



## Department for Communities and Local Government

Mr Ian Mellor  
Barton Willmore  
101 Victoria Street  
Bristol  
BS1 6PU

Our Ref: APP/V3310/A/11/2159400  
Your Ref:

23 August 2012

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY CAVANNA HOMES AND ENSIGN GROUP  
LAND AT COKERHURST FARM, TO NORTH OF A39, WEMBDON, BRIDGWATER,  
SOMERSET TA6 7QA  
APPLICATION: REF 51/10/00022**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr David Prentis, BA BPI MRTPI, who held a public local inquiry between 24 January and 15 March 2012 into your clients' appeal against a decision of Sedgemoor District Council to refuse outline planning permission for development for about 400 - 450 dwellings, public open space, allotments, playing fields, car park for St George's Primary School, together with all associated roads, footpaths and infrastructure, including surface water attenuation ponds and landscaping at land at Cokerhurst Farm, to North of A39, Wembdon, Bridgwater, Somerset TA6 7QA in accordance with application number 51/10/00022, dated 1 October 2010.
2. On 1 September 2011, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal over 150 units on a site of more than 5 ha, 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 recommended that the appeal be **dismissed**. For the reasons given below, the **Secretary of State agrees** with the Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Matters arising after the close of the inquiry**

4. Following the close of the inquiry, the Government published the National Planning Policy Framework (March 2012) (the Framework). This document replaces those Planning Policy Guidance and Statements, Minerals Planning Guidance notes, Circulars and Letters to Chief Planning Officers set out in its Annex 3. The Planning Inspectorate's letter of 3 April 2012 invited comments on the relevance, if any, of the Framework and the Inspector has taken account of these comments in his report (IR1.8). Other representations received by the Secretary of State following the close of the inquiry were received from Cllr Ann Bown (dated 2 May 2012) and Mrs Durston (dated 4 May 2012), copies of which may be obtained on written request to the address at the foot of the first page of this letter. The Secretary of State has taken these into account in his consideration of the appeal before him, but is satisfied that they did not raise matters which would require him to refer back to parties prior to reaching his decision.

### **Policy considerations**

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. As stated in paragraph 12 of the Framework, that document does not change the statutory status of the development plan as a starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
6. In this case, the development plan comprises the *Regional Planning Guidance for the South West 2001 (RPG10)*, the *Sedgemoor Local Development Framework Core Strategy 2006 - 2027 (CS)* adopted in October 2011, including the saved policies of the *Sedgemoor District Local Plan 1991 - 2011 (LP)*, and the saved policies of the *Somerset and Exmoor National Park Joint Structure Plan Review 1991 – 2011 (SP)* (IR4.1). He considers that the development plan policies most relevant to the appeal are those referred to by the Inspector in his conclusions at IR11.98-11.111.
7. Other material considerations which the Secretary of State has taken into account include the Framework (see paragraph 4 above); *Technical Guidance to the National Planning Policy Framework* (March 2012); Circular 11/1995: *Use of Conditions in Planning Permission*; and the *Community Infrastructure Levy (CIL) Regulations 2010 and 2011*.
8. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, in this case, he agrees with the Inspector (IR11.2) that, as neither the Council nor the appellants relied on the policies of RPG10 to any great extent because of the recent adoption of the CS, the Government's intention to revoke RPG10 does not significantly alter the policy context for this appeal. He has therefore attributed limited weight to the proposed revocation in determining the appeal.

## **Main issues**

9. The Secretary of State considers that the main issues in this case are those listed by the Inspector at IR11.1, together with any potential harm to the rural character and appearance of the area and any potential loss of locally significant wildlife habitat (IR11.107).

## **The Development Plan**

10. The Secretary of State agrees with the Inspector that the recently adopted CS provides the main source of local policy (IR11.2). For the reasons given at IR11.107-11.108 and IR11.110, the Secretary of State agrees with the Inspector that the appeal proposal would be contrary to the CS and that no material considerations have been identified to indicate that the appeal should be determined other than in accordance with the development plan (IR11.108).

## **Housing Land Supply**

11. For the reasons given at IR11.3-11.6, the Secretary of State agrees with the Inspector's conclusion at IR11.6 that, in assessing whether there is a case for the release of the appeal site, the sites being taken into account should be available, suitable and achievable, with a realistic prospect that housing will be delivered within 5 years. On that basis, the Secretary of State has carefully considered the Inspector's analysis at IR11.7-11.45 and his conclusions at IR11.46-11.56 and IR11.98-1.111, including the contribution which the appeal site would make to widening choice in the housing market (IR11.55 and IR 11.106). In particular, the Secretary of State agrees with the Inspector's conclusion at 11.51 that, even with an additional 5% buffer as required in paragraph 47 of the Framework, the Council has demonstrated that there is a 5.1 year supply of deliverable housing sites in relation to the requirements of the CS. Hence, the Secretary of State agrees with the Inspector (IR11.56) that, although the appeal site is identified as a broad location for housing under CS Policy P1, release of the land now would conflict with that policy because it is not needed to maintain a 5 year supply. Furthermore, for the reasons given at IR11.100, the Secretary of State agrees with the Inspector that release of a greenfield broad location such as the appeal site before it is needed would significantly undermine the spatial strategy, and would therefore conflict with CS Policies S1, S3, D5 and P1. The Secretary of State therefore agrees with the Inspector's conclusion at IR11.107 that there is no need to release this greenfield site.

## **Affordable Housing**

12. The Secretary of State agrees with the Inspector that, for the reasons given at IR11.76-11.78, although there is not a deficiency in housing land supply, there is a pressing need for affordable housing in Sedgemoor. He also agrees with the Inspector (IR11.106) that the objectives of the Framework include boosting the supply of housing and meeting the needs for both market and affordable housing. Therefore, like the Inspector, the Secretary of State attaches significant weight to the supply of housing including affordable housing in a reasonably sustainable location. He agrees with the Inspector that these are the two most important factors weighing in favour of the appeal (IR11.106). However, for the reasons given at IR11.102, he also agrees with the Inspector that, if the appeal site is released now, the opportunity to achieve a

greater proportion of affordable houses at a later date would be lost. The Secretary of State also agrees that the fact that the affordable housing yield achieved now would be below the Council's Target B (currently 30%) (IR11.102), and so would be contrary to CS Policy D6, is one of the most important factors weighing against the appeal (IR11.107).

#### Accessibility and sustainable transport

13. Having carefully considered the Inspector's findings at IR11.57-11.64, the Secretary of State agrees with his conclusions at IR11.65-11.66 that the terms of the Undertaking and the travel plan would secure the delivery of a comprehensive package of transport measures including enhanced bus services; that the development would be reasonably accessible by a range of transport modes; and that the appeal scheme, together with the Undertaking and travel plan, would promote sustainable travel choices.

