existing character. It would not therefore introduce any new character element to the view, nor would it fundamentally change the character of the view. Thus, it would be wholly inappropriate to characterise the change as high. A high change of view is properly identified only where there would be a fundamental change in the character of the view by the introduction of a wholly new visual element. The assessment which has been made of the representative views from this location is that the impact of the development would give rise to a moderate adverse effect (bearing in mind the high sensitivity of the receptor concerned). That is a verifiable and reliable conclusion.
96. The responses from Natural England and the AONB Board³⁶ corroborate that this is an appropriate response, and that the proposals are acceptable on this basis. Both of those organisations were engaged in the discussions which led to the scheme being amended in the winter of 2010. These amendments resulted in them withdrawing their objections on the basis that the improvements to the landscape strategy satisfied them that the development

³³ Document APP.110: 2007 Environmental Statement

³⁴ Document INQ 6 - Landscape Statement of Common Ground: paras 6.21-6.21

³⁵ See especially Document APP.119 (Photograph from Liddington Castle)

³⁶ Document APP.4, appendices 16 and 17

would have an acceptable impact. The improvements negotiated included reduced building heights and buffer tree planting. Natural England is the relevant regulator in respect of the interests of the AONB. The AONB Board is the organisation which is specifically charged with looking after the public interest in securing the ongoing visual amenity of the AONB.

97. Whereas the built development proposed in the 2009 appeal scheme would have been much larger and taller, the outcome of the visual impact assessment for that scheme was "moderate"³⁷. This conclusion was in the 2007 Environmental Statement and was accepted by the Inspector and the Secretary of State in their own analysis as giving rise to an acceptable outcome for the AONB which did not stand in the way of that scheme being granted permission³⁸. In his report of the 2005 Local Plan Inquiry the Inspector accepted that, specifically with regard to the likely landscape impact, *"the aesthetic value ... is not so significant as to rule out the possibility of substantial development on the site."*³⁹ In reality, therefore, the Local Plan Inspector and the Inspector and the Secretary of State for the 2009 appeal concluded that the effect on the AONB was acceptable when faced with taller and larger development proposals.
98. Whereas one of the characteristics of the AONB is its tranquillity, the Tranquillity Plan [*sic*] produced by CPRE (Document APP.113), shows that Liddington Hill and Liddington Castle are not in a particularly tranquil area; they are within the area influenced by the M4 corridor and the settlements of Liddington and Chiseldon. The truly tranquil areas are much further south.
99. The emerging Core Strategy not only proposes development on a site which is almost identical to the appeal site, but it also proposes a disposition of uses in precisely the same way. As the Council's landscape witness accepted, it would be irrational or absurd for the Council to propose a form of development in its forward-planning process, even for consultation, if it thought that it would have an unacceptable impact on the AONB. It follows that the case made by the Council is fundamentally inconsistent with its own proposed policy which has now been promulgated for public consumption on no less than four occasions.

Other Matters

Richard Jefferies

100. This inquiry is at least the third occasion on which the literary associations of the writer Richard Jefferies with the wider countryside area south of Swindon has been raised as a basis for suggesting that development should be resisted. That argument has been consistently rejected on the basis that the strength of that association is insufficient to justify resisting development proposals. The Local Plan Inspector came to the view that the literary connection of Richard Jefferies with this land was not so significant that it would justify turning down

³⁷ Document APP.110

³⁸ Document APP.7, appendix 2: Secretary of State's Decision Letter para 33

³⁹ Document APP.4, Appendix 12: page 12.7, para 10.4 Local Plan Inspector's report

the designation of this area for development⁴⁰. This remains the position in relation to the current appeal.

101. Planning Policy Statement 5 (PPS5) requires an assessment of the significance of a heritage asset before it can feature as part of the development control process as a material consideration. The starting point is, of course, designation. The landscape of the appeal site is not part of a designated heritage asset nor, indeed, is anywhere in its vicinity as a result of the suggestion that it has an association with Jefferies' writing. Indeed, the extent or nature of any such influence is unclear. A variety of documents was presented to the inquiry bearing upon the issue of Richard Jefferies' writing and the surrounding area, but none gives any specific details so as to establish a definitive area which should be the subject of any designation as a result of the claimed literary association.
102. Those documents make plain that Jefferies' writing and his discussion of the landscape in the vicinity of Coate took place when he was no longer resident in the area and were undertaken from memory. They were therefore imaginings of the landscape rather than reportage, as is the clear interpretation of Dr Chandlers' paper⁴¹ commissioned to address the issue. Whilst, therefore, there are references to some features such as Day House Lane, it is impossible to associate any landscape features on the appeal site which are related or required to be preserved in order for an appreciation or understanding of his literature to be safeguarded.
103. In those circumstances, there is no basis within the policies in PPS5 for any contention that the appeal site or, indeed, the surrounding area has a "significance" as a heritage asset such as to require protection or designation. This conclusion has no bearing in terms of the significance of Richard Jefferies as a literary figure. It is a question of whether or not the acceptability of the appeal scheme should be influenced or affected by that literary association. From what was presented to this inquiry there is no such evidence base and therefore the previous conclusions remain legitimate, namely that his broad association with the area does not justify recognition as a material consideration in the planning system.

Housing Need

104. There is little point debating the difference between the appellant's figure for the five-year housing land supply with the Council's. The figures are either very low (2.9 years against the Structure Plan requirement or 2.4 years with an extra 20% looked for by the draft National Planning Policy Framework) or catastrophic (1.4 years to 1.2 years)⁴². On any view, not only is the five-year supply litmus test set out in Planning Policy Statement 3 (PPS3) triggered in relation to the need for further housing sites to be released, but on either view the five-year supply falls a considerable way short of satisfactory. This is, of course, the analysis in relation to the totality of housing supply.

⁴⁰ Document APP.4, appendix 12: para 10.11 & 10.12 Local Plan Inspector's report and Document APP.7, appendix 2: Secretary of State's Decision Letter para 33

⁴¹ Document APP.114; pp 16 & 17

⁴² Document APP.6 p 30 para 5.75 and Document INQ 4 - Planning Statement of Common Ground: appendix 1 paras 9.3 and 9.4

105. However, within the overall figures is a very substantial requirement for affordable housing. Considerable weight should be attached to the affordable housing element which is proposed as part of the development. Thus, it is not simply an overall housing requirement but a requirement which also represents the needs of those who are in unsatisfactory housing accommodation now and who are unable to meet their own need for a home at present. The agreed evidence is that no less than 20.9% of all households in Swindon would be unable to purchase a market home and that there will be a shortfall of 857 affordable housing units per annum over the next 5 years⁴³. This is a serious failure to provide all of the community with a home.
106. There is an irony in the Council's desire to rely upon completions at sites at Tadpole Farm and the Eastern Villages⁴⁴. On the basis of its own analysis those sites are at least as premature – having regard to the programme for preparation of the Core Strategy - as the appeal site. Furthermore, they do not lie within the urban area as defined in the Local Plan, nor are they identified as housing allocations within the Local Plan. It is therefore somewhat bizarre of the Council to suggest that they are a reliable basis for housing land supply in the coming five years when the appeal site is not, and they resist development of the appeal site to allow those other sites which enjoy less planning status to come forward. The reality is that at the moment the forward-planning process does not offer a tenable answer to the need for further housing land to be released, nor for the Council to solve the five-year land supply shortfall problem that they currently have.
107. It is further and still more ironic that in April 2011 the Council relied on the Commonhead site as part of its five-year land supply argument to seek to resist development at Hook Street, Swindon⁴⁵. It is irrational for the Council to suggest that the release of the appeal site to meet five-year land supply requirements would not be premature in April 2011, and then in July 2011 to suggest that it would be premature. The two points cannot be reconciled logically. The reality is that the conclusion in April that the Commonhead site was needed in order to start to make contributions within the current five-year period is one which is appropriate. The Council need the site in order to bring itself within the requirements of PPS3.
108. Furthermore, the requirements of paragraph 69 of PPS3 are clearly fulfilled in the present case. The site is capable of providing an appropriate mix of housing in an efficient manner. It is suitable for development, and has been consistently and repeatedly found to be an appropriate place to meet housing needs. The spatial strategy, as articulated in the Local Plan and carried forward in the Core Strategy, needs a planning permission on this site in order to meet housing requirements.
109. It follows that the five-year land supply shortfall and the need for housing, and in particular affordable housing, are all matters which are very significant benefits which would be delivered as a result of the appeal scheme being granted permission.

⁴³ Document INQ 4 - Planning Statement of Common Ground: p25 para 6.1

⁴⁴ Document SBC.1 (Mr Smith) proof p22

⁴⁵ Document APP.112

Employment Land

110. There is an agreed requirement for 52.5 ha of employment land which this site assists in meeting⁴⁶. As set out above, the evidence demonstrates that that need for employment land stems from the Local Plan and continues in the present context. The appeal site is, therefore, needed to meet the Local Plan's employment land requirements. Furthermore, the future supply of employment land is dependent upon the site being brought forward.
111. The appellant's planning witness appended a letter to his proof of evidence from GVA Grimley⁴⁷ which demonstrates, firstly, that the proposals would not compete with the office market in the town centre since Commonhead has a different product to offer. The GVA Grimley letter also demonstrates that the site would be attractive to investors and would be able to support employment and investment in the area. This is precisely the kind of economic development proposal that the 23 March 2011 Ministerial Statement *Planning for Growth* requires councils to approve. In the present economic circumstances the opportunity for jobs to be realised on this site is a clear and compelling benefit of the appeal scheme.

Hospital Extension

112. It has been obvious for nearly 10 years that land would need to be found as part of these development proposals in order to meet the hospital's requirement for expansion. That requirement for expansion relates to the growing population of Swindon which has been contemplated by the forward-planning process for many years. It will give rise to a requirement for additional clinical floor space for the hospital in order to serve its catchment. The need for this was recognised as long ago as 2003 in the Structure Plan process. It is a benefit of the current appeal proposals that they include the land which the hospital regards as necessary and suitable for its future expansion.
113. That will not only enable the hospital to rationalise its various servicing requirements (including car parking) but will also facilitate the expansion necessary to ensure that the needs of the population for acute clinical care will be provided in close proximity to where that need arises. The proposals are welcomed by the hospital in the correspondence they have sent to the Planning Inspectorate⁴⁸. It is an amount of land which they want in order to meet their future needs.
114. The provision of the hospital expansion land will only realistically be achieved through this appeal scheme. Without these proposals the land owners will not part with the land. Whilst a compulsory purchase order (CPO) is a theoretical possibility in law, the cost, expense and delay which is involved in that process (which the hospital have not indicated any intention of embarking upon) makes clear that compulsory acquisition is not a realistic alternative. The provision of this land to the hospital is precisely the kind of social benefit which, again, in terms of the Ministerial Statement of 23 March 2011, is to be

⁴⁶ Document INQ 4 - Planning Statement of Common Ground: p35 para 10.10

⁴⁷ Document APP.7, appendix 15

⁴⁸ Document APP.120

regarded by a decision maker as a clear and compelling reason for granting planning permission.

The "D" field

115. The ecological interest of the "D" field⁴⁹ has been recognised through the proposal, and enhancements are proposed to the management and welfare of that field so as to ensure that, in particular, the bird life that it currently supports will be secured for the future. This is a further benefit secured through the Section 106 Planning Obligation which arises as a result of planning permission being granted.

Conclusions

116. It is clear from the evidence before the inquiry and the lengthy planning dialogue which has led to the evolution of the current proposals that the appeal scheme represents a long-foreshadowed opportunity to meet housing, employment and hospital expansion needs. The scheme is a response to those needs, which has been shaped by the planning history. The scheme is fully supported by the development plan, in particular, as it has been saved by the Secretary of State for development control purposes, and it will meet a growing and acute need for housing and employment requirements. The design of the proposals has been brought together to ensure that a high-quality development is achieved in a site which is suitable to accommodate the needs for which it has been designed to be met.
117. The previous decisions of the Local Plan Inspector and the Inspector and Secretary of State in relation to the 2009 appeal decision all support the present appeal scheme, and the Council's reasons for refusal fly in the face of those earlier deliberations. The evidence which was before the inquiry demonstrates the clear merits of the appeal proposals, which were recognised both by the officers of the Council and by Leading Counsel, in endorsing the need for granting planning permission. Planning permission should be granted to enable the proposals to bring forward the benefits which have been envisaged by the planning system for many years.

THE CASE FOR SWINDON BOROUGH COUNCIL

Introduction

118. The underlying argument put forward by the appellant for allowing the appeal scheme is that the site has been previously identified as one which is appropriate for development. However, this was in order to secure a university campus at Swindon and the allocation of land at Commonhead for development came about because of the special needs of the intended university presence⁵⁰. The choice of sites for a campus (especially if linked, as would be desirable, with related housing and business development) was inevitably more limited than land for housing and/or employment alone. A

⁴⁹ A field so called because of its shape. It is the field on the north-eastern side of the south-east 'leg' of the lake at Coate Water, between the lake and Day House Lane.

⁵⁰ Document APP.7, appendix 1: p 1.18 para 9, p 1.20 paras 2 & 3.

different site has now been identified in the Swindon Central Area Action Plan (SCAAP) for the university in the town centre at North Star. Without the university at Commonhead the underlying assumption that development would be acceptable here no longer applies.

119. The appeal site has a linear shape which stretches away from the built-up area of Swindon. The linear shape is surprising and leads to the problems which are central to this appeal. Firstly, there would be harm to the AONB caused by development on land next to the AONB and directly beneath the northern scarp of the downs, including development on Green Hill. At over 127.5 m AOD Green Hill is the highest point on the site. Secondly, harm to Day House Lane / Meadow Way would occur because of the extent of the southward spread of development. And thirdly, harm would be caused by B1 / B2 industrial traffic travelling along the spine road through a residential area and a local centre and close to a primary school.
120. The Planning Statement of Common Ground (Document INQ 4) identifies four main matters of dispute between the principal parties:
- 1) whether the appeal proposal is premature and would prejudice the Core Strategy by predetermining decisions about scale, appropriateness of location and phasing of development in Swindon;
 - 2) whether the proposal would have an adverse impact by traffic generation through Meadow Way and the villages to the south-east of the site;
 - 3) whether the proposed spine road is of a dominant design and would create unacceptable conflict between pedestrians and traffic using the road;
 - 4) whether the proposed development south of the hospital (i.e. the business park and Badbury Wick residential character area) will have a harmful impact on the setting and intrinsic qualities of the AONB.
121. These matters reflect the reasons for refusal given by the LPA on its decision notice, and they are now the main differences between the LPA and the appellant in this appeal. Before addressing the main considerations, there are three preliminary matters: firstly, the appellant's reference to precedent in planning decisions relating to this site; secondly, the appellant's reliance on the officer's report; and thirdly, the opinion provided to the LPA by Mr Crean QC prior to the decision being taken to refuse the application.

Precedent and the Differences from the Appeal Scheme

122. In cross examination, the appellant's planning witness referred at several points to the previous decisions as substantiation of the claim that development here should be unobjectionable. The circumstances of the present appeal are not the same as for the previous appeal, nor during the evolution of the Local Plan. The facts have changed and this requires a change of perception about what conclusion those facts should lead to. It was argued that consistency in decision-making is desirable to the extent of avoiding unreasoned differences. However, excessive reliance upon what are claimed to be similarities removes the substantial judgment from the current decision-

maker. A decision in this appeal should be made in the context of the present facts, evidence and what can be seen at a site visit.

123. The legal position is as set out in North Wiltshire District Council v Secretary of State, which can be generally summarised in the phrase *"like cases should be decided in a like manner"*⁵¹. But this does not support the position that where cases are only partly alike these should be decided in a like manner. Where there are material differences the inferred consistency in decision-making does not apply. Even if the circumstances are broadly similar, that does not require the same decision to be reached: *"An inspector must always exercise his own judgment"*⁵². The word *"must"* is important. Decision-makers may follow previous decisions (*i.e.* on that they have a choice), but they must always follow their own judgment (*i.e.* on that they have no choice). The point was more fully explained by Mann LJ in his judgment in North Wiltshire DC v SSE:

*To state that like cases should be decided alike presupposes that the earlier case is alike and is not distinguishable in some relevant respect. If it is distinguishable then it usually will lack materiality by reference to consistency although it may be material in some other way. Where it is indistinguishable then ordinarily it must be a material consideration. A practical test for the inspector is to ask himself whether, if I decide this case in a particular way am I necessarily agreeing or disagreeing with some critical aspect of the decision in the previous case?*⁵³

124. Mann LJ later said that it would be *"a gratuitous and pointless exercise"* for an inspector *"to manifest his disagreement with other distinctions which are distinguishable"*⁵⁴. In considering the North Wiltshire case it is important to note that it was a case relating to the exactly same land as a previous contrary decision, where the facts of the two contrary decisions were materially indistinguishable.
125. Where a decision must be made by balancing various factors then, if one or more of those factors changes, the balance may well shift and a different decision be merited. This involves no criticism of a previous decision-maker who might well have reached a different decision if he had been presented with different facts. This is especially true in this case where there are major differences between previous schemes and the present appeal proposals. The main differences are outlined below.
126. Wiltshire and Swindon Structure Plan Policy DP10C and Swindon Borough Local Plan 2011 Policy DS3 each seek a 60 ha university development. The current appeal site is not a lot bigger than this (74.5 ha), but the intention of providing a university on this site has been overtaken by a site being identified elsewhere in Swindon, at North Star, through the adoption of the SCAAP. In the earlier university scheme there would be internal trips (pedestrian and cycling as well as vehicular) between the proposed university, the housing for students and staff and related employment facilities that will no longer apply in

⁵¹ North Wiltshire DC v SSE, 65 P&CR 137, *per* Mann LJ, 145.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ 65 P&CR 146.

the appeal scheme which does not include this major university element. It is clear that links to the university from housing,⁵⁵ employment⁵⁶ and hospital⁵⁷ land were anticipated.

127. Notwithstanding this, the appellants' highways witness did not see any benefits attributable to the university link in the previous (2009 appeal) scheme⁵⁸. Student use of buses would have helped retain currently temporarily subsidised evening and weekend bus services. The university proposal was the primary element of the intended development⁵⁹ and policy was very much driven by the university element⁶⁰. It was clearly the most important factor to the Local Plan Inspector as his report shows:

"In particular, it" [i.e. the Coate area] "offers the opportunity to establish a high quality university presence in the town that should have very substantial benefits to the economic and social well being of the area."

128. It is right that, even without the university, housing would have to be provided in Swindon during the currency of the Local Plan, but that would be across the Borough as a whole, and not necessarily at Commonhead. Local Plan paragraph 1.17.4 makes this clear:

"Ultimately this" [i.e. housing] "would have to be accommodated in the borough regardless of the University".

129. The appropriate mechanism for determining where this should now be distributed is through the Core Strategy examination.
130. Another difference between the previous and current appeal schemes is in the way in which internal traffic within the development would be organised. The 2009 appeal schemes avoided sending commercial and industrial traffic through the High Street, sending it instead to the west. The current scheme would send it through the equivalent of a high street along the spine road. Also, the permeability of the 2009 appeal schemes was much greater.
131. *The Planning System: General Principles* states that it may be justifiable to refuse planning permission on grounds of prematurity where a Development Plan Document (DPD) is being prepared. In this case, the preparation of a Core Strategy to replace the Local Plan and Structure Plan is well advanced, and it is expected that it will be submitted for examination in spring 2012, with the examination being held during the summer of 2012 and the Inspector's report in the autumn of 2012. That is, the evolution of the Core Strategy is much more advanced than in the previous appeal and hence the prematurity argument is stronger.

⁵⁵ Document SBC.4: para 1.17.4; and
Document APP.7, appendix 1: top of page 1.21.

⁵⁶ Document APP.7, appendix 1: p1.18 paragraph 7 and top of page 1.21.

⁵⁷ Document APP.7, appendix 1: p1.20, paragraph 3.

⁵⁸ Mr Hutchings in evidence-in-chief

⁵⁹ Mr S Smith in re-examination

⁶⁰ Mr S Smith in cross-examination

132. The impact on the AONB is now better understood with the Council's landscape witness' new photograph and the new Photoview N that the appellants' landscape witness introduced⁶¹. Photoview N was introduced only after the Council's witness' photograph⁶² showed how Photoview D seriously understated the visibility of the Appeal Site from the Liddington Castle area.

Reliance on the Officer's Report

133. The appellant's witnesses relied for support for the scheme upon the Council officer's report to the Planning Committee and the recommendation to allow the application. This might be taken as demonstrating a lack of confidence in the strength of their own opinions. Even so, this should not overlook, or give inadequate recognition of, the importance of the democratic element of the planning process. Members are entitled to form their own judgment provided it is on planning grounds. It has not been suggested that the reasons pursued by the LPA are not proper planning grounds. Members are not bound by their officer's recommendations.
134. This failure to grasp the importance of the democratic element of the planning process was echoed in the appellant's highways witness' approach to consultation on traffic mitigation. There had been no consultation on the proposed mitigation measures with local people or with the parish councils. The approach of the appellant's witness was to first reach agreement with the Borough Council's highways officers, and then go out to consultation on that agreement. That fundamentally misunderstood what consultation should be. It should take place at a stage where it is most likely to influence a decision, not after agreements have been reached. The LPA would, of course, bear in mind such late local views, but if these led it to changing its mind it is likely that would be subject to criticism by the appellant, saying that the officers had already agreed their proposal. Such an approach is fundamentally at odds both with the Coalition Government's localism agenda and with the longstanding approach that consultation should be real, and not cosmetic.

Mr Crean's Opinion

135. The appellant's advocate asked to see the legal advice that the LPA had received from Mr Crean QC to assess whether it has taken into account all matters the appellant sees to be relevant in this appeal. The LPA would not agree to such a suggestion on the grounds of legal professional privilege. Public bodies (including local and central government) are entitled to receive legal advice in confidence, just as private bodies are.
136. For the appellant, it was claimed that the situation is different because the LPA relies on that opinion in the current appeal. The LPA contends that this is not so. The legal submissions on behalf of the LPA are those made by the advocate who appeared for the Council at the inquiry.
137. Having said that, the only relevance of needing sight of Mr Crean's opinion may be simply that it explains why policy DS3 was not mentioned in the refusal reasons. If Mr Crean is right, the policy is dead and need not be

⁶¹ Document APP.119

⁶² Document SBC.1 (Ms Riggs' proof): para 4.59

mentioned. If he is wrong, the LPA would nonetheless be reasonable in following his advice on DS3 and should not be blamed for not including DS3 in the refusal reasons.

The Main Considerations

Prematurity

138. The appellant and the LPA have agreed that there is not a 5-year housing land supply in Swindon. The Council did not cross-examine on the differences as to the extent of undersupply because the Inspector indicated this would not be necessary.
139. North Wiltshire and Swindon CPRE commented on the apparently slow speed of progress of the Wichelstowe development and how that could be taken as an indication that there is no demand for new housing in Swindon to justify releasing yet more land. That development was delayed for two years by proceedings brought by the CPRE against Swindon Borough Council⁶³. These were begun in May 2008 and contested by Swindon Borough Council. In the High Court, Hickinbottom J. dismissed CPRE's application in June 2009⁶⁴. Sullivan LJ refused permission to appeal in January 2010, as did the full Court of Appeal in May 2010. The LPA is confident that Wichelstowe can deliver its housing at the rate specified in the SBC column of Table 3 of the Appendix to the Planning Statement of Common Ground (Document INQ.4).
140. The appellant's reliance upon the Secretary of State's saving of policy DS3 relies upon the fiction that the official who recommended saving the policy was the same official who made the recommendation in the previous appeal decision (which it clearly would not have been⁶⁵) and that Ministers acting on recommendations and senior officials checking them can possibly know all facts that have led to them. That, it is contended, is not the real world. Appeal decisions should be based on reality, not fiction. As the Council's planning witness explained⁶⁶ the appeal site is not allocated for what is currently proposed. It is allocated for a mixed-use scheme that includes 60 ha of university development, coupled with housing and employment land that was intended to be linked to the university.
141. The emerging Core Strategy is progressing and is much more advanced than the core strategy in the St. Austell decision⁶⁷. PPS3 paragraph 72 is extant and up-to-date policy that applies in appropriate cases. This advises that *"Local Planning Authorities should not refuse applications solely on the grounds of prematurity."* However two points should be noted about that advice: firstly, it only applies if there is no other refusal reason; and secondly, it only applies to housing and there is no equivalent advice for the other components of the mixed-use appeal scheme.

⁶³ Document SBC.108: Wiltshire Branch of CPRE v Swindon Borough Council, Taylor Wimpey, Wiltshire County Council and the Highways Agency, CO/5157/2008

⁶⁴ Document SBC.108: [2009] EWHC 1586 (Admin)

⁶⁵ Mr S Smith in re-examination

⁶⁶ Mr S Smith in cross-examination

⁶⁷ Document SBC.106 – appeal ref. APP/D0840/A/10/2130022

142. More detailed and, in the context of this appeal, more helpful advice is contained in *The Planning System: General Principles* paragraphs 17-19. That is, a refusal may be justifiable where a Development Plan Document (DPD) is being prepared. The appellant did not mention this advice in its statement of case nor anywhere in its evidence. Nor did it use the phraseology of the advice or do anything that indicated that its contents had been taken into consideration. This guidance clearly helps the LPA. A highly relevant DPD, in the form of the emerging Core Strategy is being prepared and there is an early prospect of submission for examination.
143. The appeal proposals are sufficiently substantial to have been included in the emerging Core Strategy as Policy NC3. But 535 representations have been made in respect of the Commonhead site out of 3,621 representations in respect of the emerging Core Strategy as a whole. There are alternative sites, including those specified in the LPA's Statement of Case⁶⁸. These include Tadpole Farm, sites listed in the Strategic Housing Land Availability Assessment and possible windfall sites. Granting planning permission for the appeal scheme would reduce the choice of sites for development and prejudice the interests of those who made representations to the Core Strategy (both residents and competitor landowners and developers). A permission at this stage for Commonhead would prejudice the outcome of the DPD process. That process ought to consider whether there should be development on the appeal site and, if there should, whether it should extend to the whole site or only part of it.
144. The Coalition Government has emphasised localism, open-source planning and the importance of public involvement in decision-making, a point that the St. Austell Secretary of State decision reinforces⁶⁹. The only chance that the public have to be involved with the relative merits of this substantial site without the 60 ha of university development will be within the Core Strategy examination. Depriving them of that chance would be contrary to the localism agenda and to PPS1's support for community involvement⁷⁰. This would undermine confidence in the system. It would also encourage others to seek to "jump the gun" and pre-empt the comprehensive consideration of the relative merits of sites in the Core Strategy process.

Rat running

145. The A4259, A346 and A419 are perceived to be congested roads leading into Swindon and these are the roads which would give access to the appeal site. Rat running is already part of the journey pattern into this part of Swindon from the south (ie via the A346 south of Junction 15 of the M4). Queues on the A346 tail back close to the turn into Badbury and drivers who form the view that their journey may be unduly delayed, or who simply consider it is better to keep moving rather than wait in queues, can turn off and run through Badbury and on to Meadow Way to rejoin the main in-bound traffic at Commonhead Roundabout via Liddington and the B4192. Alternatively, they

⁶⁸ Paragraphs 6.5 to 6.7.

⁶⁹ Document SBC.106: Secretary of State's Decision Letter paras 18-19 and Inspector's Report paras 10.28-10.37, especially 10.36

⁷⁰ Paras 2, 11, 13(vi), 40, 41 and 43.

can take Meadow Way / Day House Lane from Medbourne and run through to Coate roundabout.

146. Rat-running has been a matter of concern for local residents and Liddington Parish Council for several years. There is concern about speeding and there is what is seen to be evidence of 'near misses' in the form of tyre tracks on the grass verges and broken mirror glass on the road. Such non-injury accidents are not recorded and will not show up in any analysis of road safety. The location of the appeal site, with the connection of Day House Lane to the spine road, would exacerbate this rat-running. This would increase in the event of a substantial incident on the A419, A4259, B4192 or Commonhead roundabout. This additional rat-running would only come about because the appeal scheme proposes development on the west side of Day House Lane; on land at Green Hill adjacent to the Highways Agency's depot.
147. There would be a great temptation to use the rat run off the A346 and through Badbury to enter the development on the appeal site near to Green Hill, via the connection of the spine road with Day House Lane. That would avoid the more lengthy alternative of travelling north along the A419, west along A4259 and then south along the spine road to reach the business park and perhaps the southerly (Badbury Wick) residential area, or even as an alternative route right through to Coate roundabout and on into Swindon. ouse House aLanrHouse Without a connection between the spine road and Day House Lane there would be no increased threat to Badbury, Medbourne and Liddington.
148. Badbury is a conservation area with buildings close to the road and no pedestrian footways. Elsewhere the lanes are narrow with no footways and there are sections where there are poor sight lines. These lanes are used by villagers, farmers, pedestrians (walking, jogging and running), cyclists, equestrians and leisure drivers. Some 18% of movements on these roads is seen to be non-vehicular. Increased rat running would adversely impinge upon the safety and convenience of these other road users and on the quality of life for residents of at least Badbury, if not other villages⁷¹.
149. The unclassified lanes that rat-running traffic would use are seen to be unsuitable for additional traffic flows. This is obvious to any experienced road-user by looking at them and has been confirmed by the parish council and local residents. The additional trips on the quiet country lanes would have a significant detrimental impact. Whilst few HGVs may take the rat run, there may be little disincentive for light vans, cars and other vehicles under 7.5 tonnes. Even a small number of additional vehicles on these lanes can have a disproportionate impact on sensitive receptors.
150. The design of the junction crossing of Day House Lane to get access to the business park is not settled. Irrespective of any signposts and other traffic management measures to discourage traffic running thorough Badbury the temptation would be there, and perhaps even supported by directions of a satellite navigation device.
151. There is longstanding Government advice in Planning Policy Guidance 13 *Transport* that traffic management measures in rural areas should be drawn up

⁷¹ Mr Buchan evidence-in-chief; and Mr Hutchings in cross-examination

in consultation with the local community⁷². That advice is consistent with, and reinforced by, the Coalition Government's localism agenda. The appellant has not complied with that advice, neglecting to consult the parish council and local residents on the proposed measures. The measures would have a major effect on the lives of local residents.

152. The measures could include a road closure, two possible one-way schemes, a signing scheme that would be counterproductive in encouraging rather than discouraging traffic and a new 'gateway' to the Badbury Conservation Area. Not only has the appellant failed to consult the local community on these proposed measures, it cannot guarantee the delivery of any of any of them because they are dependant upon other procedures and approvals, possibly including Traffic Regulation Orders. It is impossible to say at this stage whether any such Orders may be made, let alone confirmed. Even so, the appellant has not been able to advance any objective reason for believing the creation of such controls and restrictions would be effective in discouraging rat running. A strategy of discouragement relying solely on signs or 'gateway' features is unlikely to be effective as it could not be adequately enforced and might even be interpreted as a hint to use alternative routes.
153. There was discussion at the inquiry as to what level of traffic realistically could rat-run on Day House Lane and Meadow Way. The appellant's highways witness sought to reduce this by unempirical assumptions contrary to the appellant's advocate's urgings for the need for empirical evidence in highway matters.

Impact of traffic on the spine road

154. The 2009 appeal scheme had both a spine road and a high street to distribute the main traffic flows through the scheme. The present appeal scheme now proposes to use only a spine road, which would run through a local centre, to carry the traffic to up to 50,000 square metres of B1 and B2 development⁷³. Designing a development so that all commercial traffic is intended to run through a residential area close to a primary school is seen to be an example of bad planning. The impact on the school and its pupils is unclear as there is no travel plan as yet for the school. The restricted size and shape of the site reduce the options for creating a permeable road pattern with alternative routes. The spine road layout is only necessary because of the shape of the site and the appellant's desire to develop all the way down to Green Hill.
155. The characteristics of the traffic using the road would be incompatible with the areas through which it would pass. Periods of increased traffic flow may take place at various times during the day, particularly if there are shift patterns operating on parts of the business park, which would give rise to flows of cars along the spine road, through the residential areas, past the school and through the local centre at times other than the usual morning and evening peaks. That is, there may not be many periods of relatively quiet traffic flow during the day along the spine road.

⁷² PPG 13 (2011) para 68.

⁷³ Document SBC.101- Draft conditions 7 and 8.

156. The justification put forward for sending employment traffic along the spine road was by reference or comparison to a series of very different streets, including O'Connell Street in the city centre of Dublin, busy London streets, the centre of Southampton, the Ashford (Kent) Ring Road and the permeable major proposed district / suburb of Sherford close to Plymouth. The label '*Boulevard*' misuses MfS2 to overstate the nature of a road that is not exceptionally wide. It has no central reservation or even pedestrian islands. This is a classic example of devaluing language by using words and phrases like "*luxury*" and "*high quality*" to oversell a product.
157. Although MfS1 and MfS2 give examples of many situations, none of these examples suggest that placing an employment area at the end of what is intended to function as if it were a long cul-de-sac through a residential area is a good idea. Indeed none of the examples come close to the appeal scheme's proposal for a business park at the remote end of a linear development that includes a substantial number of dwellings, a primary school and a local centre.
158. The spine road would be a busy road carrying all types of traffic which one would associate with a B1 / B2 business park, with an average of one vehicle every 3 seconds in the peak period. As noted above, this would be close to the location of a primary school. With no central island or reservation, the children involved would have to cross the 6.5m-wide road with this frequency of traffic in one go (or stand unprotected in the middle of it). With a proportion of this traffic comprising HGVs needing access along the spine road to the business park, this would suggest the installation of traffic calming measures such as speed tables would not be effective as such features are incompatible with HGVs and employment areas, especially where block paving may be used.