#### Highway safety and traffic conditions

14. The Secretary of State has also given careful consideration to the Inspector's comments and findings on the effect of the appeal proposals on highway safety and traffic conditions on the local highway network (IR11.67-11.74) and, for the reasons given at IR11.75, he agrees with the Inspector's conclusion at IR11.98 that the proposal would not result in material harm to highway safety or to traffic conditions on the local highway network. In coming to this conclusion, the Secretary of State recognises that the appeal scheme may add to localised congestion in Inwood Road for short periods associated around the school day, but he agrees with the Inspector that it would not conflict with CS Policy D10 which seeks to manage the transport impacts of development (IR11.75).

#### Other matters

15. The Secretary of State has carefully considered the remaining other matters at IR11.79-11.91. For the reasons given at IR11.79-11.81 and IR11.105, the Secretary of State agrees with the Inspector that there would be harm to the existing rural character and appearance of the area whilst also recognising that the contribution of green infrastructure would provide significant mitigation (IR11.81). The Secretary of State also agrees with the Inspector (IR11.82-11.86) that the appeal scheme would include significant mitigation such that the loss of habitats of local value on its own would not amount to a fundamental objection to the scheme. Nevertheless, the Secretary of State agrees with the Inspector at IR11.107 that these are both important factors to be weighed against the appeal in combination with the other factors which he lists.
16. In matters relating to flood risk and contaminated land (IR11.87 and IR11.91) the Secretary of State agrees with the Inspector that these can be dealt with by the imposition of conditions. He also agrees that the effect on heritage assets and on the living conditions of neighbouring residents (IR11.88-11.89) could be dealt with at reserved matters stage and by condition. Further, while recognising the concerns of local residents regarding the impact on community identity, he agrees with the Inspector (IR11.90) that only limited weight can be attached to this factor.

## Conditions and obligations

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions as set out at IR9.1-9.7. He is satisfied that the conditions recommended by the Inspector at Annex C to the IR are reasonable and necessary and meet the tests of Circular 11/95. However, he does not consider that these overcome his reasons for refusing the appeal.
18. The Secretary of State has also considered the Planning Obligations set out in the Unilateral Undertaking (IR10.1-10.7 and IR11.92-11.97). He agrees with the Inspector (IR11.96) that the obligations meet the relevant requirements set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and that that the document as a whole contains sufficient safeguards to ensure that the purposes of the obligations would be realised in practice (IR11.97). However, for the reasons set out above, he does not consider that the provisions contained in the Undertaking are sufficient to overcome his concerns with the appeal proposals as identified in this decision letter.

## Overall Conclusions

19. The Secretary of State concludes that the appeal is not in accordance with the development plan or with national policy within the Framework. He has therefore gone on to consider whether there are other material considerations of sufficient weight to determine the appeal other than in accordance with the development plan. The factors in favour of the scheme are that it would increase the supply of housing, including affordable housing, in a reasonably sustainable location and would widen choice in the housing market. However, against that, the Secretary of State has identified a number of factors weighing against the appeal scheme and to which he attaches greater weight. In particular, he is satisfied that there is no current need to release this greenfield site; that releasing it now would militate against delivering affordable housing at the required target level; and that it would result in harm to the rural character and appearance of the area and the loss of locally significant wildlife habitat. Overall, therefore, the Secretary of State concludes that the appeal should be dismissed and planning permission refused.

## Formal Decision

20. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses outline planning permission for development for about 400 - 450 dwellings, public open space, allotments, playing fields, car park for St George's Primary School, together with all associated roads, footpaths and infrastructure, including surface water attenuation ponds and landscaping at land at Cokerhurst Farm, to North of A39, Wembdon, Bridgwater, Somerset TA6 7QA in accordance with application number 51/10/00022, dated 1 October 2010.

**Right to challenge the decision**

21. 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.
22. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**JEAN NOWAK**

Authorised by Secretary of State to sign in that behalf

## **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.



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# Report to the Secretary of State for Communities and Local Government

by David Prentis BA BPI MRTPI

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

Date: 19 June 2012

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**TOWN AND COUNTRY PLANNING ACT 1990**

**SEDGEMOOR DISTRICT COUNCIL**

**APPEAL MADE BY**

**CAVANNA HOMES AND ENSIGN GROUP**

Inquiry opened on 24 January 2012

Land at Cokerhurst Farm, to North of A39, Wembdon, Bridgwater, Somerset TA6 7QA

File Ref: APP/V3310/A/11/2159400

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## Contents

	<i>Page</i>
List of abbreviations	(ii)
Procedural matters	1
The site and surroundings	4
The appeal proposal	5
Planning policy	6
The case for the appellants – Cavanna Homes and Ensign Group	9
The case for Sedgemoor District Council	26
Other oral representations to the Inquiry	39
Written representations	43
Conditions	45
Planning obligations	46
Inspector's conclusions	48
Inspector's recommendation	73
Annex A: Appearances	74
Annex B: Documents	75
Annex C: Conditions	80

## List of abbreviations

AMR	Annual Monitoring Report
BSFDT	Bridgwater Strategic Flood Defence Tariff – Supplementary Planning Document 2009
CPRE	Campaign to Protect Rural England
CS	Sedgemoor Local Development Framework Core Strategy 2011
DAS	Design and Access Statement
DCO	Development Consent Order
dpa	Dwellings per annum
DWH	Dennis Wilson Homes
EA	Environment Agency
FZ	Flood Zone
GTH	Greenslade Taylor Hunt
HPC	Hinkley Point C
LIR	Local Impact Report
LNR	Local Nature Reserve
LP	Sedgemoor District Local Plan 1991 - 2011
LSR	Sedgemoor 5 Year Land Supply Report – December 2011
RPG10	Regional Planning Guidance for the South West
NDR	Northern Distributor Road
NE	Natural England
NEB	North East Bridgwater
NPV	Net Present Value
PfG	Planning for Growth
PPS3	Planning Policy Statement 3: <i>Housing</i>
SAC	Special Area for Conservation
SCC	Somerset County Council
SHLAA	Strategic Housing Land Availability Assessment 2009
SoCG	Statement of Common Ground
SM	Scheduled Monument
SP	Somerset and Exmoor National Park Joint Structure Plan Review 1991 - 2011
SPA	Special Protection Area
SUDS	Sustainable Urban Drainage System
WPC	Wembdon Parish Council
Barratts	Barratt Homes Ltd
the Framework	The National Planning Policy Framework
Hallam	Hallam Land Management
the Undertaking	The Unilateral Undertaking dated 20 March 2012

**File Ref: APP/V3310/A/11/2159400**

**Land at Cokerhurst Farm, to North of A39, Wembdon, Bridgwater, Somerset TA6 7QA**

- 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 Cavanna Homes and Ensign Group against the decision of Sedgemoor District Council.
- The application Ref 51/10/00022, dated 1 October 2010, was refused by notice dated 7 March 2011.
- The proposal is development for about 400 - 450 dwellings, public open space, allotments, playing fields, car park for St George's Primary School, together with all associated roads, footpaths and infrastructure, including surface water attenuation ponds and landscaping.