Impact on the setting and intrinsic qualities of the North Wessex Downs AONB

159. The appeal proposals would bring development much closer to the AONB⁷⁴. PPS 1 paragraphs 1, 5 and 17 are relevant here in seeking to protect valuable landscapes. The Coalition Government has made clear its commitment to protecting valued landscapes, in particular AONBs. This could well influence the Core Strategy when it comes to assessing the relative merits of the appeal site (as Policy NC3) and of alternative locations for development that are not close to the AONB.
160. This LPA's concerns relate to development of land to the south of the hospital; that is, the Badbury Wick residential area and the business park. It should be noted that this is not the first time that a distinction has been drawn between the northern part of the site and the southern part. The Babbie Comparative Assessment of Potential Development Areas divided the site in two, ranking Coate South fifth out of six⁷⁵. The Swindon Small Scale Urban Extensions Study (January 2008) considered that development could be accommodated north and east of Day House Lane⁷⁶. The Council's evidence on landscape

⁷⁴ Ms C Riggs in cross-examination

⁷⁵ Document APP.7, appendix 1: p 1.3 para 2.9, and p 1.4 table 6

⁷⁶ Document APP.6: para 2.1.

shows that there would be problems were development to extend south of the hospital. This part of the appeal site abuts, is closest to and most visible from the AONB⁷⁷.

161. The harm would not arise solely from the close proximity of the AONB to the southern and eastern boundaries of the site. The nature of the AONB is that, typical of the edge of downland, it rises sharply to the south of the site, so that much of the appeal site is visible from it and the part to the south of the Great Western Hospital is particularly noticeable. The land also rises from Coate Country Park eastwards towards the A419 and the part of the AONB which lies north of the M4⁷⁸. Photoview N (Document APP.119) shows the problems, although like all photoviews it has something of a flattening effect when it comes to the higher ground, notably Green Hill.
162. The appeal site is seen to be part of the foreground of the AONB. The urban edge of Swindon would be brought further into this foreground and much closer to the viewer at Liddington Castle. Liddington Castle is an obvious destination for walkers to pause and take in the view, and from the Ridgeway National Trail. The business park, which would have a *"Strong Frontage to the Motorway"*⁷⁹ would clearly be very visible from Liddington Castle and the Ridgeway National Trail.
163. The landmark public building of the Great Western Hospital would change from being a development that stood out, to it being only part of an urban area. The hospital is a noticeable six-storey landmark building, standing some 18m high, and the appeal scheme would add the 12m high 3-storey buildings of the business park, standing on higher ground (on Green Hill) and closer to the AONB. The appellant's landscape witness' under-estimation of the impact of the development may be explained by the fact that he thought the business park buildings would be half the height of the hospital⁸⁰, showing that he had ignored both the roof of those buildings – they would be two-thirds of the height (12m as opposed to 18m) – and the higher ground on which they stood. These tall buildings would draw the eye to the appeal site in these views. In the assessment of the LPA, the proposed scheme would have an adverse effect on the AONB, both impinging into the views and interrupting the perceived tranquillity and remoteness of the Liddington Hill and Castle area.
164. The Secretary of State will need to consider whether the appellant has satisfied the Town and Country Planning (Development Management Procedure) (England) Order Article 4. The appellant says that the word "assuming" that appears twice on the Scale Parameter Plan constitutes an upper limit of height. If that is right, the height of the B1 / B2 buildings on Green Hill that should be assessed is 12m on top of Green Hill, which itself stands 127.5m at its highest point. That is, the buildings on the business park would stand as high as some 139.5m – 140.0m AOD, allowing for foundations and floor levels.

⁷⁷ The problems south of the hospital were confirmed by Mr S Smith in re-examination

⁷⁸ Mr Cook answering the Inspector's questions.

⁷⁹ Design and Access Statement page 100

⁸⁰ Mr Cook in cross-examination.

Conclusions

165. The appeal proposal is premature and would prejudice the Core Strategy by predetermining decisions about scale, appropriateness of location and phasing of development in Swindon. The approach in the Secretary of State's St. Austell Decision Letter recognises the democratic element in the planning process and the principle of localism which should be followed.
166. The appeal proposal would have an adverse impact by increasing the amount of traffic passing along Meadow Way and the other lanes through villages to the south-east of the site, causing real harm to the users of those lanes and to local residents.
167. The proposed spine road is of a dominant design and, in particular, traffic from the B1 / B2 business park would create unacceptable conflict between pedestrians and other traffic using the road.
168. The proposed development south of the hospital (i.e. the business park and the Badbury Wick area) would have a harmful impact on the setting and intrinsic qualities of the AONB, especially from Liddington Castle and the Ridgeway.

THE CASE FOR INTERESTED GROUPS AND PERSONS

Richard Jefferies Society

169. The material points for the Society are set out below.
170. Richard Jefferies was an important Victorian writer who was born at Coate and spent his early years living in the vicinity. He wrote on rural life and is credited as being an early ecologist, appreciating the value of nature and the countryside and its value both for nature conservation interest and to the human spirit as an antidote to urban living. The inspiration for much of his work is the area at and around Coate, including the fields now proposed for development. Important elements of the landscape still remain in the hedgerows, the trees and the views of and from Liddington Hill. Jefferies walked widely over much of this part of Wiltshire, gathering material for his writings. This would include The Vale of White Horse and Savernake Forest.
171. The literary value of Jefferies is not easily categorised and is not as widely known as others such as Wordsworth and Hardy. Nevertheless, Jefferies' work is acknowledged to be of some significance and is appreciated across the world, with academic interest from as far away as north America and many articles being written - including into the 21st - century commenting on the value and interest of his works. However, the rural setting of the residences of those other writers remains undeveloped and is respected for the contribution it made to their work. This is not so for Jefferies. Swindon Borough Council has consistently rejected approaches for this area to be declared a heritage landscape on account of the Jefferies connection.
172. Richard Jefferies represents the only major cultural heritage feature in Swindon which has yet to be exploited, and Jefferies Land (including the site under consideration) has very great potential for the national and international

tourist industry. There seems to be no mechanism in the current planning legislation as understood, to protect important literary sites nationally. The term "heritage asset" has been, and is, too narrowly interpreted.

173. The fields, hedges, copses, animals and plants that Jefferies found here and wrote about, either still exist, or their descendents do, and new readers are constantly discovering his writing, as they have for the past 124 years since his death, and come to Coate to see what he experienced, and try to share his responses to this microcosm of the natural environment.
174. It is a serious omission of Swindon Borough Council not to have sought a literary assessment of the site so that it could have been used to inform the planning process under Policy HE2 of Planning Policy Statement 5: *Planning for the Historic Environment*. This is especially the case, as from 1968 up to 2003, the site was considered "an area of great landscape, historic or scientific value" lying just outside the AONB.
175. There would seem to be plenty of potential sites to the north and east of Swindon, to which no major environmental objections have been, or could be levelled. Apart from the options owned by the appellants on the present site, there can be no reason for pursuing this unwanted, unsustainable proposal.
176. The proposed development would be anything but sustainable. If experience in the area is anything to go by, houses built this near to motorway access will be bought by people who work in Bath or Newbury (or beyond), and cannot afford housing there. Similarly, the businesses in the industrial estate will employ people who have to commute in from elsewhere. This is not Port Sunlight.
177. There is a question over whether the objections are to principle or detail. What is clear is that the current proposals so dictate the detail, much of which (such as the spine road and the probable use of Day House Lane) is very problematical, and could not sensibly be changed; that is, it has to be said that the detail appears to render the principle unworkable.

Richard Jefferies Land Conservation Trust (RJLCT).

178. The material points for the Trust are set out below.
179. The Trust is opposed to the principle of development in this area. It is seen as setting a precedent for further development across the frontage of Swindon. The appeal site, being the surroundings of the birthplace of Richard Jefferies is a major literary site of international importance. His birthplace is now the Richard Jefferies Museum, and is a Listed Building, which is owned by Swindon Borough Council. To develop here would be inconsistent with other planning values of safeguarding the best and most versatile agricultural land, and places of ecological, archaeological and literary value.
180. Apart from the connection with Richard Jefferies, the area has a long history of human involvement, with traces of many ancient barrows and stone circles, many of which are now collapsed or indistinguishable on the ground, but where evidence shows this was a very active area of ancient civilisation which ought to be respected as part of the national cultural inheritance. Having regard to recent guidance included in Planning Policy Statement 5: *Planning*

for the Historic Environment, RJLCT consider that this area is worthy of designation as a heritage asset. However, Swindon Borough Council does not agree. This should be an area where visitors can come and experience walking in the footsteps of Richard Jefferies. The proposed development would have a significant adverse impact on Richard Jefferies Land.

181. The planning history of the area prior to 1970 saw it as part of the foreground to the AONB and sought to resist new development here. The hospital was allowed as an exception to that general position. The RJLCT consider that planning studies from 2003 onwards have not properly respected the cultural value of this area or its significance as an attractive landscape. Consequently, these aspects were not properly weighted in the various studies which led to Swindon being identified as Principal Urban Area in RPG 10, and the area around Coate being identified as appropriate for development in the Local Plan.
182. The area was originally identified as one suitable for the creation of a university campus, integrated with housing, employment and local services. The withdrawal of interest in a university here has undermined the justification for any other elements of the scheme. New development here would interrupt views from Coate Water and Day House Lane and impinge into views from Liddington Hill and Liddington Castle.
183. The Localism Act is now in place, which introduces opportunities to hold a local referendum on the strength of a petition. Whilst the Save Coate! petition with over 52,000 signatures might not be accepted as fulfilling all the requirements, such is the strength of public opinion, it is believed that there would be public support for a petition that fulfilled the Localism Act requirements.
184. The Planning Inspectorate received 101 letters, 2,148 postcards and a petition in respect of this appeal. Furthermore, 535 representations were received by Swindon Borough Council in response to policy NC3 in the draft Swindon Core Strategy. There have been consistent widely held objections to proposals for development of this site, either for planning applications, or the allocation in the emerging Core Strategy. Representations in support have been in only single figures.
185. Part 5 of the Localism Act covers the matter of community empowerment. Clearly the general public have tried to engage in the planning process with regard to this appeal, the university proposal and the hospital. The decision taken by Swindon Borough's Planning Committee to refuse planning permission for the appeal site was not taken lightly – the Committee was strongly advised not to do so by their officers and a senior Cabinet Member. In the spirit of the emerging Localism Act RJLCT believe that the Planning Committee members not only represented the views of the community but that they sincerely believed that this was the right and proper planning decision for their town and the communities that they represent.
186. The scale, nature, design and location of this proposal does not offer Swindon a sustainable development opportunity, and it would set a precedent for more infill development west of the appeal site. If so, this should be challenged via consideration of the emerging Swindon Core Strategy. Others have expressed reasons why this small pocket of countryside so close to urban Swindon is so special. This has not been a NIMBY reaction, but a genuine desire to protect a

special area for future generations to enjoy, because it has given them so much pleasure.

187. The site is important for wildlife, including one of the main streams that feeds Coate Water Site of Special Scientific Interest (SSSI) and where otters have made a welcome return. Dayhouse Copse is a County Wildlife Site and the site of a significant badger habitat. There are five varieties of bats that roost and forage in the appeal area. The off-site landfill site already poses a pollution risk to water quality on the SSSI. The entire area is underlain by a minor aquifer, hence the concern that any contaminants must be contained.
188. Ancient burial mounds and stone circles have been found in the area around Day House Lane. It is likely that others are yet to be discovered. It is considered that the area is one of some significance in the pre-history period, and that it may have been a centre of cultural or religious importance. Development on the appeal site would not be in sympathy with that historical context. The area should remain undeveloped so the cultural inheritance from that period is both respected and left to be appreciated.
189. It is not accepted that Day House Lane can be stopped up, or that this would even be desirable. The perceived problem of rat-running through the Downs villages cannot be controlled by the proposed design and layout of the junction of Day House Lane and the proposed spine road. Conditions proposed to restrict access between Day House Lane and Marlborough Road require approval outside the control of a decision on this appeal.
190. There is no compelling need to bring forward the appeal site to meet either additional housing supply or employment land in the near future. Structure Plan targets are seen to be excessive and do not reflect the current housing market. There are some 4,000 houses yet to be built at Wichelstowe, and house building has been in decline in recent years around Swindon. Less than 1,000 per year have been completed recently. The Wichelstowe site can fill any gap until the Swindon Core Strategy has been adopted.
191. If the proposed development of this site has raised so many environmental concerns that cannot be mitigated against or controlled by conditions, it would be best to give the environment the benefit of the doubt and the appeal should not be allowed.

Matters Raised by Interested Persons

192. Below is the gist of the main points made by interested persons who appeared at the inquiry. Many of the points are similar to, or overlap, points which have been noted above.

Rat running

193. Many people who appeared endorsed the perception that rat running traffic uses the lanes to the south and south-east of Swindon, primarily between the A346 at Badbury and the Marlborough Road via Medbourne. Increased traffic on Marlborough Road and new light controlled junctions would increase the likelihood of further trips being made as rat runs to avoid delays and congestion. It is very likely that drivers visiting the business park area of the appeal site would be tempted to use the rat runs to-from the A346 to avoid a

lengthy trip via Junction 15 of M4, the A419, Marlborough Road and the spine road through the development. The lanes are used by pedestrians, cyclists and equestrians. There are several stables in the locality, including at Medbourne Farm, from which local riders exercise on these lanes.

194. A bridge could be built where the spine road crosses Day House Lane, which would preclude the possibility of any scheme-related traffic using local lanes as rat-runs.

Landscape impact and spread of development

195. Many of those who appeared shared the same concerns over the impact on the AONB voiced by the Council's witness. However, whereas the Council only object to development of the site south of the present hospital (ie the Badbury Wick housing area and the business park) the local residents objected to new development anywhere on the site. Liden (the area north of the A4259 – see Plan C.3) is seen as setting the southerly limit of built development. Local people accepted the building of the hospital because of a perceived greater community need, but that should not be taken as having set a precedent for further building south of the Marlborough Road.

Coate Country Park

196. Local people are shocked by the idea of development in the vicinity of Coate Country Park, regarded by some as Swindon's "jewel in the crown". There is a 52,105 name petition – begun in 2004 - which objects to any development coming within 1 Km of the park. It is a well used and much appreciated recreational and leisure asset of the town, as well as having nature conservation interest. Its setting and ambience as a county park would be spoiled by new built development encroaching near to the park, spoiling its tranquillity and undermining its value as a place for health and relaxation. Any new development here would lead to "uproar" in the town.

Great Western Hospital

197. The scheme allows for some expansion of the hospital, but it is questioned whether this takes adequate account of longer-term needs. Further land could be required if the hospital evolves into a teaching hospital. Developing all of the surrounding land would prejudice this possibility.
198. The land is the setting for the Great Western Hospital and should be left undeveloped as the rural surroundings would be more conducive to the health and convalescence of in-patients and their quality of life.

Wilts & Berks Canal

199. The route of the Wilts & Berks Canal runs through the appeal site. The route should be safeguarded so as not to frustrate the possibility of the canal being restored. Rather than the appeal scheme including only ground-level crossings of the route of the canal, a bridge should be provided by the developers.

Urban regeneration rather than expansion

200. There are sites in the built up area of Swindon which are under-used and which are in need of regeneration. These sites have better access than the

appeal site and development there would be more sustainable. Reuse of these sites should be the top priority.

Lack of consultation with local interests

201. Several persons raised objections that local opinion had been overlooked in drawing up the application. The points raised include ignoring significant general objections to development here, failure to involve parish councils and a lack of consultation on proposed mitigations. Local democracy has seemingly not played any part in the evolution of this scheme.

Wider impacts of the scheme not mitigated

202. Traffic associated with the scheme will be travelling along the A346 south of Junction 15. No measures are included in the Section 106 agreement to bring improvements to the A346.
203. When there are closures and diversions because of accidents or incidents on the M4 and A419 traffic is diverted through other villages including Liddington and Wanborough. More traffic control measures are needed in these villages to contain and control additional traffic.
204. Traffic calming measures introduced to date in Badbury have not worked. Rat running traffic continues to use the lanes.

Precedent for further development

205. The appeal site is part of an undeveloped foreground between the present built-up area and the M4 motorway. To allow the appeal scheme would establish a precedent for more of this area to be taken for development, spreading westwards alongside the motorway.

Lack of need

206. Although having planning permission as a housing expansion area for the town, the Wichelstowe development has stalled, with few completions and not many sales. This area should be completed before any further land is taken, and particularly before this area at Coate.

WRITTEN REPRESENTATIONS

207. Below is a broad resume of the additional points raised in the written representations and not reported above. Not every detail of the additional points raised is noted.
208. With the abolition of regional planning structures the previous house building targets no longer apply. There are many empty houses in Swindon at present and many more for sale at below average prices. There is no perceived need for further houses.
209. Notwithstanding the claims that this would be sustainable development, there is no clear understanding of what this term means. If development here denies future generations access to attractive, valuable and interesting

landscapes then this would be contrary to the Bruntland Report's definition of sustainability.

210. The values of developers and profit-making should not override the concerns to protect an attractive area, valued by local residents and visitors for its scenic, leisure, recreational and nature conservation value. Any benefits from the scheme would be short lived, as opposed to long term benefits of retaining an attractive area.
211. The site is some 3 miles from the town centre and not well integrated into the present urban fabric. This is likely to encourage car-borne trips to the central area for higher level shops and services, and therefore would not represent sustainable development. Although there may be a need for low cost or shared ownership homes in Swindon, the additional cost of commuting to other parts of the town would make it an unsuitable location for affordable housing.
212. Development here would displace wildlife; flora, insects, birds, badgers and otters. This would be a great loss to the quality and interest of the area. Places of wildlife interest and value close to the site would also be adversely affected.
213. The development would bring light pollution closer to the AONB, eroding its essential quality of having dark skies at night.

PLANNING CONDITIONS and PLANNING OBLIGATION

Planning Conditions

214. In the event that the appeal may be allowed, a suite of planning conditions that could be attached to the planning permission was discussed at the inquiry, taking into account the advice and guidance given in Circular 11/95 *The Use of Conditions in Planning Permissions*. The suggested draft conditions are included as Document SBC.101.
215. Conditions 1 and 2 are the usual conditions for the commencement and implementation of an outline planning permission. A period of 10 years is included for the submission of subsequent details in view of the anticipated timescale for the scheme to be completed. Conditions 3, 4, 5 and 6 are required to ensure that the development proceeds in accordance with the concept put forward in the supporting information, not least the Design and Access Statement which supported the application. Separate detailed Design and Access Statements are considered necessary to establish a design ethos and parameters for each phase of the scheme as it progresses.
216. The scheme is promoted on the basis of offering a good quality commercial and business environment, which is attractive both to those who work there and to customers. Condition 41 seeks to ensure that the appearance of the scheme is not degraded by unsightly external storage.
217. Conditions 28 and 29 are needed to ensure that other design aspects of the scheme would meet the Council's expectations of minimum standards for encouraging cycle use and to minimise use of the highways for residential parking. In a similar vein, condition 36 seeks to ensure that a proportion of

the housing stock is built to accommodate wheelchair users, to create a fully inclusive urban environment.

218. Conditions 7, 8 and 9 are required to ensure an acceptable balance of land uses within the scheme and to ensure that the scheme does not seriously challenge the viability of the town centre for shopping and business or other major employment areas.
219. Conditions 10, 11, 12 and 13 are required to safeguard, maintain and offer future protection for the wildlife interest on and around the site.
220. Because the design concept of the scheme relies upon the retention of much of the existing hedges and trees on the site (many of which are subject to a Tree Preservation Order) to offer good quality urban environment and open spaces, to visually break up the built up areas and to help soften its impact in wider views across the area, it is necessary to ensure these are recorded and protected prior to the commencement of development, and are adequately safeguarded during the course of development. Conditions 14, 15 and 16 are included to give this sort of protection and an assurance for the quality of the resulting development.
221. There are known archaeological remains both on, and close to, the site and it is necessary to ensure that these are properly recorded during the course of development. Conditions 18 and 19 would provide for this.
222. On the west side of Day House Lane is the site of a former brickworks, where the excavations were subsequently landfilled. There is therefore the potential for contamination from the site to migrate into the groundwater and for landfill gas to permeate buildings in the vicinity. Conditions 20, 21 and 22 establish the means to monitor and subsequently control any potential pollution and associated risk to health, buildings and the environment. Condition 40 is required to ensure that potential contamination and associated pollution from any new sources introduced onto the site is contained.
223. Conditions 23 and 24 are necessary to ensure that any possible flood risk which could be attributable to the proposed scheme, both within and beyond the site, is contained and managed. The Sustainable Urban Drainage scheme would also have benefits for wildlife habitat.
224. The present road system around the site would not have the capacity to readily cope with all of the traffic from the proposed scheme. Conditions 25, 26 and 27 are necessary to ensure that such capacity thresholds are not crossed until off-site highway enhancements have been completed to maintain highway capacity and road safety in the wider area.
225. As discussed above, the business park element of the scheme would be on both sides of Day House Lane, requiring traffic to cross to and from the western element to reach the spine road. It is accepted that this could present an opportunity for drivers to take the rural lanes to the south of the site, rather than the spine road. Careful design of this access is required to minimise this risk. Conditions 30 and 31 require prior approval of any such access to ensure that the design is appropriate for the intended purposes.

226. Condition 32 seeks to encourage minimisation of the use of private cars in the interests of sustainability. Similarly, conditions 33, 34 and 35 seek to ensure that new buildings on the scheme achieve high standards of energy efficiency and are built to meet high expectations of sustainable development.
227. The works of construction and some of the proposed development could have the potential to generate unacceptable levels of noise in the residential areas. Conditions 37, 38 and 39 are necessary to establish an acceptable acoustic environment for those living on the scheme. Conditions 42, 43 and 44 are required to ensure that works of site preparation and construction are carried out so as to cause minimum disturbance to those living nearby and to minimise the possibility of mud and other detritus being carried on to the highway and thereby causing a risk to highway safety and spreading mud and dirt into the residential areas.
228. The suggested conditions, revised in the light of discussion at the inquiry, are set out in Annex A at the end of this report. The differences between the submitted suggested wordings (Document SBC.101) and those set out in the Annex are very minor, generally to take account of the advice and guidance given in Circular 11/95, and it should not be necessary to refer back to the parties for their comments on the differences as the revisions should not affect the interests of any of the parties or others with an interest in the scheme.

Planning Obligation

229. A signed Planning Obligation (agreement) made under Section 106 of the Town and Country Planning Act 1990 was submitted before the close of the inquiry, and is included as Document SBC.103. A fairly detailed summary of the provisions is set out in Document APP.121.
230. It is accepted by both the LPA and the appellant that the proposed development would give rise to demands for services, community support and infrastructure improvements in the wider area, either to accommodate an increased demand or to make provision for needs not catered for within the development scheme or through planning conditions. The agreement includes provision for:
- affordable housing, (30% of the total scheme), both as rented housing and low cost ownership homes,
 - public open space,
 - play areas and allotment land,
 - community facilities,
 - local roads network works and travel plan framework,
 - strategic roads network works
 - education
 - nature conservation area,
 - archaeological conservation,

- works at Coate Water Country Park,
- works in connection with the Wilts and Berks Canal
- Great Western Hospital expansion land

231. Policy DS8 of the adopted and saved Local Plan, augmented by supplementary planning guidance on developer contributions (Document SBC.2, appendix 17), set out the Council's framework for contributions towards infrastructure and other works required as a consequence of allowing new development. The works and contributions included in the planning agreement are in accordance with the Council's guidance. A statement of compliance prepared by the LPA is included as Document SBC.110

232. The Planning Obligation has been considered against the five tests in Circular 05/2005 *Planning Obligations*, and the three statutory tests at Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). The obligation meets the guidance given in The Circular in that it identifies those who have an interest in the land and the local authority or other agencies who are to receive the monies or land transfers. The agreement can be seen to be:

- necessary to make the development acceptable in planning terms;
- directly related to the proposed development; and,
- fairly and reasonably related in scale and kind to the development.

It accordingly meets the three statutory tests under the CIL Regulations. Furthermore, its undertakings are relevant to planning and can be seen to be reasonable in all other respects. The agreement therefore meets the tests set out at paragraph B5 in the Circular. The LPA and those who have a connection with the land through the appellant accept the Agreement is relevant, necessary and proportionate.

233. The interested groups and persons who appeared at the inquiry asked that money should be made available through a Planning Obligation to fund improvements to highway conditions in villages other than those mentioned in the obligation. From the evidence heard at the inquiry, such improvements would not be necessary to address consequences directly attributable to the proposed development.

234. The Jefferies Land Conservation Trust submitted a "wish list" of improvements, enhancements or financial support for the Richard Jefferies Museum and associated land and buildings (Documents JLCT.4 and JLCT.5). Whilst the proposed scheme would bring change to the area of countryside argued to represent "Jefferies Land", this is not a designation which has formal protection as a heritage asset and is seemingly not acknowledged as a community asset which may be adversely affected by the proposed scheme.

235. Whereas the requested contributions may be beneficial to the interests of the Jefferies Land Conservation Trust and the Richard Jefferies Museum, the need for these in the wider public or community interest - as recognised in any statutory protection - cannot be seen to be a direct consequence of the proposed scheme being developed. Any such contributions would not meet the

guidance set out in the Circular and would not meet the tests of Regulation 122.

236. It was suggested that the £50,000 public art contribution should have been ascribed to the Richard Jefferies Museum and Richard Jefferies Land Conservation Trust. However, this was not seen to be appropriate by the LPA and the appellant. Accordingly, the submitted Planning Obligation cannot be seen to be deficient.

CONCLUSIONS

237. Having regard to the evidence heard at the inquiry and the points raised in the written representations, there are four main considerations to be addressed in this appeal.
- i) Whether the proposed scheme would unreasonably prejudice the preparation of the Swindon Core Strategy, having regard to the choice of locations for a major development, the amount of housing and employment land to be provided, and the phasing of development.
 - ii) The effect of the proposed development on road capacity and conditions of highway safety on Day House Lane and the roads and villages to the south-east.
 - iii) Whether the development would be unduly dominated by vehicular traffic on the spine road, creating conflict between pedestrian and vehicular flows.
 - iv) The effect of the proposed development on the setting and appreciation of the North Wessex Downs Area of Outstanding Natural Beauty.
238. The numbers in brackets in the following paragraphs [n] are references to paragraphs in the preceding sections of this report.
239. The conclusions discussed below take into account the environmental information provided in support of the application and subsequent appeal, in particular the Environmental Statement and its examination of the potential impact of the scheme on the AONB.

i) Prematurity

240. There is strong Government advice in both *The Planning System: General Principles* (paragraphs 17 and 18) and PPS3 (paragraph 72) that a planning application should not usually be refused permission on grounds of prematurity. Exceptions would be justified where a DPD is being prepared or under review but not yet adopted and where a scheme may be so large that a decision could prejudice the outcome of the DPD process.
241. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that a planning application shall be determined in accordance with the development plan, unless material considerations indicate otherwise. Here the development plan comprises, amongst other documents, the Regional Planning Guidance for the South West (RPG 10), the Wiltshire and Swindon Structure Plan 2016, and the Borough of Swindon Local Plan 2011. These policies are of varying date and relevance [22-25]. Also relevant is the Swindon Central Area Action Plan [54, 55, 126].
242. RPG 10 has been largely overtaken by events and its only relevance in this appeal is that it establishes Swindon as a major focus for growth [23, 181]. That expectation was taken forward into the Structure Plan where Policy DP10C (now no longer part of the development plan) specifically identified Commonhead as a location for four types of development: a university campus on 60 ha, a hospital extension, 23 ha of employment land with

linkages to the university and up to 1,800 dwellings [24]. This was taken further forward in greater detail in the Local Plan where policy DS1 identifies Commonhead, including all of the appeal site, as part of the urban area, and Policy DS3 identifies 196 ha of land for development at Commonhead to include the four elements required by the structure plan policy, plus a minor local centre for shopping [25]. Criteria are set out in DS3 which any future development has to incorporate or respect, including transport links, open space, features of natural, historic or environmental importance, views from the AONB, views from the Coate Water Country Park and its setting, and a requirement to soften the setting of the Great Western Hospital. Local Plan policy H3 looks for 1,800 houses at Commonhead in the period to 2011 and beyond. Policy H4 gives general support for the concentration of large new housing development on the identified sites within the urban area of Swindon, with the underlying expectation that the Structure Plan housing targets are to be complied with [25].

243. The Local Plan policies were saved by the Secretary of State in 2009 and therefore remain part of the development plan [54].
244. It was argued that because the Swindon Central Area Action Plan (SCAAP) has identified a new site for the university, this has undermined the rationale for Local Plan Policy DS3 [126]. The possibility of needing to find a site for a university must have been a significant factor in the evolution of the Structure and Local Plan policies. Indeed, they are written so as to expect clear linkages between at least the university and the employment element so as to provide the opportunity for some kind of mutual benefit.
245. A site for the university at North Star could significantly change the way in which policy DS3 is to be understood and interpreted. However, policy DS3 was specifically saved after the North Star site had been adopted in the SCAAP [54]. That is, the Secretary of State was aware that a university element on the Commonhead development area, together with any associated development with which it might have an interdependent relationship, was no longer needed. Nevertheless, the policies were saved so as to allow for housing and employment growth [56]. The appeal scheme is, therefore, in accordance with the development plan in that it provides for a hospital extension, housing, employment, and a local centre within the area included in the Swindon urban area under Policy DS1.
246. It is somewhat curious that the Council's reasons for refusal for this scheme seemingly did not take Policy DS3 into account, and the reference to Policy H4 without any apparent consideration of Policy H3 is, on the face of it, a *non-sequitur*, at least [62].
247. If it is accepted that the appeal scheme is, in principle, in accordance with the development plan, then Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal should be allowed unless there are material considerations which would indicate otherwise. The fact that the Council is presently preparing a Core Strategy to supersede the Structure Plan and much of the Local Plan has been put forward as a material consideration which would justify a different decision. It was argued that this is a situation allowed for by paragraph 17 of *The Planning System: General Principles*. That

is, the scheme here is of such significance that a decision would prejudice the outcome of the development plan process [143].

248. However, paragraph 18 goes on to advise that a view should also be had to the state of progress towards adoption of the DPD. Here the Core Strategy is unlikely to be submitted for examination before the summer of 2012, and an Inspector's report until Autumn 2012 [70, 131]. That is, even if the examination is straightforward, and no further work or revisions are recommended by the Inspector in his report, the Core Strategy is unlikely to be adopted before the end of 2012.
249. This, of itself, may not be regarded as justification to set aside the prematurity argument. But it is necessary to also look at other circumstances which have a bearing on the pace of development in Swindon, and how the proposed scheme corresponds with the emerging Core Strategy.
250. A major driver of growth is the availability of housing land. PPS3 looks for not less than a five year supply of deliverable housing land sites. There is no disagreement between the parties that at present Swindon cannot meet this expectation [104, 138]. At best the situation can be seen to be 2.9 years and possibly as short as 1.4 years. The situation would be even worse if the 20% extra looked for in the draft National Planning Policy Framework (NPPF) is taken into account [104]. That is, there is an undeniable need for the release of deliverable housing land in Swindon. The Council clearly believed fairly recently that the Commonhead site would be able to contribute to the five year supply in that it was identified as such by the LPA in an earlier appeal heard in April 2011 for another site in Swindon [107].
251. Another imperative behind the need to identify land for development is the ministerial statement on *Planning for Growth* published in March 2011 [28, 72]. This urges support for planning permission to be granted for development which would support economic development. This would include at least the housing and employment elements of the appeal scheme.
252. Finally, the proposed scheme accords with one of the proposals set out in the emerging Core Strategy, Policy NC3 [69]. To refuse the scheme on the ground that it is seen to be premature has to be seen in the context of the Council's own views on the acceptability of development on this site [142]. For it to be included as Policy NC3 in the emerging Core Strategy indicates a notable degree of support for such a development by the LPA, in that it would not have resolved to publicise the allocation if were not one of the Council's preferred options [99]. It was confirmed at the inquiry that the current version of the Core Strategy had been approved not only by Cabinet, but also full Council [69]. This allocation represents a strong degree of continuity in allocating this area for development since 2003, starting with the Babbie studies, Structure Plan Policy DP10C and Local Plan Policies DS1, DS3 and H3. That is, the principle of development being both acceptable and actively promoted in this area has a long pedigree of support by the LPA and it should not come as a surprise that it is now also being promoted in the emerging Core Strategy.
253. The argument put against approving this scheme now is that the Core Strategy has yet to be examined for soundness, and 535 objections have been lodged to Policy NC3 [143, 184-185]. To approve the appeal scheme would deny local

objectors the opportunity to be heard, which may lead to the Policy being deleted from the DPD as (arguably) other, alternative and less objectionable, sites have been identified [143]. To make a decision now, would run counter to the spirit of the Localism Act 2011, where it is seen that greater opportunities will be given to local interests to influence planning decisions [144, 185].

254. Drawing these points together, it can be seen that the proposed scheme accords with Policies DS1, DS3 and H3 and H4 of the Local Plan, as saved by the Secretary of State. It also accords with the emerging Core Strategy, which has the support of the Council. A degree of urgency is put behind the need for an approval by the significant shortfall in housing land supply and the support offered by *Planning for Growth* to bring forward new development opportunities.
255. What has to be put into the balance of considerations on this point is the degree of local opposition and the opportunity the examination of the Core Strategy will give for such objections to be heard and, if justified, acted upon.

ii) Road capacity / rat running

256. The previous appeal scheme included a very similar access arrangement and associated off-site mitigation for a considerably larger amount of development in this vicinity (ie the appeal site, plus other land to the west) [73]. Rat running was not raised as an objection to that scheme, and the appeal was not dismissed by the Secretary of State for access or other highway related reasons [73]. However, one of the reasons for refusal given by the Council for the present appeal scheme states that there is a risk that the scheme would give rise to increased use of Day House Lane, to the detriment of highway safety. In the LPA's appeal submissions this objection has been taken to cover the impact of additional or superfluous traffic running through the village of Badbury and other lanes in the vicinity, notably Meadow Way, Medbourne Road and Purley Road at Liddington (B4192) [145].
257. The reasons for refusal refer to Policies DS6 and DS7 of the Swindon Borough Local Plan. Policy DS6 d) requires that new development shall be compatible with nearby land uses with regard to, amongst other matters, disturbance and safety. Policy DS7 has no clauses which could be regarded as seeking to resist rat running. Although not raised in the reasons for refusal, Local Plan Policy T1 does require proposals to provide an access which would not lead to detriment to highway safety and the local environment.
258. The southerly approach to this part of Swindon is via the A346, which runs to Junction 15 of the M4, and then continues on the A419 to Commonhead roundabout. Marlborough Road (A4259) runs off Commonhead roundabout westwards into Swindon to the Coate roundabout, which itself distributes traffic onto (or collects from) four other routes into the urban area. At busier periods (morning and evening peaks) traffic builds up on the approach to Junction 15 with queues forming, giving rise to waiting and a degree of delay in clearing through the junction. It is the possibility of avoiding such delays which is seen to be the reason for some drivers to decide to take alternative routes [76].
259. The alternatives – categorised as rat runs by the LPA – are to use other roads to travel between the A346 and Coate roundabout. Travelling north, vehicles

would leave the A346 at a point about ½ mile south of Junction 15, turning right into Badbury village [145]. Beyond the village the road passes over the M4 as Medbourne Road. At the small hamlet of Medbourne, traffic can then turn right and double back on itself, passing under Medbourne Road on Meadow Way. Meadow Way runs under the A419 and becomes Day House Lane, running along the western side of the appeal site and joining the A4259 just to the east of Coate roundabout. An alternative route from Medbourne is to carry on to the junction with Purley Road (B4129) at Liddington and turn left to travel on to Commonhead roundabout, to join Marlborough Road and then on to Coate roundabout. These routes can be identified on Plan C3.