**Summary of Recommendation: That the appeal be dismissed.**

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**PROCEDURAL MATTERS**

- 1.1 The Inquiry sat for 8 days from 24 – 27 January 2012 and on 6, 7, 14 and 15 March 2012. The site visit took place on 15 March 2012. In addition, I carried out unaccompanied visits to the site and surrounding area on 23 January 2012 and to some of the housing land supply sites referred to in the evidence at various times during the course of the Inquiry.
- 1.2 The application was in outline with all matters other than access reserved for subsequent consideration. At the Inquiry the appellants requested that the proposal be amended by the deletion of the proposed car park for St George's Primary School. No party would be prejudiced by this amendment which would reduce the scope of the application. My report and recommendation is made on the basis of the amended description of development which is:  
  
*Development for about 400 - 450 dwellings, public open space, allotments and playing fields, together with all associated roads, footpaths and infrastructure, including surface water attenuation ponds and landscaping.*
- 1.3 The appeal was recovered for determination by the Secretary of State by letter dated 1 September 2011<sup>1</sup> for the following reason:  
  
*The appeal involves proposals for 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.*
- 1.4 The Council refused outline planning permission for the following reasons:
  - (1) The site is located outside of the development boundary for Wembdon, or any recognised development limit as defined within the adopted Sedgemoor District Local Plan and is in the open countryside where development is strictly controlled. Policy STR3 of the Local Plan and Policies STR1 and STR6 of the Exmoor National Park Joint Structure Plan Review and PPS7 controls new house building in the countryside and only exceptionally supports development where it will benefit

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<sup>1</sup> Document ID/3

economic activity, will maintain or enhance the environment, and will not increase the need to travel. The proposal to develop up to 450 dwellings is contrary to these policies. There is no justification for early release of this land given existing strategic priorities, and accordingly the development is premature and therefore the proposal is contrary to the above quoted Policies as well as Policies D5, S3, P1 and P6 of the Emerging Core Strategy.

- (2) The proposed development would derive access from the A39 County Route. Policy 49 of the Structure Plan states that development should provide safe access to roads of adequate standard within the route hierarchy and, unless the special need for and benefit of a particular development would warrant an exception, not derive access directly from a national Primary or County Route. In the absence of a special need or benefit arising from this housing development, the development would be contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review.
- (3) In the absence of appropriate information, including the lack of a travel plan, the Local Planning Authority are unable to make a full assessment of the traffic impact of this proposal on the highway network. In the absence of this, the Local Planning Authority considers that the proposal could have a detrimental impact on traffic flows and could be contrary to Policy TM1 of Sedgemoor District Local Plan, Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan and D9 and D10 of the Emerging Core Strategy and advice in PPG13.
- (4) The development would deliver an overprovision of parking for the adjacent school site, which is in conflict with Somerset County Council's adopted Local Transport Plan and the provisions of PPG13.
- (5) The site lies within a landscape of important archaeological assets with the early-medieval cemetery immediately to the north of the site which is particularly significant. Taking into account the known sites in the vicinity, the overall archaeological potential for the proposed site is high. There is insufficient information submitted to enable the Local Planning Authority to make a full assessment of the impact that this proposal would have on any archaeological assets and, in the absence of this, the Local Planning Authority considers that the proposal would be contrary to Policies HE9 and HE12 of Sedgemoor District Local Plan and PPS5 and Policy D17 of the Emerging Core Strategy.
- (6) There is insufficient provision in the form of Section 106 contributions to support: affordable housing; education; children's play areas and public open space enhancements and flood defences. Therefore the development is contrary to Policies H30, RLT2, RLT3 and the Supplementary Planning Document – Bridgwater Strategic Flood Defence Tariff and Policy S2 of the Emerging Core Strategy.
- (7) The site comprises a sloping site which is prominent within the landscape and within the area allocated in the Local Plan as a Green Edge, Wedge or Strategic Gap. It is considered that the development of this land as proposed would have an adverse impact on the character of the landscape and surrounding area by virtue of the undue

sprawl detracting from the natural environment. As such, the proposal is contrary to Policies CNE2 and CNE4 of Sedgemoor District Local Plan and D14 of the Emerging Core Strategy.

- 1.5 The development plan position has moved on since this decision with the adoption of the Sedgemoor Local Development Framework Core Strategy in October 2011. Policies STR3, TM1 and CNE2 of the Sedgemoor District Local Plan are no longer saved and thus do not now form part of the development plan.
- 1.6 A draft Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 was discussed between the parties during the course of the Inquiry. The final draft<sup>2</sup> was submitted before the close of the Inquiry although it had not been signed at that stage. I allowed a short period following the close of the Inquiry for a signed version to be submitted (*the Undertaking*)<sup>3</sup>. The Undertaking would provide for: (1) the delivery of affordable housing; (2) a deferred affordable housing contribution; (3) the provision and future management of public open space; (4) the transfer of land to enable the expansion of St George's Primary School; (5) the provision of allotments and the transfer of allotment land to the Council; (6) a contribution to flood defence; (7) a contribution to sports facilities; (8) a contribution to education; (9) contributions to off-site junction improvements; (10) the implementation of a travel plan; (11) a contribution to bus services; (12) a contribution to pedestrian and cycling improvements; (13) a school travel plan contribution; and (14) the implementation of highway works at the access points to the site and the provision of bus stops within the site. I shall comment further on these matters in the relevant sections of my report.
- 1.7 As a result of the discussions which took place during the course of the Inquiry in relation to highways matters, the travel plan and the Undertaking, the Council did not pursue the 2<sup>nd</sup> and 3<sup>rd</sup> reasons for refusal. Following the amendment of the scheme by the deletion of the car park for St George's Primary school, the Council confirmed that it would no longer pursue the 4<sup>th</sup> reason for refusal. Further survey work had been carried out in relation to the archaeological potential of the site. As a result of this the Council and the appellants agreed that this matter could be addressed by way of a condition, thereby resolving the 5<sup>th</sup> reason for refusal. The Council's 6<sup>th</sup> reason for refusal was resolved by agreements reached with the appellants on the Undertaking. With regard to the 7<sup>th</sup> reason for refusal, the Council did not pursue an objection in principle on the grounds of landscape impact. Rather, it argued that the premature release of the site would result in harm to the landscape in advance of any need to incur such harm.
- 1.8 The National Planning Policy Framework (*the Framework*) was published after the close of the Inquiry. An opportunity was given for those who appeared at the Inquiry to make further written comments in the light of the Framework and the consequential replacement of previous policy and guidance<sup>4</sup>. I have taken account of the comments received in my report.