260. It is not in dispute that a number of vehicles use these lanes as a diversionary route at present. Local residents believe that this is excessive and misuses these local lanes [193]. There is what is believed to be evidence of near-misses and minor damage to vehicles [146]. However, for the most part, traffic on these lanes is connected with local journeys; only a small number can be regarded as using these lanes as a rat run, and then only during peak periods [76]. Such near misses and minor damage cannot therefore be taken as evidence of over-use of the lanes attributable to rat running. Whilst these lanes – and Day House Lane in particular – are used by walkers, runners, joggers, cyclists and horse riders [75, 148, 193], there is no evidence of a significant highway safety risk in terms of personal injury accidents attributable to collisions between two vehicles, or between vehicles and pedestrians, cyclists or equestrians [75].
261. With the primary access points to the appeal site on Marlborough Road, there would be an inevitable increase in the amount of traffic passing between Junction 15 and Marlborough Road. Without mitigation congestion would be likely to be greater, increasing the possibility of a greater number of drivers thinking of taking to the alternative routes via the rural lanes. However, the appeal scheme includes a commitment to widening the A419 between Junction 15 and Commonhead roundabout, plus improvements to Junction 15 itself; all of which are included in the Section 106 Planning Obligation. The purpose of the improvements is to improve flow along the A346 / A419 through Junction 15 and thereby minimise or even eliminate congestion [77, 230]. Without congestion there would be no obvious incentive for drivers to want to take an alternative route; journey times on the main roads would be quicker than via the lanes.
262. Even with the possibility of some drivers seeking to use the alternative routes, the likely numbers have been shown to be very small; in the order of only four vehicles in the morning peak [78]. This cannot represent a serious or significant increase in traffic using these lanes and cannot be seen to unacceptably harm the conditions of highway safety.
263. The one area of doubt relates to the part of the business park which is proposed on Green Hill. This would be on the west side of Day House Lane, whereas, for the most part the spine road would be to the east of the lane. That is, the spine road would have to cross Day House Lane to connect to Green Hill. The possibility then arises of traffic being able to turn into and out of Day House Lane from the spine road at that point, which would be at the southern end of the site. That could represent an opportunity to avoid

travelling along the spine road to Marlborough Road and then down the A419, potentially reducing the journey length.

264. The appellant and the LPA are sensitive to this possibility, and have agreed that measures need to be put in place to discourage this [150, 152]. Planning conditions have been put forward to ensure that it is addressed at detail design stage. However, no definite proposals were put forward at the inquiry to demonstrate how such controls or limitations would work [152, 189]. They could include the design of the junction making such turns difficult, some form of restricted width, sections of one-way working or even other restrictions in the form of Traffic Regulation Orders (TRO). Although suggested by an interested person, the measures discussed between the appellant and the LPA at the inquiry did not include a bridge over Day House Lane [194].
265. There is, therefore, a degree of uncertainty over this as TROs are subject to their own regulatory procedures and draft Orders are open to objections being lodged. In which case, the outcome of such an approach cannot be assured through a planning permission for this appeal scheme.
266. Having said that, no additional information was put to the inquiry to indicate how much additional traffic (if, indeed, any) would be likely to exploit such an opportunity were it to remain available. Similar opportunities would have been available in the 2009 appeal scheme [73] but these were not identified as a reason to reject that proposed development, even with a greater amount of housing and employment being proposed.
267. On the basis of the evidence heard at the inquiry, the appeal scheme is unlikely to lead to a significant increase in rat running traffic such that it would endanger other road users on Day House Lane and other lanes to the south of Swindon. In which case, there would be no conflict with policies DS6, DS7 or T1.

iii) Quality of urban design / spine road

268. Policy DS6 of the Local Plan looks for a high standard of design in all types of development and lists a number of objectives, which include being in sympathy with the local context, compatible with nearby land uses and demonstrate suitable access and landscaping. Policy DS7 looks for good urban design in large developments which, amongst other matters, contributes to both the ease of accessibility and the permeability of the development.
269. Perhaps dictated by the sinuous, linear shape of the site a spine road is proposed through the development, running from the primary point of access on Marlborough Road down to the business park at the southern end of the site. There would be a link between the main spine road and the second access on to Marlborough Road, closer to Coate roundabout, but this would serve only the northern part of the site⁸¹. Details of the second access are reserved for subsequent consideration.
270. If traffic into and out of the site behaves as is envisaged in the application, and uses the Marlborough Road junctions as the points of access, then the spine road would be used by all classes of traffic for its full length; that is, car-borne

⁸¹ See the Land Use Master Plan, page 70 of the Design and Access Statement

residents and their visitors, buses, service traffic for the school and local centre and employees and commercial traffic for the business park and employment nodes elsewhere on the spine road [154]. This would, at times, represent a considerably busy flow of traffic, and particularly when morning journeys to work coincided with start of school. It is also possible that there could be busy periods at other times during the day [155].

271. Were such traffic to be an unconsidered consequence then there might be justifiable cause for concern about its compatibility with the new development areas through which it would run. Current thinking on urban design and how streets should serve development areas is given in Manual for Streets 1 and, more particularly, in Manual for Streets 2 (MfS2) [84, 157]. Here streets and traffic are seen to be part of the dynamics of an urban area and, properly controlled, traffic can make a positive contribution to the vitality and sense of 'place'. Roads are not to be seen as just functional highways for the passing of vehicles, but as multi-functional streets contributing to an interesting urban realm. Indeed, segregated distributor roads and relief roads are positively discouraged for urban extensions in MfS2.
272. A similar – but not identical – proposition formed part of the previous appeal scheme and which was considered by the Secretary of State to be acceptable [83]. There are differences in that this scheme does not have a (arguably) secondary 'High Street' to offer an alternative or secondary distributor road through the scheme [130]; but the size of this current appeal scheme is considerably smaller and it would be reasonable to accept that a secondary distributor would not be necessary for the amount of traffic generated. Indeed, the local highway authority has not raised objections to the proposed scheme with regard to the design capacity of the spine road. With one main through route, the current appeal scheme could be seen to be less permeable than the previous appeal scheme, but this might also been seen to be beneficial in that unnecessary traffic would not be tempted to pass through inappropriate areas, or that the scheme would not be significantly sub-divided by higher level streets, and thereby weaken its cohesiveness.
273. MfS2 gives considerable support for a boulevard as a multi-purpose road serving a mixed use development area [84]. It is a component of urban design which is currently being promoted through guidance (ie MfS2) which is supported by CABE and the Department for Transport. Whereas some of the examples cited in MfS2 may appear incongruous or even incompatible with the present appeal scheme [156], the important point is not to see these as exemplars, but only as illustrations of what might be possible without jeopardising qualities which would characterise a good quality urban environment. Within the concept of a boulevard design there is scope for variations in width, surface treatments, street furniture and planting.
274. These variables, amongst others, would give scope for an interesting visual presentation of the street together with traffic calming if required, and pedestrian priority or safeguarding points to ensure safe crossing of the road when needed. The concept is not rigidly formulaic, and such provision could be provided as and where needed to suit the needs of the scheme, without undermining the usefulness of the boulevard as a through route. That is, safe crossings could be incorporated for pedestrian access to the school, for bus passengers, as well as refuges and crossings for service traffic including refuse

collections. The range of engineering and constructional solutions to these various needs, including traffic calming for larger commercial vehicles, buses and HGVs, is not restricted and it is entirely probable that workable, robust and effective solutions could be incorporated to deal with the range of needs along its length.

275. The boulevard concept has been employed successfully elsewhere [156]. The fact that the spine road here would be effectively a cul-de-sac does not negate the concept, nor suggest that it would be overloaded in terms of traffic flow. The road would be designed and detailed to correspond with the anticipated two-way flows, irrespective of whether it was a cul-de-sac or a true through route. Away from the spine road it would be possible to ensure that the design of the various land use areas incorporated access routes which allowed a high degree of permeability, particularly for non-car travel.
276. Whereas the spine road would run through the various land use zones of the scheme, the boulevard concept envisages this as a means of linking the areas, rather than acting as a division between them [84]. The width of the boulevard and the types of development immediately fronting it could be organised so as not to place uses which would be sensitive to noise and disturbance close to the spine road. This would be reinforced by the planning conditions put forward to control noise levels, to ensure acceptable environment for local residents in their homes and gardens. That is, traffic on the spine road itself need not be unacceptably disturbing to the quality of life for those working and living in the development. Neither should it be seen to be disruptive to the way in which the area would be used by its residents and visitors.
277. The idea of a boulevard as a single main spine road through the development may not have been used elsewhere in Swindon, but it has to be accepted that, following current and up-to-date guidance, the spine road could be designed to meet all of its functions without offering a poor standard of urban environment and being perceived as an unattractive area in which to live and work. The appeal scheme is one for outline planning permission with the design of the spine road and internal accessibility amongst the matters reserved for subsequent approval. It is very likely that a design could be drawn up, using the guidance put forward in MfS1 and MfS2, which fully meets the requirements of Local Plan Policies DS6 and DS7.

iv) Effect on the AONB

278. The Council's reasons for refusal refer to Policies ENV10 and DS6 of the Local Plan to support their objections relating to harm to the AONB. Policy DS6 a) expects new development to be sympathetic to the local context, and DS6 d) looks for new development to be compatible with, and protect the amenity of, nearby land uses in terms of visual intrusion. ENV10 seeks to protect and enhance the character and quality of the environment, and new development shall only be permitted where it takes account of its natural surroundings and their landscape character.
279. The policies noted above have to be read in the context of Local Plan policies DS1 and DS3, which commit development on the appeal site, and over other land to the west. That commitment is not without caveats and the need to

comply with a number of restraints or expectations. Amongst these is DS3 i) which states the need to respect views from the AONB: new development here should minimise any impact on its landscape character, and provide a soft urban edge to the development. That is, the expectation is not that any development here should be unseen from the AONB, but that its impact should be minimised.

280. It was understood at the time that objections to the Local Plan were being considered at inquiry that development here would be seen from the AONB [97]. The Inspector at that time undertook a site visit to assess whether the likely impact would be acceptable. The Inspector specifically took into account the views from Liddington Hill. Clearly, the conclusion was that an acceptable form of urban extension could take place here without unacceptably harming the setting of the AONB or seriously detracting from the views out from it.
281. The way in which Policy DS3 is drafted shows that the potential impact must not be overlooked, but it acknowledges that some harm is likely to arise and such harm could be acceptable if careful consideration were given to design, layout and detailing.
282. The LPA's landscape objections at this appeal only relate to development south of the hospital [160], but interested persons have objected on the basis that any development here would harm the AONB [195].
283. The boundaries of the AONB are defined by the M4 motorway to the south and west of Junction 15, and by the A419 to the north and east of Junction 15 [90]. East of the A419 the landscape is generally flat [92] and does not offer many locations from which to look into or across the appeal site. The A419 runs along an embankment between Commonhead roundabout and Junction 15 and this, together with the trees and hedges on the embankment, offer a significant degree of well established screening.
284. From Ham Street on the north side of Liddington village, and the Liddington village playing field⁸² there are views towards the site and the Great Western Hospital, which is seen as a significantly large-scale feature. The appeal site rises up from the A419, with the highest points to the south of the hospital about 5m higher than the road⁸³. Parts of the new development would be seen from these points in the village and perhaps elsewhere in the vicinity, but none of the new development would be as massive in terms of height or extent as the hospital. Allowing for further peripheral tree planting on the eastern edges of the site it is likely that limited, and at least partially screened, views would be had of new development on the appeal site. The retention of much of the present trees and hedges on the appeal site would further help to break up views of built development and represent a soft urban edge.
285. Perhaps the more significant viewpoints are from Liddington Hill and Liddington Castle⁸⁴ [20, 92, 162]. Liddington Hill is an outlier or promontory of the downland landscape which rises up steeply to the south of the M4. There is a public bridleway which runs up Liddington Hill from the B4192 but this is on

⁸² See Plan C.3

⁸³ See contours on the Scale Plan at page 85 of the Design and Access Statement

⁸⁴ See Plan C.3

the south side of the crest of the scarp, and there are no views towards Swindon from the bridleway. At Liddington Castle, there is public access to the earthworks, and extensive views can be had from here, at some 277m AOD, over the vale to the north beyond the M4 [162]. Whereas the views are extensive, and include a lot of farmland and the lakes at Coate Water Country Park, the urban area of Swindon is a major and obvious component of the view [94, 161]. That is, urban development is already clearly seen and any further urban development would be simply additional, rather than representing an entirely new element which would lead to a major change in the landscape view [95]. Other elements of built development in the view, which are closer to Liddington Hill and Liddington Castle than the appeal site, include the settlements of Liddington, Upper Wanborough and Chiseldon; all of which are established settlements actually within the AONB⁸⁵.

286. The appeal scheme would be seen from Liddington Castle and other less elevated points on Liddington Hill where the public have access, as well as from The Ridgeway road which runs below the crest of the scarp on its north side⁸⁶. However, the buildings proposed in the appeal scheme would be at a maximum of four storeys in the vicinity of the local centre towards the centre of the site, and three storeys at Green Hill (an indicative 12m according to the annotations on the Scale Plan at page 85 of the Design and Access Statement) [163]. Green Hill is the highest point on the site, but this is in the context of a gently undulating landscape across the site, and the height differences are just over 20m over a distance of about 1.75Km from the highest point at Green Hill to the lowest point at Coate.
287. Placing three storey buildings on, or close to, the highest point would make it more likely that they would be seen. However, a tree belt is proposed along this southern edge of the site which would offer some screening [96]. Beyond Green Hill, the various elements of the new development would be interspersed with retained trees and hedges and new planting, which would break up the apparent mass in views from Liddington Hill. Furthermore, there would be a degree of foreshortening in the views over this area, which would enhance the screening effect.
288. The prospective extensions to the hospital and the proposed housing area of Coate would offer the opportunity to *"soften the impact of the Great Western Hospital by its integration into the built landscape"*, as required by Policy DS3 i). That is, the development plan does not regard the Great Western Hospital as a landmark building which needs to be protected from other development in the close vicinity [163] and hence the loss of an uninterrupted view of the hospital, in its present form, from the AONB could be seen as a benefit.
289. It has to be acknowledged that the LPA is promoting a similar scale and extent of development on exactly the same area in the emerging Core Strategy, which implies that this is thought to have an acceptable impact on the landscape [99]. English Heritage and the AONB Management Board do not consider that the appeal scheme would unacceptably harm the AONB or its

⁸⁵ See Plan C.3

⁸⁶ See Plan C.3

setting [96]. It is relevant to note that the buildings in this appeal scheme would extend across a smaller area, and be at a lower height, than was envisaged in the previous appeal scheme, which the Secretary of State accepted would not cause unacceptable harm to the AONB [97].

290. The new development would inevitably introduce further lighting into this scene [213], but it would be no more than a marginal increase, and negligible in the context of the expanse of urban development to the north and the M4 corridor. The essentially dark and tranquil parts of the AONB are to the south of Liddington Hill [98]. Light from the appeal site would be imperceptible in these darker areas in the context of the background light generally from the Swindon urban area.
291. The proposed new development would be visible in views from the AONB, but this would not represent a major change in the landscape. The impact would be softened and even offer a limited degree of improvement insofar as views of the hospital are concerned. The degree of harm would not be overwhelming and would not significantly detract from the essential qualities of the AONB or its setting. As such, the impact on the AONB would be in accordance with Local Plan Policy DS3 and, in that context, would not conflict with policies DS6 and ENV10.

Other Matters

Richard Jefferies Land

292. There is no disagreement that Richard Jefferies is recognised as a respected writer on rural and environmental matters [103, 170]. For the early part of his life he lived at Coate and married the daughter of a neighbouring farmer. He clearly had well-established roots in the locality. He is regarded with interest locally and at national and international level [171, 179]. His writings are seemingly not readily categorised, but the significant issue is that he encouraged a view of appreciating the value of nature, both for its own sake and recognising it as an antidote to the urban and industrialised world [171].
293. The inspiration for his works is seen to be the area around the appeal site, including Coate, the land running up to what is now the AONB, Liddington Hill and Liddington Castle, and an ever widening area into the surrounding countryside of the Vale of White Horse to the east and Savernake Forest to the south [170]. However, 'Jefferies Land' is not clearly defined, if only because few places are positively identified by name in his writings [102]. Arguably the concept of 'Jefferies Land' diminishes the further away one gets from Coate. However, it is clear that Liddington Hill and Liddington Castle were of significance to him and, by inference, the countryside between the hill and Coate [170].
294. Whilst not undervaluing the influences this landscape and its individual features had on Jefferies, his work dates from the latter part of the 19th century. It is likely that the fields and their hedges, Day House Copse and other elements on the appeal site might be recognisable to Richard Jefferies [170]. This could be seen as a worthwhile remnant of the area and might be regarded as a heritage asset because of the literary connection, and safeguarded as such [173]. However, the context has much changed. Swindon is a considerably larger town, having expanded southwards towards

Coate in the 20th century, and the presumably once quiet rural hinterland south of Coate is now bisected by the M4 and other main roads leading into Swindon.

295. Notwithstanding Jefferies being appreciated across a wide audience, he is not as well known or respected in the nation's literary heritage as others who may have drawn inspiration from, or made direct or indirect references to, their physical surroundings in their writings. Such writers would include William Wordsworth, Thomas Hardy, and Thomas Gray. It seems that the value of Jefferies' writing is more in his appreciation of nature as a concept, rather than a need to refer to specific or unique physical features of one locale. Indeed, much of his writing was done after he left the area [102]. This work was therefore written from memory not as reportage, albeit from detailed notes made by him previously. The final paragraph of *Coate and Richard Jefferies* by John Chandler (Document APP.114) says " ... *it is by no means necessary to be familiar with the actual landscape of RJ's childhood to appreciate his work ... But in his home country we are in spirit land.*" In which case, it would seem to be that the significance of Richard Jefferies' work is not so much about directly experiencing the place which inspired it, but more about understanding his way of appreciating nature, or developing an appreciative state of mind, which are qualities and strengths to be drawn from the countryside generally.
296. Whereas the planning system acknowledges and safeguards places which are classified as heritage assets, neither Swindon Borough Council nor English Heritage have recognised Richard Jefferies as a figure of such significance and have not sought to define Jefferies Land nor to protect it as a heritage asset on the strength of its association with the writer [174]. The Council have had several opportunities to do so - prompted by local interest groups - through the various phases of the development process over the past 10 years or so. Clearly, the LPA has not agreed that the concept of Jefferies Land is either discernable on the ground, nor does it merit protection as a heritage asset. Not that Swindon Borough Council is unaware of the local and historical significance of Richard Jefferies, not least because the Council own the house which is now his museum, and the house is a listed building [17, 179].
297. Similarly, the Inspector who considered the objections to the Local Plan in 2005 did not agree that the land's association with Richard Jefferies justified omitting the site from the urban area boundary and the level of new built development proposed in the Local Plan [100]. Neither did the Inspector at the 2009 appeal consider that the connection with Richard Jefferies merited rejecting that much larger scheme. That view was shared by the Secretary of State, even though the appeal was dismissed for other reasons [100].
298. With particular regard to the current appeal scheme, the immediate proximity to the house / museum (for about 200m) would be unaffected by the proposed development. The land between the house and Day House Lane is not within the appeal site, neither is any of the land around Coate Water Country Park. Day House Farm and all of the land to the south-west of Day House Lane, apart from Green Hill, do not form part of the appeal site. There would be an open landscaped buffer strip between the north-east side of Day House Lane and the new development, preserving much of the rural ambience of the lane and the immediate surroundings of Richard Jefferies' house. Some of the low-density housing at the south-west corner of the Coate residential area might

intrude into views towards Liddington Hill and Liddington Castle from the top of Day House Lane in the vicinity of the house, but development would be at some 4m-5m lower than the top of Day House Lane and the interruption of the view would be small; Liddington Hill would still be clearly seen when looking across the new houses. Further down Day House Lane no new built development would intervene in the views of Liddington Hill and Liddington Castle.

299. That is, whilst there are associations between the area around Coate and the work of Richard Jefferies, his value as a writer and the somewhat vague or imprecise character of the connection between his writings and specific elements of the landscape – or at least not having identified and named features in much of his writing - are not a strong basis to overturn the long history of this land being allocated for development in current and emerging development plan documents. This may be a matter which could be opened up for reconsideration through the anticipated examination of the Core Strategy [184, 186] but the LPA has indicated in the current draft of the Core Strategy that it considers this an acceptable area for development [99]. In my view, the association of the appeal site land with Richard Jefferies does not represent a substantive reason for dismissing this appeal.

Coate Water Country Park

300. The 52,105 name petition which seeks to safeguard Coate Water Country Park looks for, amongst other matters, a 1 Km stand-off zone around the park boundaries [196]. No detailed justification for this degree of separation was put forward at this inquiry to explain why such a distance would be necessary. Nevertheless, the Country Park is clearly a popular place for local residents and visitors, and much of that enjoyment can be attributed to the perception that the park has a rural setting, which is a quality which ought to be safeguarded. This is recognised in Swindon Borough Local Plan Policy DS3 j) which requires "a substantial and robust buffer zone to Coate Water Country Park". Furthermore, Policy DS3 i) looks to respect views out from the Country Park towards the AONB.
301. Built development in close proximity to the Park would, indeed, be likely to undermine its qualities as a rural, rather than urban park. The proposed scheme would come closer than the 1Km looked for by the action group. At the northern end of Day House Lane built development on the proposed scheme would come to within about 300m of the Park boundary at the closest point, and about 500m at the south-east extremity of the Park. However, a degree of separation would be distinctly marked by Day House Lane itself. This would be visually and physically reinforced by the landscaped buffer strip along the north-east side of Day House Lane. Furthermore, the land east of the lane falls away such that the edge of the built up part of the scheme would be, at one point, about 12m lower than the eastern edges of the Park⁸⁷ (ie more than the height of a 2 storey house). That is, allowing for tree and hedge planting around much of the park's eastern boundaries, the undeveloped buffer along the edge of the appeal site, the retention of Day House Copse, trees and hedges on the appeal site, together with the difference

⁸⁷ See contours on Scale Plan at page 85 of Design and Access Statement

in the land levels, there would be significant physical, visual and psychological separation between new built development and the Park. Although closer than any development at present, new houses would not be seen to be overlooking or unacceptably encroaching into the setting of the Country Park.

302. Whilst the Park is seen to be an area of tranquillity by those who use it, this is not an especially quiet location, with the noise of traffic on the M4 and A419 heard as a constant in the background. It is likely that, allowing for the present ambient noise levels, the separating distance between built development and the Park and the noise suppressing effect of retained mature vegetation, noise from the proposed development would not be discerned from within the Park, especially taking into account the acoustic limitations proposed in the suggested planning conditions.
303. With development only to the east of Day House Lane, except at Green Hill, this would retain the views from the Park towards Liddington Hill, Liddington Castle and the AONB, as required by Policy DS3 i). The present Highways Agency depot at Green Hill is not discernable in the views from the Park or much of Day House Lane: in which case, new three storey employment units are also unlikely to be seen from these points.
304. The features of natural, historic and environmental importance also mentioned in DS3 i) are to be either excluded from the proposed development and / or enhanced through works provided for through the Section 106 Planning Obligation.
305. Clearly the new development would encroach closer to Coate Water Country Park than the action group would prefer, but there is no policy requirement for a set stand-off distance. What is proposed in this scheme would achieve a reasonable balance between safeguarding the setting and ambience of the Park and creating an acceptable urban extension along the lines envisaged in the Local Plan policy. Overall, the scheme can be seen to be in conformity with Policy DS3 insofar as it applies to Coate Water Country Park.

Great Western Hospital

306. It is accepted that land will be needed to accommodate an expansion of the hospital – as required by Local Plan Policy DS3 d). The Hospital Trust supports the proposed scheme as the means of achieving this [113]. Objectors argue that it is not necessary to allow the appeal scheme just to achieve the release of the hospital expansion land. It may be possible that the land could be compulsorily purchased, but this is not seen to be a preferred, or even likely, course of action [114]. Having said that, making the expansion land available as an associated benefit of the proposed development does not represent an overriding consideration that of itself would justify allowing the appeal.
307. It was contended that the hospital may need to expand yet further in the future and allowing the proposed scheme would preclude this [197]. Whilst that may be so, no evidence was placed before the inquiry to show this was a possibility the Hospital Trust wished to safeguard, nor was there any indication of when such a further expansion might be needed, nor how big that might be. This cannot be regarded as a substantiated reason to resist the proposed development.

308. Others have argued that leaving the land around the hospital undeveloped establishes restful and peaceful conditions to aid recuperation for in-patients [198]. This has not been asked for by the Hospital Trust, nor seemingly any medical practitioners associated directly with the hospital. It is possible that there could be a degree of benefit attributable to undeveloped surroundings, but no evidence to substantiate this was put before the inquiry. It is relevant to note that there are many hospitals across the UK which are regarded as centres of excellence and which are sited within dense urban areas.

Other matters raised by interested persons at the inquiry and in the written representations

309. As reported above, interested persons appeared at the inquiry to express concerns or objections. Further points were raised in the written representations. These are commented upon below in no particular order. The sub-headings below do not correspond directly to those used in the section of this report where they were originally reported, but draw together related comments from all original sources.

Ancient stone circles.

310. The appeal scheme acknowledges the existence of ancient stone circles in the vicinity of Day House Lane, and does not propose built development in these areas. Those which are known, or suspected, to exist within the appeal site would be within the landscape buffer zones and safeguarded by the proposed conditions on archaeological conservation and observation and the S106 agreement. The opportunity would be given to identify and record such remains that are discovered during the course of construction works. It would be disproportionate to resist development on the strength of the existence of known or suspected archaeological remains.
311. There is no substantive case backed by responsible bodies such as English Heritage to support the contention that the area should be left undeveloped and conserved as a pre-historic landscape on the strength of the number and distribution of known and suspected ancient stone circles [188].

Wilts & Berks Canal.

312. Local Plan Policy R10 requires that the routes of the Wilts & Berks Canal and the North Wilts Canal shall be protected from development which would prejudice the future restoration of the canal. The appeal scheme complies with this policy in that the route of the canal through the site is noted on the Land Use Master Plan⁸⁸ as an undeveloped reserve. Nothing in the appeal scheme could be regarded as presenting a permanent obstruction to the restoration of through navigation.
313. Having said that, nothing was said at the inquiry or in the written representations to explain the state of progress towards restoration of the canal. Neither has it been indicated precisely where such a bridge might be built [199]. Under the circumstances, it would be unrealistic to expect a bridge to be provided where no evidence has been brought forward of when – or even if – navigation will actually be reinstated. Nevertheless, if the appeal scheme

⁸⁸ Page 71 of the Design and Access Statement.

goes ahead as indicated on the Master Plan, it should be possible to build a bridge somewhere along this stretch of the safeguarded route should need arise in the future.

Sustainability / accessibility.

314. The proposed scheme is thought be unsustainable as might actually facilitate long-distance commuting. It is argued that its scale, nature and design are unsustainable, and it is not well integrated into the urban fabric of Swindon, such that it would depend on a high level of car-borne commuting to access higher level services [179, 186, 211]. There is, perhaps, a degree of uncertainty over what the term “sustainable development” means [209].
315. To a large degree, these points have already been implicitly covered above in the discussion of the cases of the main parties. Government policy has embraced the concept of sustainability in the various Planning Policy Guidance Notes and Planning Policy Statements. It is carried through into the draft National Planning Policy Framework published in July 2011. PPS1 *Delivering Sustainable Development* was published in 2005. Paragraph 4 sets out the Government’s four aims of sustainable development and paragraph 13 sets out the Key Principles. The objections raised by the interested persons do not cite which of these principles the proposed development fails to meet.
316. This is a site beyond the present developed area of Swindon, but it is within the defined urban area boundary under Policy DS1 of the Local Plan [63]. The sustainability of the area has been assessed in various studies which contributed to the formulation of the Local Plan [50] where it was concluded that the Commonhead area scored well with regard to these factors. This was the view of the Inspector at the Local Plan inquiry who said (subject to various caveats) *“the Coate area ... is in general terms, a sustainable location for development, in the form of an urban extension”*⁸⁹.
317. Whereas other sites or locations around Swindon may be believed to be better placed with regard to sustainability and accessibility [143, 175, 211], even if this were to be substantiated – and no detailed evidence of this was put before the inquiry - this would not discount the overall acceptability of this proposed development if it is considered that the scheme is in conformity with the current development plan. That is, it does not have to be the most sustainable site in Swindon; it is sufficient to accept that it is sustainable within the expectations of current Government guidance.
318. The internal sustainability credentials of the proposed scheme are set out in some detail at pages 106 and 107 of the Design and Access Statement. Nothing was discussed at the inquiry to challenge the points given in this supporting document.

Loss of land to developers and the profit motive.

319. This is an objection which is raised to many development proposals. If there is need for new housing and employment development, then a loss of land is inevitable, however regrettable that may be. Some development can be accommodated on recycled, previously developed (ie ‘brownfield’) land, but

⁸⁹ Document APP.4, appendix 12; page 12.2, paragraph 4.3 Local Plan Inspector’s report.

this is rarely able to accommodate all development needs, either because of timing, availability, costs of clearance and remediation or the need to pursue several development approaches in parallel to achieve the overall aims of planning policy.

320. It is axiomatic that unless a developer is able to achieve a profit from a scheme then it would not proceed. The profit motive is entirely legitimate. To seek to resist a scheme on the grounds that it would make a profit for a developer would impede virtually all new development.

Urban regeneration rather than urban expansion.

321. As discussed above, whereas there is encouragement for the reuse of previously developed land, this does not meet every need. Neither is it possible to concentrate only on central area regeneration before any other form of development is contemplated. The planning strategy embodied in the Local Plan, and the emerging Core Strategy, sees the need for both types of development progressing simultaneously to create a vibrant, healthy economy and urban environment for Swindon.

Lack of consultation with local interests.

322. This point has been substantially covered in the discussion of the cases made by the main parties in this appeal. The underlying point is there is an expectation that the Localism Act allows for a greater input from those who live in the vicinity of a proposed scheme, either as to whether the scheme is desirable in the first place, or if it is to go ahead, the possible benefits accruing ought to be devised in agreement with the communities most affected [183, 201].
323. There is nothing to suggest that the evolution of the present appeal scheme did not take place in accordance with the correct procedures in force at the time, and that it ought to be rejected solely because of a perceived lack of consultation. All relevant agencies and service providers were consulted at application stage, and the Council's Members have been able to give voice to concerns of local interests.

Mitigation of other local impacts.

324. Whereas people living in the wider area around the appeal site might consider that the scheme would have, to varying degrees, some impact upon their present circumstances or upon the places where they live [202-204] these were not presented in great detail at the inquiry, and certainly none that might be considered to be a direct consequence of the scheme which would qualify for some kind of support or compensation under the guidance given in Circular 05/2005 *Planning Obligations*.

Precedent for further development.

325. There are other areas of undeveloped land beyond the appeal site [186, 205]. However, none of this land is included within the appeal scheme and a decision on this proposal would not commit development on any other site. Each application must be considered on its own merits at the time it is made and judged against, amongst other matters, the development plan policy applicable at that time. A decision on the present appeal scheme cannot be taken, on its

own, as an irresistible precedent for the development of further land in this part of Swindon.

326. As has been noted above, the planning policies applicable around Swindon, including the vicinity of this appeal site, are currently undergoing review through the Local Development Framework process, with a draft Core Strategy which may be ready for submission for formal examination later in 2012 [70, 131]. That examination would be an appropriate forum to consider the general acceptability of further development in this vicinity.

Lack of need.

327. It was argued that there is no need for planning permission for further houses because the situation at Wichelstowe is seen as an indicator of the lack of demand. Also, it is asserted that there are empty houses which should be used before any new houses are built [206, 208]. The number of vacancies, the reasons for their vacancy and their condition were not provided to the inquiry.
328. A healthy housing market will always have a number of vacancies as a 'float' to allow for mobility in the market. Other houses may be vacant because of current market conditions, availability of loans or a mismatch between prices and what buyers are prepared to pay. Even if there is a stock of unoccupied housing which could be considered as potentially meeting at least some of the calculated need, there is no mechanism to show how or when this could be mobilised and released, or what number of houses should be taken into account. That is, at the moment, this cannot be regarded as a quantifiable contribution to the five year housing land supply required by PPS3.
329. Wichelstowe is part of the Southern Development Area identified in the Local Plan. Permission was granted there for housing development, but construction work stalled, and this has been portrayed as an indicator of the lack of demand. Evidence presented at the inquiry shows that development here stopped as a consequence of action through the courts, not because of a lack of interest by developers or house buyers [139]. Lack of progress on this scheme should not be taken as an indicator of lack of need for housing.
330. The position on housing need is as set out in the Planning Statement of Common Ground (Document INQ4), which shows that permissions are well below the number of sites to be developed to meet the anticipated needs over a 5 year period, either with or without the additional 20% allowance suggested in the draft NPPF.