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<sup>2</sup> Document CHEG/24

<sup>3</sup> Document ID/10

<sup>4</sup> The post Inquiry correspondence is at Documents PIC/1 – PIC/13

## THE SITE AND SURROUNDINGS

- 2.1 The site is described in the Statement of Common Ground<sup>5</sup> (SoCG) and in the evidence<sup>6</sup>. It is located about 2km to the west of Bridgwater town centre and adjoins the edge of the urban area. To the north, it is bounded by residential development along Wembdon Hill. Within Wembdon there is a local shop/post office, church, community hall and Wembdon Common. To the east there are residential roads within Wembdon and St George's Primary School. There is a complex of farm buildings at Cokerhurst Farm, adjoining the north west corner of the site. The farmhouse and old barns are Grade II listed buildings. These are set within an extensive curtilage which includes a fishing lake to the south of the farmhouse. The appeal site boundary includes a link through to the access drive to Cokerhurst Farm. To the west and south of the main body of the site there is open agricultural land. The southern section of the site has a frontage to the A39 Quantock Road, beyond which there is a cemetery.
- 2.2 The site comprises around 22.31ha of agricultural land, divided internally and bounded by hedgerows interspersed with trees. The topography of the wider landscape consists of an undulating landscape of ridges and vales to the west of Bridgwater, forming the foreground to the Quantock Hills. The main body of the appeal site is within an east/west aligned valley, defined to the north by Wembdon Hill which runs along a ridge. A stream runs through the centre of the site. To the south of the stream the land rises to a second ridge of similar elevation to Wembdon Hill, which aligns with the southern boundary of the main body of the site, about 250m north of Quantock Road. To the south of this ridge the land slopes down to Quantock Road, which runs along the valley floor. Beyond Quantock Road the land rises to a further ridgeline which separates the suburb of Durleigh from Wembdon.
- 2.3 Near distance views of the site can be obtained from Quantock Road, from Skimmerton Lane, (which runs to the west), and from the two public footpaths which run close to the site<sup>7</sup>. There are also private views from the residential properties which back onto the site. The views from Quantock Road are limited by roadside vegetation and topography. The southern part of the site can be seen from the cemetery but the main body of the site is screened by the southern ridgeline. In general, the greater part of the site is enclosed by topography and built development so that there are only limited opportunities for middle or longer distance views.
- 2.4 The site is not subject to any statutory landscape, heritage or nature conservation designations. As noted above, there are listed buildings at Cokerhurst farm. St John's Well is a Scheduled Monument (SM) which lies outside of the site to the east. An archaeological evaluation of the site has been carried out including trial trenches. This confirmed that some parts of the site have potential for archaeological interest associated with past settlement in the

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<sup>5</sup> Document ID/9

<sup>6</sup> There is a description at Section 3 and a photographic survey at Appendices A and B of Document CHEG/3. Figure 2-3 in Document ID/10 shows the location of the site in relation to the town centre and other community facilities.

<sup>7</sup> The footpaths are shown on the aerial photograph at Appendix A to Document CHEG/3.

Iron Age. However, these areas are not of sufficient significance to be worthy of preservation in situ<sup>8</sup>.

- 2.5 The Ecological Appraisal<sup>9</sup> identifies features of ecological significance within the site, including a number of important hedgerows, the presence of commuting and foraging bats and a badger sett which is now thought to be disused. Although no bat roosts were identified some mature trees may have potential to support roosting bats. The majority of the habitat within the site is assessed to be of negligible to low ecological value, although it does support some habitat of local value including mature trees, hedgerows and the stream corridor. There are a number of records of notable and protected bird species within the site although the majority are historical. The hedgerow network and areas of semi-natural woodland are assessed as providing suitable nesting and foraging habitat for breeding birds.
- 2.6 The Ecological Appraisal also notes that there are 3 international statutory designated sites for nature conservation within 10km of the site. The River Parrett, approximately 3.5km to the north, is part of the Severn Estuary Special Protection Area (SPA), Special Area for Conservation (SAC) and Ramsar Site. Hestercombe House SAC is approximately 9km to the south west and the Somerset Levels and Moors SPA and Ramsar Site is approximately 9.8km to the east and north east. In addition, the Screech Owl Local Nature Reserve (LNR) is approximately 4.5km to the south east and there are 35 non-statutory designations within 5km. The interest features and conservation importance of all these sites are set out in the Ecological Appraisal.
- 2.7 Wembdon is linked to the town centre by an hourly bus service. There are no services in the evenings or on Sundays<sup>10</sup>

## THE APPEAL PROPOSAL

- 3.1 Prior to the submission of the application a screening opinion was requested from the Council. This confirmed that the proposal was not Environmental Impact Assessment development for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999<sup>11</sup>.
- 3.2 The application is in outline, with access to be determined at this stage. The application includes details of the proposed signal controlled junction at the site access to Quantock Road<sup>12</sup>. The application documents include a Design and Access Statement (DAS), Masterplan and Landscape Strategy plan<sup>13</sup> which provide indicative details of the proposed scheme. The proposal is described in

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<sup>8</sup> Inspector's note: The areas of potential interest are shown on plan EDP 728/09 attached to Document CHEG/5 and also at Appendix 4 to Document ID/9.

<sup>9</sup> Document CD/1/10

<sup>10</sup> Inspector's note: Public transport services are described in section 5 of Appendix 4 to Document CHEG/2/2.

<sup>11</sup> Inspector's note: The 1999 Regulations have since been replaced by the 2011 Regulations. The proposal has been screened by The Planning Inspectorate and has been found not to be Environmental Impact Assessment development.

<sup>12</sup> Plan 10164/101/006 at Document CD/2/2

<sup>13</sup> DAS at Document CD/1/4, Masterplan at Document CD/2/3 and Landscape Strategy at Document CD/2/4

the DAS which includes details of the proposed scale and density of development. The proposal is for 400 to 450 dwellings with a range of sizes, types and tenures, including 20% affordable housing. The density would range from 25 to 45 dwellings per hectare with an average of 35 dwellings per hectare. Most of the buildings would be 2 storeys although there would be 2½ and 3 storey buildings in some parts of the site.

- 3.3 The main movement route would run from the new junction at Quantock Road to Inwood Road. It is anticipated that this would be a bus route and the Undertaking makes provision for the funding of additional bus services and the creation of bus stops within the site. The new junction would include crossing facilities for pedestrians and cycles. There would also be pedestrian and cycle access to Wembdon Hill at the north eastern and north western corners of the site and to Lyndhurst Crescent and Quantock Meadow to the east of the site.
- 3.4 The Masterplan and Landscape Strategy plan show proposals for green infrastructure. These include substantial areas of public open space adjacent to Quantock Road and along the stream. There would be 3 equipped children's play areas and allotments are proposed in the western part of the site. The landscape proposals include strategic landscape buffers to the south and west of the main body of the site. Part of the site is shown as an expansion area for St George's Primary School. Somerset County Council (SCC) has confirmed that the intention would be for the school to expand onto its existing open spaces, with the expansion area being used for a replacement sports field<sup>14</sup>.
- 3.5 The scheme would include a sustainable urban drainage system (SUDS) with balancing ponds adjacent to the stream being provided to attenuate surface water run-off. The ponds would be designed with shallow edges and reed planting in the interests of safety and habitat creation. The Ecological Appraisal recommends various mitigation measures including the retention of existing trees and hedgerows wherever possible and the use of new planting to improve the connectivity of wildlife corridors.

## PLANNING POLICY

- 4.1 The development plan includes the Regional Planning Guidance for the South West 2001 (RPG10)<sup>15</sup>, the Sedgemoor Local Development Framework Core Strategy 2006 - 2027 (CS)<sup>16</sup> adopted in October 2011, including the saved policies of the Sedgemoor District Local Plan 1991 - 2011 (LP)<sup>17</sup>, and the saved policies of the Somerset and Exmoor National Park Joint Structure Plan Review 1991 – 2011 (SP)<sup>18</sup>.
- 4.2 The Localism Act includes provision for the revocation of regional strategies, including RPG10. However, in this case neither the Council nor the appellants relied on the policies of RPG10 to any great extent because of the recent

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<sup>14</sup> See Document TP/5

<sup>15</sup> Supporting document 3 to Document SDC/1/1

<sup>16</sup> Document CD/4/2

<sup>17</sup> Document CD/4/3

<sup>18</sup> Appendix 7 at Document SDC/1/1



adoption of the CS<sup>19</sup>. Consequently, the Government's intention to revoke RPG10 does not significantly alter the policy context for this appeal.

- 4.3 The SoCG identifies a wide range of development plan policies – the following are those most pertinent to the appeal. CS Policy S1 sets out the spatial strategy for the District in which Bridgwater is identified as the principal town and the focus for housing, employment and retail growth. It states that priority will be given to development opportunities in the identified settlements that contribute to regeneration, viability and vitality, normally on previously developed land. Policy S3 seeks to promote sustainable development principles. Amongst other matters, it prioritises the use of previously developed land within settlements. Policy D5 sets out an overall requirement for 10,605 new homes in the District between 2006 and 2027. It states that the Council will manage housing delivery through its housing trajectory, ensuring that a 5 year deliverable supply is maintained. Part of the evidence base for the CS was an independent locally based assessment of housing requirements<sup>20</sup>. Another component of the evidence base was the Council's Strategic Housing Land Availability Assessment 2009 (SHLAA)<sup>21</sup>.
- 4.4 Policy P1 is a place-making policy which applies the strategic policies of the CS to the town of Bridgwater. Amongst other matters it sets out objectives for the town and identifies a number of Bridgwater Vision Transformational Projects. With regard to housing, Policy P1 defines 3 sequential priorities. The first priority is the development of brownfield sites and a strategic mixed use urban extension at North East Bridgwater (NEB). Where it can be demonstrated that a 5 year supply of deliverable land for housing is not available, the second priority is development at 3 broad locations on the edge of the urban area. The appeal site falls in one of these broad locations, described in the CS as "land at Wembdon – adjacent to Wembdon development boundary and north of the A39". The third priority is other greenfield sites identified in the SHLAA as having future potential. These are only to be considered when there is not a 5 year supply, having regard to the first two priorities. The CS includes target M1 which is that 70% of new housing and employment in the District should be at Bridgwater. However, this is a monitoring target and does not have the status of policy.
- 4.5 CS Policy D6 deals with affordable housing. It states that the Council will negotiate appropriate provision on a site by site basis, having regard to two Policy Targets – Target A which is the optimum and Target B which is the minimum level, taking account of viability and delivery. For the appeal site these targets would be, respectively, 40% and 30% of the units being delivered as affordable homes. From 2016 Target B is expected to rise to 40% although this would depend on monitoring. Policy D6 states that, exceptionally, the Council may support provision below Target B where this is justified on viability grounds and where the proposal would address a housing land supply deficiency and/or deliver other plan objectives.

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<sup>19</sup> Inspector's note: The Council did refer to a table in Annex A to RPG10, a matter I shall comment on further below.

<sup>20</sup> Housing Requirement for Sedgemoor and Bridgwater at Appendix 3 to Document SDC/1/1

<sup>21</sup> Document CD/5/2

- 4.6 CS Policy S2 relates to the provision of appropriate infrastructure to support development. Policy D1 states that proposals in Flood Zones (FZ) 2 and 3 will only be permitted where the Sequential Test is passed, unless the proposed use is allowable under national policy on flood risk or the site is allocated or identified in the CS. Policy D3 sets out requirements relating to the Code for Sustainable Homes. Policy D9 promotes sustainable transport and movement and Policy D10 seeks to manage the transport impacts of development. Policy D11 promotes employment and economic development and, amongst other matters, safeguards existing employment land and buildings. Policy D14 aims to protect the character and quality of the landscape. Policy D17 seeks to enhance and maintain the historic environment.
- 4.7 An application for a Development Consent Order (DCO) has been made to the Infrastructure Planning Commission<sup>22</sup> relating to a new nuclear power station at Hinkley Point C (HPC). The Secretary of State will consider the application in 2013. The CS recognises that the Council is not the determining authority for Nationally Significant Infrastructure Projects. Policies MIP2 and MIP3 are intended to guide the Council's response to the HPC proposal, including the preparation of a Local Impact Report (LIR).
- 4.8 Saved LP Policies HE9 and HE12 seek to protect archaeological remains and the archaeological potential of sites. Policy RLT2 seeks to secure appropriate provision for children's outdoor playing space and Policy RLT3 states that housing developments should contribute towards the provision of sports facilities. Policy CNE4 relates to Green Wedges, Green Edges and Strategic Gaps which are defined on the Proposals Map and seeks to maintain the landscape character and urban containment functions of such areas. This designation applies to the southern part of the appeal site.
- 4.9 Saved SP Policy STR1 promotes a sustainable pattern of development which minimises the need to travel and maximises the potential use of public transport, cycling and walking. Policy STR6 seeks to restrict development outside defined settlements. Policy 49 states that proposals should provide safe access to roads of adequate standard within the route hierarchy and, unless the need for a particular development warrants an exception, should not derive access from a National Primary Route or a County Route.
- 4.10 The Council has adopted the *Bridgwater Strategic Flood Defence Tariff* Supplementary Planning Document 2009 (BSFDT)<sup>23</sup>. This document provides a strategic response to managing flood risk in Bridgwater. It sets out a methodology for requiring contributions towards the design and implementation of the proposed Parrett Barrier – a surge barrier which would be raised at times of extreme high tides to protect Bridgwater from tidal flooding.

#### National planning policy

- 4.11 As noted above, the Framework was published following the close of the Inquiry. The Framework replaces a number of Planning Policy Statements and Guidance Notes which had been referred to in the evidence, including Planning

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<sup>22</sup> The Infrastructure Planning Commission has since been merged with the Planning Inspectorate.