Wildlife.

331. The wildlife interests on and around the site have not been ignored. It is an inevitable consequence of building on undeveloped land that flora and fauna will be displaced, if not lost altogether. However, the important point is to recognise whether any of the species or their habitats which are likely to be disturbed are rare and in need of special protection or preservation *in situ*. In this case, the likelihood of disturbance to protected and otherwise interesting species (badgers and bats amongst others) has been recognised and measures are included either within the development scheme, or on adjacent land, to safeguard the relevant habitats. This includes land off-site at the 'D Field' [115]. Provisions for supporting wildlife interests are included in the Section

106 Planning Obligation [230]. There are no outstanding concerns from agencies consulted at application stage with regard to wildlife interests.

332. None of these additional points raised at the inquiry and in the written representations can be seen to represent substantial objections which would justify dismissing the appeal.

Overall Conclusion

333. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Elements of the development plan in this case may be somewhat dated, and other elements no longer applicable, but relevant Structure Plan and Local Plan policies have been saved by the Secretary of State. Those policies have been saved with, amongst other matters, the specific purpose of supporting housing delivery. Overall, the proposed scheme can be seen to be in conformity with the development plan with regard both to the principle of development on this site and more detailed points relating to urban design, highways impact and effect on the AONB.
334. There is a long history of development on this land being supported by development plan policies, and this continues to be so for the development plan in its present form. Although the previous appeal was dismissed by the Secretary of State, the grounds given did not indicate that development here was objectionable for the reasons given on the Council's decision notice for the current scheme [32].
335. There are differences between the present appeal and the scheme which was previously considered by the Secretary of State [122, 126, 130]. The omission of a university from the Commonhead development area is a difference of some note. This was removed from the development plan context for this site by the adoption of the Swindon Central Area Action Plan in 2008 and its inclusion of a site at North Star for a university campus [55]. Nevertheless, Local Plan Policy DS3 was saved by the Secretary of State in 2009, after the adoption of the SCAAP [54]. The current scheme is less extensive than the 2009 appeal scheme, does not encroach as close on Coate Water Country Park, has fewer houses and less employment land, and the buildings would not be so high [31, 97].
336. Since the previous appeal decision new Government guidance has been published in the form of PPS5, but that document has not introduced changes in the consideration of heritage assets that are material to the concerns under discussion in this appeal. The ministerial statement *Planning for Growth* was issued in March 2011.
337. Other changes in circumstances since the previous appeal decision are the publication of the Council's draft Core Strategy for consultation purposes, which has yet to be examined for soundness and adopted. The Localism Act 2011 now has Royal Assent but the provisions to revoke parts of the development plan have not yet been commenced.

338. This history of underlying acceptance or support for the principle of development on this site has to be considered in the context of a substantial shortfall in the Council's five-year housing land supply and the *Planning for Growth* statement. These are strong arguments for allowing the appeal. Prematurity can be acceptable as a reason for refusal but, as advised at paragraph 72 of PPS3, not on its own. That advice applies in respect of housing developments. If the scheme is acceptable on urban design, highways impact and landscape impact, then that only leaves prematurity as the grounds put forward by the LPA to resist development. The fact that this appeal scheme includes other elements in addition to housing should not fundamentally shift that position in view of what is said about prematurity as a reason for refusal at paragraph 17 of *The Planning System: General Principles*. Indeed, Planning for Growth would offer support to a scheme which also included employment development [111].
339. There is a notable level of local opposition to the scheme and those pursuing the objections look to the present Government's promotion of localism and the need to engage the support of local interests in planning decisions. The absence of the need to locate a university here is a main plank of the objectors' case, and that is a situation which has not been evaluated through a development plan examination. Without a need to find a university campus, other sites coming forward now through the Core Strategy and the Local Development Framework (LDF) process might have better credentials with regard to sustainability and landscape impact. That might be reinforced by arguments to recognise this area as a heritage asset on account of its connections with Richard Jefferies. However, and notwithstanding the LPA's refusal of this application, the LPA is promoting a development on this site along very much the same lines through the emerging Core Strategy.
340. A main factor to be weighed in the balance of considerations is the concern that a decision to allow this appeal would undermine the LDF public consultation and the subsequent opportunity to challenge the Core Strategy at an examination. This could be characterised as accepting or endorsing a form of 'democracy deficit'. However, all elements of the extant development plan which support the principle of development here have been open to consultation, objection and examination before being adopted by elected Members. The emerging Core Strategy has also been drawn up by the LPA and approved by Cabinet and Full Council, at least for public consultation purposes. The housing numbers in the Core Strategy are derived from a new, local assessment; not derived from the regional strategy [69]. That is, there is substantial local support for the scheme in some form, if not that of individual parish councils and those who have aligned themselves with the Save Coate! petition and similar objection groups.
341. Overall, I find that the scheme can be seen to be in accordance with the development plan. It is for the Secretary of State to consider whether any of the circumstances set out above represent material considerations which would justify making a decision other than in accordance with the development plan. However, taking account of the conclusions discussed above, seen together with the decision of the Secretary of State in the previous appeal decision at Commonhead, I consider that the appeal should be allowed.

RECOMMENDATION

342. That the appeal be allowed and permission granted subject to the conditions set out in Annex A.

Geoffrey Hill

INSPECTOR

APPEARANCES

For the Local Planning Authority:

Mr T Smith of Counsel

Instructed by Mr S Taylor, Director of Law and Democratic Services, Swindon Borough Council

He called

Mr Gordon Buchan BEng(Hons) MSc CMILT MCILT

Regional Development Director (Transport Planning), Halcrow Group

Ms Charlotte Elizabeth Riggs BSc BLD CMLI

Principal Landscape Architect, Swindon Borough Council

Mr Stefano Smith BSc(Hons) DipUD MRTPI

Regional Director for Development Planning & Design; Halcrow Group

For the Appellant:

Mr I Dove QC

Instructed by Mr S H Bawtree, Peagus Planning Group

He called

Eur Ing R G Hutchings BSc CEng MICE FIHT CMILT MAPM

Director, WSP Development and Transportation

Mr James De Haviland BSc DipUD MRTPI

Design Partner; Barton Willmore

Mr Andrew Cook BA(Hons) MLD MLI MIEMA CEnv

Director and Head of Environmental Planning Division; Pegasus Planning Group

Mr Edmund A Booth BA(Hons) DipUD MRTPI IHBC FSA

Director; Conservation Studio

Mr S H Bawtree DipTP MRTPI

Pegasus Planning Group

Interested groups and persons:

Dr C Barry

Local Resident

Mr A Bennett

Ward Councillor; Swindon Borough Council

Mr R Buckland MP

Member of Parliament for Swindon South

Mrs C Bent

Local Resident

Mrs F Cobb

Save Coate! coalition

Mr T French

Local Resident

Mrs A Henshaw	Chairman, North Wiltshire and Swindon CPRE
Mrs B Mitchell	Chiseldon and Downland Action Group
Mr A Moore	Local Resident
Mrs M Parry	Swindon Civic Voice
Mr J Price	Chairman, Richard Jefferies Society
Mrs J Saunders	Honorary Secretary, Jefferies Land Conservation Trust
Mr E Shaw	Local Resident
Mr G Wilson	Chair; Liddington Parish Council
Mr P Wood	Coate Residents' Association

DOCUMENTS

Document	INQ 1	Letter dated 26 October 2011 informing interested persons of the inquiry and list of those notified
Document	INQ 2	Attendance lists for sitting days
Document	INQ 3	List of documents supporting the application
Document	INQ 4	Planning Statement of Common Ground
Document	INQ 5	Highways Statement of Common Ground
Document	INQ 6	Landscape Statement of Common Ground

Documents for Swindon Borough Council

Document	SBC.1	Volume of proofs of evidence of Mr Buchan, Ms Riggs and Mr Smith (including errata pages)
Document	SBC.2	Volume of appendices for Mr Buchan, Ms Riggs and Mr Smith (<i>appendices 2-12, not submitted, appendices 15, 16 and 21 not included in volume</i>)
Document	SBC.3	Appendix 15 to SBC witnesses' volume of appendices
Document	SBC.4	Appendix 16 to SBC witnesses' volume of appendices
Document	SBC.5	Appendix 21 to SBC witnesses' volume of appendices
Document	SBC.101	Proposed planning conditions
Document	SBC.102	Note confirming permissive path status of access to Liddington Castle

Document	SBC.103	Submitted Section 106 Planning Obligation
Document	SBC.104	Traffic survey data: Day House Lane, pm 17/10/2011
Document	SBC.105	Brochure <i>Tour in the Footsteps of Richard Jefferies</i>
Document	SBC.106	Copy of Secretary of State's decision and Inspector's Report for APP/D0840/A/10/2130022 (Land at Treverbyn Road, St Austell)
Document	SBC.107	North Wiltshire District Council v Secretary of State for the Environment and Clover - (1993) 65 P&CR 137
Document	SBC.108	(1) Wiltshire Branch of the Campaign to Protect Rural England (2) Geoff Yates v Swindon Borough Council - (2009) EWHC 1586 (Admin)
Document	SBC.109	Advice published by The Planning Inspectorate: <i>National Planning Policy Framework: Consultation Draft</i> .
Document	SBC.110	Statement of compliance for S106 Planning Obligation

Documents for the Appellants

Document	APP.1	Proof of evidence for Mr Hutchings, including appendices A-H
Document	APP.2	Proof of evidence for Mr de Haviland, including appendices
Document	APP.3	Proof of evidence for Mr Cook
Document	APP.4	Volume of appendices to Mr Cook's proof of evidence
Document	APP.5	Proof of evidence for Mr Booth, including appendices
Document	APP.6	Proof of evidence for Mr Bawtry
Document	APP.7	Volume of appendices to Mr Bawtry's proof of evidence
Document	APP.101	Opening Submissions for the appellant
Document	APP.102	Extract from <i>Manual for Streets 2</i> re: Boulevards
Document	APP.103	Extract from <i>Manual for Streets 2</i> : Section C – Case Studies
Document	APP.104	Plan showing Sustrans Cycle Routes in vicinity of appeal site
Document	APP.105	Plan showing locations of personal injury accidents in the vicinity of the appeal site 2006-2011
Document	APP.106	Note of telephone conversation between Bob Saunders (Swindon Borough Council Highways Officer) and Antonio

		Pinto (WSP Bristol) re: traffic calming in Badbury and Liddington
Document	APP.107	Halcrow consultee response re: Commonhead scheme
Document	APP.108	Copy of <i>Guidance on Transport Assessment</i>
Document	APP.109	Consultee response from Ms C Riggs re: Commonhead scheme
Document	APP.110	Extract from 2007 Environmental Statement for previous application re: Landscape matters
Document	APP.111	Extract from Small Scale Urban Extensions Study
Document	APP.112	5 year Housing Land Supply schedule submitted by Swindon Borough Council to Hook Street appeal inquiry
Document	APP.113	Tranquillity Plan
Document	APP.114	Copy of <i>Coate and Richard Jefferies</i> by John Chandler
Document	APP.115	Data on traffic queue lengths at M4 Junction 15 relating to previous application
Document	APP.116	Calculation of the amount of potential rat-running traffic
Document	APP.117	Tables of Mean Vehicle Speeds and compliance with 30mph speed limit, Purley Road, Liddington
Document	APP.118	WSP Technical Note on University Trip Internalisation
Document	APP.119	Photoview N: View from Liddington Castle, upper bank
Document	APP.120	Copy of letter of 18 November 2011 from Great Western Hospitals NHS Foundation Trust
Document	APP.121	Summary of S106 Planning Agreement

Documents for the Interested Groups and Persons

Document	RJS.1	Proof of evidence for Mr J Price
Document	JLCT.1	Proof of evidence for Mrs J Saunders
Document	JLCT.2	Copy of article <i>Unwrecked England</i> from 'The Oldie'
Document	JLCT.3	Note on matters which could be included in a Section 106 planning obligation
Document	JLCT.4	Costing of items which could be included in a Section 106 planning obligation or planning conditions presented to previous appeal inquiry
Document	JLCT.5	Copy of <i>Walking the North Wessex Downs through art, history and literature</i>

Document	CPRE.1	Statement made by Mrs Henshaw
Document	LPC.1	Statement made by Mr Wilson
Document	CB.1	Copy of Chiseldon Parish Plan put n by Dr C Barry
Document	3P.1	Letter from Mr Spry handed in at inquiry

PLANS

Application Plans

Drawing No.

Subject/ Description

Initial application plans

Plan A.1	9319 rev M	Land Use Master Plan
Plan A.2	9400 rev I	Illustrative Master Plan
Plan A.3	11210349/SK/102 Rev A	Proposed Road Layout

Revised drawings with letter of 8 November 2011

Plan A.4	P.0590_24-1E	Site Location Plan
Plan A.5	P.0590_24-1E	Site Location Plan @ 1:2500 scale

Supporting drawings

Plan A.101	9600 Rev E	Access and Movement Parameter Plan
Plan A.102	9601 rev C	Scale Parameter Plan
Plan A.103	9602 rev D	Landscape Parameter Plan

Superseded application plans

Plan B.1	1.2	Site Context Plan
Plan B.2	2.1	Site Location Plan

Site Visit Plans

Plan C.1	Location of Coate roundabout and entrance to Coate Water Country Park
Plan C.2	Plan showing view points on and around the appeal site
Plan C.3	Plan showing view points on and around the site, including Liddington Hill

PLANNING CONDITIONS WHICH COULD BE ATTACHED TO A PERMISSION

Timing and Duration

- 1 The development hereby permitted shall be commenced either before the expiration of 3 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reserved Matters

- 2 Approval of the details of the layout, scale, appearance, access (other than that now approved in respect of the eastern junction), and landscaping of the development herein known as the “reserved matters” for each Development Phase or Sub Phase shall be obtained from the Local Planning Authority prior to the commencement of any development within that particular Phase or Sub Phase. The first application for the approval of reserved matters shall be submitted to the Local Planning Authority before the expiration of 2 years from the date of this permission. All subsequent reserved matters applications shall be submitted no later than 10 years from the date of this permission.

Master Plan

- 3 The submission of all reserved matters and the implementation of development shall be in broad accordance with the Land Use Master Plan (drawing number 10494/9319 revision M) and the related Scale Parameter Plan (drawing number 10494/9601 revision C), Landscape Parameter Plan (drawing number 10494/9602 revision D) and Access and Movement Parameter Plan (drawing number 10494/9600 revision E) or any subsequent amendment that may be submitted to and approved in writing by the Local Planning Authority.

Phasing Programme and Details

- 4 Prior to the submission of the first reserved matters pursuant to condition 2 above, a plan shall be submitted to the Local Planning Authority to show how the development shall be divided into phases and a phasing programme for the entire site shall be submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved phasing programme.

Design Codes

- 5 Prior to the submission of the reserved matters (within each Phase) pursuant to condition 2 above, Design Codes relating to the Phase shall have been submitted to the Local Planning Authority and approved in writing. The Design Codes shall provide details and guidance in respect of:
 - a) urban form, character areas, densities, block types, building types, the palette of materials, slab levels, building heights, building lines, boundary treatments, recycling and waste provisions and Inclusive Design principles;

- b) details of internal highways, cycle ways and footpaths; street lighting strategy, street patterns, permeability and street landscaping including street trees;
- c) highway matters, car parking, cycle parking, traffic management for Day House Lane and service principles;
- d) green infrastructure, landscape and open space areas including external lighting and street furniture;
- e) conservation of flora and fauna;
- f) biodiversity mitigation measures;
- g) noise attenuation measures; and,
- h) Sustainable Urban Drainage Systems.

The development shall be carried out in accordance with the approved Design Codes.

Design and Access Statements

- 6 The reserved matters referred to in condition 2 above shall be accompanied by a Design and Access Statement for each Phase which shall explain how the proposal accords with the provisions of the Design Codes as referred to in condition 5.

Business (Class B1) Development

- 7 The total floor space for development falling within Classes B1a, B1b and B1c of the Town and Country Planning (Uses Classes) Order 1987, (as amended or re-enacted) within the site shall not exceed 50,000 sq. m.

General Industrial (Class B2) Development

- 8 The total floor space for uses falling within class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended or re-enacted) uses shall not exceed 20,000 sq m. In any event, such areas shall not exceed a total area of 50,000 sq. m. in aggregate with the floor space identified in Condition 7.

Local Centre

- 9 Unless otherwise agreed in writing by the Local Planning Authority, the total retail trading floor space falling within class A1 of the Town and Country Planning (Uses Classes) Order 1987, (as amended or re-enacted) of the anchor retail store located within the proposed local centre as defined within the Master Plan shall not exceed 400 square metres (gross) of which no more than 280 sq. m. shall be net sales area floor space, and the floor space of the remaining 6 units shall not exceed a cumulative total of 600 sq. m. (gross) with no more than 425 sq. metres net sales area. The units shall comprise uses that fall within classes A and D of the Town and Country Planning (Uses Classes) Order 1987, (as amended or re-enacted). The mix of uses will be:
 - a) at least 2 units in addition to the anchor within Class A1;

- b) no more than any 2 units are to be occupied by uses falling within Class A2, Class A3 or Class A5;
- c) no more than 1 unit to be for uses within Class A4; and,
- d) no more than 1 unit to be for uses within Class D1.