<sup>23</sup> Supporting document 4 to Document SDC/1/1

Policy Statement 1: *Delivering Sustainable Development*; Planning Policy Statement 3: *Housing* (PPS3); Planning Policy Statement 5: *Planning for the Historic Environment*; Planning Policy Statement 9: *Biodiversity and Geological Conservation*; Planning Policy Guidance Note 13 *Transport*; Planning Policy Guidance Note 17: *Planning for Open Space, Sport and Recreation* and Planning Policy Statement 25: *Development and Flood Risk*.

- 4.12 The policies in the Framework are material considerations for the purposes of this appeal. These policies include a presumption in favour of sustainable development, although this does not change the statutory status of the development plan as the starting point for decision making. The social dimension of sustainable development includes supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. Section 6 of the Framework sets out further policies designed to deliver a wide choice of high quality homes.
- 4.13 Annex 1 of the Framework deals with implementation. At present, full weight can be given to policies, such as the policies of the CS, which have been adopted since 2004 even if there is a limited degree of conflict with the Framework. In other cases, such as the saved policies of the LP, the Framework will outweigh the saved policies where there is any degree of conflict.

## **THE CASE FOR THE APPELLANTS – CAVANNA HOMES AND ENSIGN GROUP**

*The main points are:*

### **Introduction**

- 5.1 The site is recognised as an appropriate location for a sustainable urban extension. Properly assessed, the Council does not have a 5 year supply of deliverable housing land. The appeal site is available now and could deliver 240 dwellings within the 5 year period. It would be completed by 2020<sup>24</sup>. Release of the appeal site would thus accord fully with the CS, in particular with Policies P1 and D5. Moreover, it would contribute to the objectives of the CS and would ensure that the Council's land supply is better prepared to meet the challenges that the development of HPC would bring.
- 5.2 The publication of the Framework is a key material consideration. The Ministerial foreword states:

*Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan and every decision.*

The appeal scheme will deliver the three dimensions of sustainable development, (economic, social and environmental), required by paragraph 7 of the Framework.

### **Reason for Refusal 1 – prematurity/housing land supply**

- 5.3 A number of general points can be made. First, the appeal site is recognised as a location which is "in principle" acceptable for residential development under CS Policy P1, subject only to a demonstration of need. The report of the

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<sup>24</sup> See paragraph 5.102 of Document CHEG/1

Inspector who examined the CS noted that the potential of the land as a necessary and sustainable housing location for Bridgwater has long been recognised. The report stated that there were no preferable alternative locations free of flood risk to ensure the fulfilment of the CS with regard to maintaining the target housing land supply in Bridgwater and that the selection of Cokerhurst Farm as a broad location for development was justified<sup>25</sup>. The appeal site is immediately adjacent to the Wembdon development boundary, to the north of the A39 which is accepted by the Council as the only sensible route for a primary access to the site. The Council's witnesses did not suggest that there could be any location, other than the appeal site, for a scheme of 450 dwellings within the Wembdon "broad location" referred to in Policy P1. Moreover, the comments of the CS Inspector were made in the context of plans relating to the current appeal site.

- 5.4 Second, CS Policy S1 states that Bridgwater will be the focus for the District's housing, employment and retail growth. Although defined as a Key Rural Settlement in the same policy, the CS makes clear that Wembdon forms part of the larger urban area which it adjoins and that Policy P1 is therefore relevant. Third, the appeal site is in FZ1, whereas virtually all of the Council's potential land supply is in FZ3. The Framework reaffirms the importance of the sequential test, stating at paragraph 101 that the aim of the test is to steer new development to areas with the lowest probability of flooding. On a proper application of the sequential test the appeal site is preferable to most of the housing sites identified by the Council.
- 5.5 Fourth, as the CS Inspector notes, the appeal site is in a sustainable location for residential development. The scheme includes measures which would enhance sustainability, including £325,000 in funding for a bus service which would link new bus stops within the site to the town centre. Pedestrian and cycle accessibility would be enhanced by the measures set out in the travel plan<sup>26</sup> and, if the relocation of Haygrove School proceeds, the Undertaking would secure the provision of a pedestrian/cycle route to that site along the A39. Further measures, including travel vouchers and travel packs, would contribute to achieving a 13% modal shift in favour of sustainable forms of transport<sup>27</sup>. The proximity of local facilities is described in the travel plan. On this point, it is unclear why the Council's highways witness sought to rely on the maximum walking distances set out in the appendix to RPG10<sup>28</sup>. Those figures are no more than interim guidance and, in any event, the key criteria of walking distances to a food shop and primary school would be met in this case. The requirement for accessibility to other facilities is that they should either be within walking distance or accessible by public transport. That requirement would also be met. Works are proposed to enhance the junction at West Street/North Street/A39 Broadway and a contribution of over £200,000 is proposed to mitigate traffic impacts and assist the working of other junctions in the locality.

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<sup>25</sup> See paragraph 41 of the Inspector's report at Appendix 5 of Document SDC/1/1

<sup>26</sup> See figure 4-1 of the travel plan attached to Document ID/10

<sup>27</sup> See table 6.2 of the travel plan attached to Document ID/10

<sup>28</sup> Document ID/8

- 5.6 The Council's written comments on the Framework<sup>29</sup> suggest that the appeal proposal conflicts with the principle of managing patterns of growth to make the fullest use of public transport, walking and cycling. However, at the Inquiry the Council accepted the Undertaking and Travel Plan and did not object on grounds of accessibility or sustainability. The same comments draw attention to the support the Framework gives to mixed use development. This, it is argued, gives support to the priority the Council attaches to the delivery of NEB ahead of the appeal site. Whilst it is true that the appeal proposal is not for mixed use, in this respect it is no different to many other pure housing sites in the Council's supply.
- 5.7 Fifth, it became clear during the Inquiry that the main thrust of local opposition to the scheme relates to highways impact, a point which was confirmed in cross examination by the Chairman of the Parish Council<sup>30</sup>. This does not amount to an "in principle" objection to release of the appeal site. Furthermore, after very detailed consideration the Highway Authority has now withdrawn its objections. Sixth, the Council relies on its record of completions over recent years. However, past performance is of limited relevance because it does not shed any light on whether the Council is now reliant on exaggerated assumptions of delivery from SHLAA sites, many of which have been around for a while and are beset by various obstacles. In respect of NEB, the Council's position has been much influenced by a developer whose representations are aimed at removing a perceived competitor and which are unjustified. Finally, the Council recognises the appeal site as part of its 6 – 10 year supply – the issue as to the release of the appeal site is a question of "when" and not "if".
- 5.8 Turning to the differences between the Council and the appellants on the housing land supply in Sedgemoor, it is important to recall that the burden of proof is on the Council to justify the inclusion of any given site in its supply. This is consistent with the approach of the Framework and the SHLAA practice guidance. The tests of deliverability are that the site is available, suitable and achievable with a realistic prospect that housing will be delivered within 5 years. Where it is not known when a site could be developed, it should not be regarded as deliverable<sup>31</sup>. The same must apply to parts or phases of a site, especially on large schemes.
- 5.9 The Council's written comments on the Framework do not apply footnotes 11 and 12 correctly. It is suggested that, following the replacement of PPS3, it is no longer necessary for the Council to produce robust evidence of deliverability in respect of sites which have planning permission. However, read properly, the footnotes make clear that it is still necessary for planning authorities to consider viability, together with a range of other factors which may affect deliverability. In this context it is important to note that the SHLAA guidance<sup>32</sup> has not been replaced. The Council also relies on paragraph 48 of the Framework which states that an allowance may be made for windfalls as part of the land supply. The Council omits to mention that residential garden sites should not be

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<sup>29</sup> See Document PIC/6

<sup>30</sup> Inspector's note: In answer to a question from Mr Tabachnik, Mr Solomon agreed that traffic is the main concern of the Parish Council.

<sup>31</sup> See paragraphs 34 and 40 of Document CHEG/7

<sup>32</sup> See Document CHEG/7

included. It is likely that the past delivery of windfall sites included a significant number of garden sites. In any event, there has been no robust examination of the data submitted and it should not be relied on. Finally, the Council emphasises the absence of the text previously found in paragraphs 70 and 71 of PPS3. That point fails to grasp the fundamental change in approach brought in by the Framework which requires local planning authorities to approach decision taking in a positive way to foster the delivery of sustainable development<sup>33</sup>.

5.10 The appellants' position at the close of the Inquiry was that the Council has 4.38 years supply, representing a shortfall against the 5 year requirement of 355 units. The appellants' subsequent written comments on the Framework draw attention to paragraph 47 which refers to the need for 5 years supply plus a 5% buffer. When allowance is made for the buffer, the appellants calculate that the shortfall rises to 499 units and the supply falls to 4.1 years<sup>34</sup>. The two approaches are set out in the following table<sup>35</sup>.

	<i>Position at close of Inquiry</i>	<i>With addition of 5% buffer</i>
Annual requirement	481	505
5 year requirement (including the current year)	2,886	3,030
<i>Supply:</i>		
SHLAA sites	295	
Commitments (5 units or more, excluding NEB)	1,493	
NEB	470	
Small sites	273	
Total supply	2,531	2,531
Undersupply	355	499
Supply in years	4.38 years	4.1 years

<sup>33</sup> See paragraphs 3.4, 3.7 to 3.10 and 3.13 to 3.14 of Document PIC/6

<sup>34</sup> See Document PIC/2

<sup>35</sup> Inspector's note: The figure of 4.38 years is given in the closing submissions and confirmed in Document PIC/2. However, my calculation, based on the appellants' figures, is as follows. If the undersupply (355) is divided by the annual requirement (481) this gives an undersupply, in years, of 0.74 years. The supply is therefore  $5.0 - 0.74 = 4.26$  years. A similar approach to the position with the 5% buffer would give a supply of 4.01 years.

## The SHLAA sites

### *East of Bristol Road/Livestock Market (Council – 50 units; appellants – 0 units)*

- 5.11 The site has manifest access difficulties, with the present access point onto the A39 being inadequate for residential development. The access point faces the embankment to a bridge over the adjoining railway line. The slip road offers an unsatisfactory obliquely angled access to the A39 with no left turn being available. The SHLAA entry notes that highway access is limited and will be a significant determinant in the site being comprehensively considered<sup>36</sup>. There is no alternative access, as there are only very minor roads linking to Bristol Road to the west. The Council's suggestion that access could be gained across playing fields to the north would have its own difficulties in planning policy terms.
- 5.12 The Council's 5 Year Land Supply Report (LSR) notes that there are some contamination issues to overcome<sup>37</sup>, apparently a reference to the fact that part of the land east of Bristol Road was a landfill site. The SHLAA entry referred to above also mentions contamination in respect of the former livestock market. There are no reports or investigations as to the extent to which there may be contaminants under the site which may affect the viability of redevelopment. The former livestock market is partially occupied by a tyre/vehicle repair business and by a large grain silo and buildings used by an animal feed company. Accordingly, the site is not available for development at present. In any event, loss of the unallocated livestock market site to housing would be contrary to the employment led approach of the CS. In the absence of any demonstration that there is no likelihood of redevelopment for employment purposes residential development would be contrary to CS Policy D11.
- 5.13 The land east of Bristol Road is used by local people as an informal recreation area<sup>38</sup>. It is likely that public rights to use this field have been acquired by prescription. In any event, the site satisfies the description of public open space. There may well therefore be a policy objection to redevelopment until such time as it has been shown to be surplus to requirements. In addition, the SHLAA entry refers to possible constraints such as archaeology and ecology. At present, it is not possible to say what impact these matters would have.
- 5.14 The east of Bristol Road site is sequentially inferior to the appeal site for two reasons. First, it has reverted to greenfield status – a point which was accepted by the Council's planning witness<sup>39</sup>. Subsequent to the Inquiry, the Framework has provided a definition of previously developed land which excludes parks and recreation grounds. CS Policy P1 sets out a sequential hierarchy for the development of sites at Bridgwater. The appeal site has been identified in the CS as a broad location for future development and should therefore be developed before other greenfield sites. Second, the site is in FZ3. Having regard to CS Policy D1, when applying the sequential test to this site the

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<sup>36</sup> See reference H261 in Document CD/5/2

<sup>37</sup> See references H261 and 266 in Appendix 4 of Document SCD/1/1

<sup>38</sup> See Appendix 10.5 of Document CHEG/1

<sup>39</sup> Inspector's note: In answer to a question from Mr Tabachnik, Mr Tait accepted that the site had reverted to a greenfield state. This answer was given in the context of PPS3, which has since been replaced by the Framework.

relevant area of search is the urban area of Bridgwater. As there is a note within CS Policy S1 to the effect that Wembdon forms part of the urban area of Bridgwater, the area of search must include the appeal site. This site fails the sequential test because Cokerhurst Farm is at a lower risk of flooding.

- 5.15 In conclusion, although the east of Bristol Road site was allocated in the LP of 2004, nothing has happened in the intervening years. There is as yet no planning application in respect of the combined site and no evidence of significant progress through the planning system. The Council relies on a development agreement which it, as site owner, has with David Wilson Homes (DWH). However, the appellant's planning witness explained that such agreements are commonly entered into where potential developers are merely investigating a site and that the existence of an agreement does not in itself indicate that a site is deliverable<sup>40</sup>. The Council puts the site at the very back of the 5 year period in its LSR<sup>41</sup>. In the appellants' view this is a hopeless site which should not be included.