No subdivision or amalgamation of the units shall take place without the express planning permission of the Local Planning Authority.

Biodiversity

- 10 Prior to the commencement of any works on site, a Biodiversity Management Plan for the site as a whole shall have been submitted to and approved in writing by the Local Planning Authority. Such measures shall include specific detailed proposals for Nature Conservation Areas identified on the Master Plan, including Day House Copse County Wildlife Site comprising:
- a) advanced mitigation and protective measures during construction;
 - b) timing of implementation;
 - c) long term protection objectives;
 - d) management responsibilities;
 - e) a maintenance schedule and proposals for allowing and restricting public access;
 - f) details of the proposed road construction which, shall provide for the means of achieving habit connectivity; and,
 - g) the provision of facilities for information or interpretation where appropriate.

The approved Biodiversity Management Plan shall be implemented to the advance mitigation and construction protection stage within each Phase prior to the commencement of any development on site within that Phase. All Management Plan measures shall thereafter be permanently retained. Further protection and mitigation works pursuant to the Management Plan shall then be completed all in accordance with the timing set out in the Management Plan.

Bird and Bat Boxes

- 11 Prior to the commencement of works in any residential Development Phase or Sub Phase, full details of bird and bat boxes including numbers of boxes of each type, locations, a timetable for their installation and a plan to demonstrate how the boxes shall be retained thereafter shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details and timings.

Wildlife Protection

- 12 No demolition or partial demolition of existing buildings or the felling and lopping of trees shall take place until a survey has been undertaken to confirm whether or not bats or bat roosts are present. If bats or their roosts are present, any proposed works shall take place in accordance with mitigation

measures for that Development Phase that have first been submitted to and approved in writing by the Local Planning Authority.

Badger Setts

- 13 Prior to the commencement of works within each Development Phase, surveys of the area for the presence of badgers and occupied setts shall have been completed. The result of each survey, together with details of mitigation measures – as appropriate - shall be submitted to the Local Planning Authority for approval in writing. The approved scheme shall be implemented prior to the commencement of any works within the Development Phase, in accordance with an agreed scheme of mitigation.

Tree / Hedgerow Survey and Planting Plan

- 14 Prior to the submission of any Reserved Matter in any Phase, a survey and report in each Development Phase showing the location, species, crown spread, girth and condition of all trees with a stem diameter of 100mm or greater, and the location, mix and spread of all hedgerows shall be submitted to the Local Planning Authority. The survey and report will indicate which trees and hedgerows are to be retained, removed and created. All new planting shall comprise local native species, unless otherwise agreed by the Local Planning Authority.

Tree / Hedgerow Protection

- 15 Prior to any approval of measures under condition 14, no existing trees or hedgerows on the site shall be lopped, topped, felled, uprooted, destroyed (including severance of roots), or wilfully damaged without the prior written consent of the Local Planning Authority. Where works to trees and hedgerows which have not been approved in writing by the Local Planning Authority result in any part of any tree or hedgerow being uprooted, dying or becoming diseased, it shall be replaced before the end of the next available planting season with a species details of which shall have been submitted to and approved in writing by the Local Planning Authority. Any replacement tree or hedgerow shall thereafter be retained for a period of five years from being planted. Furthermore, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any Order revoking and re-enacting that Order, no fence or other means of enclosure shall be erected within or closer to any existing tree or hedgerow other than as shown on the approved plans unless otherwise approved in writing by the Local Planning Authority.

Proposed Landscaping relating to Open Space Provisions

- 16 Prior to the commencement of development in each Phase, pursuant to Condition 4, a scheme for the landscaping of each of the open spaces and equipping of the 3 children's play areas shall be submitted to and approved in writing by the Local Planning Authority. The open spaces to be covered by the landscaping schemes shall include those areas described on the Master Plan, as local open space, green corridors, urban green spaces, existing watercourses and their associated buffer zones, noise bunding, nature conservation areas and the Boulevard and principal footpath/cycle and footpath networks and all other public open space as indicated on the approved Master Plan. The development

hereby permitted shall be carried out only in accordance with the approved landscaping schemes, and phasing schemes. All planting approved pursuant to Condition 2 shall be carried out in accordance with the approved details and any tree or shrubs which, within a period of 5 years of being planted, dies, is removed or becomes seriously damaged or diseased, shall be replaced in the next planting season with other(s) of similar size and species unless the Local Planning Authority give written approval of any variation.

Archaeology (Preserved *in situ*)

- 17 Prior to the commencement of any development within each of the archaeological areas shown on Plan (ref Figure 7.3 of the Environmental Statement) as sites 3, 4, 10, 11, 12, 13 and 14, a Management Plan for each of the sites for the preservation of archaeological interests *in situ* shall have been submitted to and approved in writing by the Local Planning Authority. The management of each site shall take place in accordance with the approved plans.

Archaeology (Further Investigation)

- 18 No development shall take place within each of the archaeological areas shown on Plan (ref Figure 7.3 of the Environmental Statement) as sites 1, 2, 5, 6, 7, 8 and 9 within the site until there has been submitted to and approved in writing by the Local Planning Authority a programme of archaeological work for each of the sites providing a written scheme of investigation. The development of the sites shall be carried out in accordance with the approved programme.

Archaeological Watching Brief

- 19 The developer shall afford access at all reasonable times during construction to any archaeologist nominated by the Local Planning Authority, and shall allow him or her to observe the excavations and record items of interest and finds.

Particular requirements in the vicinity of the former Badbury Brickworks

- 20 No development shall commence within 50 metres of the edge of the landfill site at the former Badbury Brickworks at Day House Lane until a Remediation Scheme to include measures to prevent the ingress of landfill gas into properties constructed within that zone of influence has been submitted to, and approved in writing by the Local Planning Authority. The development shall be constructed in such a way as to prevent soil gas from entering the structure, details of which shall also be submitted for approval in writing by the Local Planning Authority. The scheme shall include an implementation timetable and monitoring protocols and methodology which shall be carried out in accordance with the approved timetable. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.

Reporting of Unexpected Contamination

- 21 In the event that contamination is found at any time when carrying out the approved development that has not been previously identified it must be reported in writing within 2 days to the Local Planning Authority and

development must be halted on the part of the site affected by the unexpected contamination. An assessment must be undertaken that determines the nature, extent and risks posed by the contamination, in accordance with procedures set out in Environment Agency publication CLR11. Where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to the Local Planning Authority for approval in writing. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme written confirmation that all works were completed must be submitted to and approved in writing by the Local Planning Authority.

Foundations

- 22 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written approval of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Minimising Flood Risk

- 23 The development hereby permitted shall be carried out in accordance with the approved Environmental Statement, Chapter 12 and Flood Risk Assessment (FRA) Addendum dated October 2010 Rev 2 (to be read in conjunction with the original FRA dated November 2008 Rev 6 carried out by WSP) and the mitigation measures detailed within the FRA and in accordance with the specifications as required by the Environment Agency in their letter to the Local Planning Authority dated 1 March 2011.

Sustainable Urban Drainage

- 24 No part of the development hereby permitted shall be commenced in any Phase pursuant to Condition 4 above until a surface water drainage scheme for each Phase has been submitted to and approved in writing by the Local Planning Authority in accordance with the principles of the addendum FRA dated October 2010 Rev 2 and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The scheme shall be implemented in accordance with the approved details. The scheme shall also accord with the specifications as required by the Environment Agency in their letter to the Local Planning Authority dated 1 March 2011.

Phase 1 Highway Improvement Works

- 25 No more than 500 dwellings, and no more than 20,870 sq. m. (gross) of employment floor space or any other development mix generating the same level of peak hour traffic, or if constructed as single elements either, no more than 800 dwellings or no more than 24,000 sq. m. (gross floor area) of employment floor space shall be occupied before there has been submitted to, and approved in writing by, the Local Planning Authority a scheme for the improvement of Junction 15 of the M4 and the A419 to allow the safe and efficient operation of the Strategic Road Network to provide:
- a) A419 northbound exit from the M4 Junction 15 roundabout to be 3 lanes reducing to 2 lanes by the bridge over Day House Lane; and,

- b) A419 Commonhead southbound merge to M4 Junction 15; a TD22 Type E Lane Gain; to provide 3 lanes between Commonhead and Junction 15; and,
- c) the removal of the bus/lay-bys on the northbound and southbound carriageways between M4 Junction 15 roundabout and the Commonhead junction; and,
- d) M4 Junction 15 roundabout – widening of the circulatory on the southern side to 4 lanes between the off and on slips; and,
- e) M4 Junction 15 roundabout – provision of a dedicated left slip from the A419 southbound to the eastbound on slip.

No occupation or use of the development beyond the thresholds stipulated shall occur until the works have been completed and have been certified in writing by the Local Planning Authority unless either;

- i. an alternative scheme of works which fully mitigates against the impact of the development on the A419 and M4 Junction 15 has been submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with such scheme, or;
- ii. a strategic Road Network Roads Agreement as defined in the Section 106 Agreement accompanying this planning permission has been made.

Phase 2 Highway Improvement Works

26 No more than 800 dwellings and 42,870 sq. m. (gross) of employment floor space or any other development mix generating the same level of peak hour traffic shall be occupied before there has been submitted to and approved in writing by the Local Planning Authority a scheme for the improvement of the A419 to allow the safe and efficient operation of the Strategic Road Network including;

- a) A419 southbound diverge to Commonhead roundabout; a TD22 Type B Ghost Island (Option 1) diverge; and
- b) remarking of the southern circulatory system of Commonhead Roundabout;

No occupation or use of the development beyond the thresholds stipulated shall occur until the works have been completed and have been certified in writing by the Local Planning Authority unless either;

- i. an alternative scheme of works which fully mitigates against the impact of the development on the A419 and M4 Junction 15 has been submitted to and agreed in writing by the Local Planning Authority and constructed in accordance with such scheme, or
- ii. a Strategic Road Networks Agreement as defined in the Section 106 Agreement accompanying this permission has been made.

Eastern Access Road

27 Prior to the first occupation of the dwellings hereby permitted, the means of access to the site as show on drawing number SK/102 revision A from the

A4259 Marlborough shall have first been completed and made available for use before any new dwelling or building is occupied and shall be permanently retained thereafter as the vehicular access to the site. The development shall be carried out in accordance with the approved means of access to the scheme.

Bicycle Parking / Storage

- 28 Before the first occupation of each building, provision shall be made for bicycle storage that accords with the Council's standards in respect of all commercial, employment, hospital, school or local centre buildings. Any bicycle storage provision shall thereafter be retained for the storage of bicycles in connection with the development hereby permitted.

Residential Garage Standards

- 29 The internal dimensions of all single residential garages to be constructed in connection with the development hereby permitted shall be a minimum of 3 metres in width by 6 metres in length with no internal obstructions, in accordance with the adopted parking standards. The garage shall thereafter be available at all times to give the opportunity for parking a vehicle.

Day House Lane

- 30 No works shall commence in respect of the business park development and no motor vehicular connection shall be made between Day House Lane and the Spine Road until a Method Statement for the treatment of and introduction of a turning head at Day House Lane has been submitted to and approved in writing by the Local Planning Authority. The approved works shall have been completed before the business park development is commenced and no vehicular connection shall be made to the west of the junction with Day House Lane.
- 31 Prior to the commencement of the business park development hereby approved, a detailed plan showing alterations to the junction of the Spine Road and Day House Lane shall be submitted to and approved by the Local Planning Authority in writing. Such works shall be for the purposes of changing the appearance of the entrance to Day House Lane to deter rat running. Such design may include localised narrowing of the junction, gateway features, planting, change of surfacing or such other design features that constitute a deterrent to rat running. The approved design shall be fully implemented to the satisfaction of the Local Planning Authority in accordance with an approved timetable.

Travel Plan

- 32 Prior to first occupation of the development hereby approved, a travel plan based on the WSP Framework Travel Plan (November 2010), which shall include modal shift targets and a programme of implementation, monitoring and review, shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated in accordance with the approved details.

Renewable Energy

- 33 Prior to the submission of an application for reserved matters, a feasibility report for the development of each Phase to identify how at least 10% of the energy to be used in the new development will come from decentralised and/or

renewable sources including sustainable construction methods shall be submitted to and approved in writing by the Local Planning Authority. The feasibility reports shall identify how the development will minimise CO₂ emissions, how the minimum 10% renewable energy target is to be achieved for that Phase and the mechanisms by which this will be achieved. The development shall be carried out in accordance with the approved reports.

Non-residential Development

34 All non-residential development (except where otherwise agreed in writing) shall achieve a minimum BREEAM rating of very good, evidence of which shall be submitted to and approved in writing by the Local Planning Authority that:

- a) demonstrates that the development is registered with the Building Research Establishment (BRE) under BREEAM (either a 'standard' BREEAM or a 'bespoke' BREEAM) and is accompanied by a Design Stage Assessment Report showing that the development will achieve an BREEAM rating of very good for all non-residential development; and,
- b) through a BRE issued Design Stage Certificate that demonstrates that the development has achieved a BREEAM rating of very good for all non-residential development.

None of the non-residential development hereby permitted shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a BREEAM rating of very good has been submitted to, and approved in writing by, the Local Planning Authority.

Lifetime Homes

35 At least 10% of the affordable housing shall be constructed to comply with the Lifetime Homes Standard. Prior to the occupation / use of these homes details to demonstrate how that rating is to be achieved shall be submitted to the Local Planning Authority for approval in writing, accompanied by the BREEAM Certificate. The development shall be carried out in accordance with the approved details.

Wheelchair Accessible Housing

36 Not less than 2% of the total residential development shall provide ramped access with flush thresholds into all doorways, doorway widths, space for internal circulation and for through-the-floor lift vertical circulation, and for use of a bathroom, toilet and kitchen at entry level designed to provide for wheelchair user occupiers in accordance with a plan or schedule which shall have been submitted to and approved in writing by the Local Planning Authority. These features and provisions shall be retained for so long as the buildings hereby permitted remain in use as dwelling houses.

Noise Mitigation

37 Prior to the commencement of each individual Phase of residential development pursuant to Condition 4 above, details of measures to attenuate the break-in of external noise to the proposed dwellings, and the means to provide adequate

ventilation to the dwelling shall be submitted to and approved in writing by the Local Planning Authority.

Minimising Noise

- 38 The internal noise levels to be achieved in bedrooms and living rooms in residential properties post construction is respectively 30 dB L_{AeqT} (where T is 23:00 - 07:00) and 35 dB L_{AeqT} (where T is 07:00 - 23:00). Noise from individual external events typical to the area shall not exceed 45dB L_{Amax} when measured in bedrooms and living rooms internally between 23:00 and 07:00, post construction. Noise levels in private gardens and public open spaces should not exceed 55 dB $L_{Aeq1\text{ hour}}$ when measured at any period unless otherwise agreed in writing by the Local Planning Authority.

Maximum Noise Levels from Construction and Commercial Activities

- 39 No commercial activities will be permitted where these will produce noise rating levels (measured in accordance with BS 4142) at the nearest occupied residential premises greater than -10 dB(A) below the background noise levels, without the prior written agreement of the Local Planning Authority. For the purposes of this condition, noise from customers will be considered a rateable noise and will incur an additional 5 dB(A) acoustic correction.

Storage of Oils, Fuels or Chemicals

- 40 There shall be no storage of oils, fuels or chemicals on the site other than in storage facilities constructed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

External Storage

- 41 No goods or materials of any kind shall be stacked or stored, or processes undertaken outside any unit within the employment, retail, commercial or institutional areas unless otherwise agreed in writing by the Local Planning Authority.

Construction Routes / Management Plan

- 42 Prior to the commencement of works on site a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The plan shall include:
- a) details of the number and frequency of construction vehicle movements,
 - b) a scheme for the on-site maintenance and repair of plant and other machinery,
 - c) construction operation hours,
 - d) construction vehicle routes to and from and within the site with distance details,
 - e) construction delivery hours,
 - f) car parking for contractors,
 - g) buildings, enclosures and staff facilities,

- h) specific measures to be adopted to mitigate construction impacts (including infrastructure improvements if appropriate),
- i) methods to control noise, dust, smoke and fumes during construction,
- j) a Construction Workers' Travel Plan, and
- k) a detailed Traffic Management Plan to control traffic during the construction phases.

The development shall be carried out strictly in accordance with the approved Construction Management Plan.

Construction and Delivery Hours to Sites during Construction

- 43 Unless otherwise agreed in writing by the Local Planning Authority, the hours of construction work including the waiting of vehicles to undertake deliveries and collections during construction shall not take place outside the following hours:

0730 to 1830 Monday to Friday;

0830 to 1300 Saturdays; and

Not at all on Sundays, Bank Holidays and Public Holidays.

Wheel Washing

- 44 Prior to the commencement of works on site in connection with the development hereby permitted, a procedure for the wheel washing of all construction traffic leaving any of the construction sites shall be submitted to the Local Planning Authority for approval in writing. The approved procedure shall be implemented and continued for the entire duration of works on site in connection with the development hereby permitted.