*Crypton, Bristol Road (Council – 40 units; appellants – 0 units)*

- 5.16 There is evidence that the site is not available now and that the planning application has been abandoned or "put on ice". The application proposed that Elemis would occupy 5000sqm of the 6203sqm of employment floorspace in a mixed use redevelopment. However, Elemis has now moved elsewhere and has no further interest in the site<sup>42</sup>. Without Elemis there can be no certainty that the scheme will come forward. The Council resolved to grant planning permission, subject to a S106 Agreement, in October 2010 some 17 months ago. No permission has been issued because the Agreement has not been completed. This lack of progress no doubt reflects the fact that the commercial justification for the scheme has fallen away. This conclusion is reinforced by the fact that the site remains about ¾ full and that some units have recently been advertised for 3 year terms<sup>43</sup>. Whilst the precise terms of any leases are not known, this recent letting activity is evidence that there are no immediate plans to redevelop the site. The site owner's future intentions are a matter of speculation.
- 5.17 The planning application was pursued by the site owner and the Council's planning witness was not aware of the involvement of any housing developer<sup>44</sup>. The design of the properties involves no habitable accommodation at ground floor level due to the risk of flooding<sup>45</sup>. This has no doubt made the site unattractive to potential housing developers and further explains why there has been limited progress since the resolution to grant planning permission.
- 5.18 Material considerations that arise between a resolution to grant planning permission and the issue of a planning permission must be considered by the relevant local planning authority. This is established by *Kides v South*

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<sup>40</sup> Inspector's note: These comments were made in oral evidence in chief from Mr Mellor.

<sup>41</sup> See page 44 of Appendix 4 to SDC/1/1

<sup>42</sup> See page 67 of Document CHEG/1/1 and Document ID/7

<sup>43</sup> See pages 104 – 113 of Document CHEG/1/1

<sup>44</sup> Inspector's note: Mr Tait accepted this point in answer to questions from Mr Tabachnik

<sup>45</sup> See page 87 of Document CHEG/1/1



*Cambridgeshire District Council* [2002] EWCA Civ 1370<sup>46</sup>. In relation to this site, the Council must consider the implications of the adoption of the CS in October 2011 with regard to the sequential test for flood risk and with regard to the loss of employment land. As to flood risk, the site is in FZ3. The Environment Agency (EA) withdrew its initial objection because the Council told it that the relevant tests had been passed. The basis on which that advice was given is not clear from the officer's report<sup>47</sup>. In any event, CS Policy D1 now requires a sequential comparison with other Bridgwater sites, including the appeal site, for the reasons explained in relation to the previous SHLAA site. With regard to employment, the planning application scheme proposes a significant reduction in employment floorspace. There was no explanation with the application as to why such a reduction was justified in the light of CS Policy D11. If the Council were to grant planning permission without addressing these matters it is likely that the permission would be subject to legal challenge by the appellants.

*Willstock White Land (Council – 100 units; appellants – 0 units)*

- 5.19 This land has the same planning status as the appeal site, as a second sequential preference under CS Policy P1 which is to be released when there is a need. The same approach was taken in the LP which identified an additional 14ha of land to the west of the South Bridgwater allocation, which was only to be developed should there be a need identified through future plan reviews<sup>48</sup>. The LP development boundary was drawn to include this land. There is simply no basis for including the site within the 5 year supply. Indeed, the effect of "counting" deliveries from this site would be to rank it in advance of the appeal site. There is nothing in CS Policy P1 to justify such an approach.
- 5.20 There is a current planning application relating to the site. The Policy Service Manager's consultation response to this application is flawed in that it proceeds on the basis that the requirements of CS Policies D5 and P1 are met because the site is identified in the 5 year housing land supply<sup>49</sup>. That is an incorrect and unlawful approach. In addition, the application has been held up due to detailed negotiations on affordable housing and there is no immediate prospect of the application coming to committee. Finally, part of the site is in FZ3 and it therefore fails the sequential test when compared with the appeal site.

*Westgate House, North Street (Council – 23 units; appellants – 0 units)*

- 5.21 This is a remote possibility as a housing site in the foreseeable future. The site has an unattractive appearance, being a dated 1970s office block set hard against the road with limited scope for amenity space. There is no evidence before the inquiry as to what form of residential scheme would be viable. It is perfectly likely that the existing use value of the site as an employment building is greater than its value as a residential development opportunity, either for

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<sup>46</sup> See paragraphs 122 – 127 of Document CHEG/26

<sup>47</sup> See page 62 of Document CHEG/1/1 for the EA response and page 71 for the officer's report

<sup>48</sup> See paragraph 4.58 of Document CD/4/3

<sup>49</sup> See Document CHEG/25

conversion or redevelopment. The site has recently been sold and the intentions of the new owner are unknown<sup>50</sup>.

- 5.22 CS Policy D11 seeks to prevent the change of use of employment sites unless it can be shown that there is no likelihood of a viable employment use. It is surprising that the Council is prepared to accept that a mere 18 months of marketing, during a recession, is a sufficient basis for establishing that this policy test can be met. Moreover, the policy contains additional tests to the effect that it would be preferable for the existing use to relocate due to its environmental impact or that there is no alternative provision for the proposed use. There is no basis for an argument that either of these criteria can be met. The Secretary of State should proceed on the basis that any application for a change of use would be decided lawfully, which is likely to result in it being rejected due to a conflict with Policy D11. Any unlawful decision would be likely to be subject to legal challenge.

*3 - 7 North Street, Bridgwater (Council – 9 units; appellants – 0 units)*

- 5.23 The Council refused a scheme for 9 units on the site in October 2011 for reasons including access, design and a lack of affordable housing<sup>51</sup>. Amongst other matters, the Council considered that the scheme would result in a cramped form of development. The reasons for refusal reveal fundamental problems with the delivery of the site. It may well be that the viability of the site is already overstretched. In any event, there is no evidence that there is a revised scheme which is viable and which addresses the reasons for refusal. The Council's planning witness accepted that the site would need to be reviewed when the LSR is updated<sup>52</sup>. The appellants say that the site should not be included in a robust 5 year supply.

*105 Taunton Road (Council – 20 units; appellants – 0 units)*

- 5.24 There has been no planning application in respect of this site, nor is it in the ownership of a housing developer. It is no more than a possibility at this time.

*Newtown Road and Boatyard Site, Highbridge (Council 80 units; appellants – 0 units)*

- 5.25 The site is in two parts. The northern part cannot be developed without a flood defence scheme on the southern part. A planning application relating to the northern part submitted in 2007 remains undetermined. There is a recent planning application in respect of the southern part but the supporting information does not set out a realistic or credible scheme. The viability assessment submitted with the application shows that, even with no affordable housing, the scheme would result in a land value less than half of the existing use value as an employment site<sup>53</sup>. The scheme proposes 95 houses and flats at a density of 79 dwellings per hectare which would ordinarily be associated with a predominantly flatted scheme in an urban environment. There is nothing

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<sup>50</sup> See Document ID/7

<sup>51</sup> The Council's decision notice is at Document CHEG/9

<sup>52</sup> Inspector's note: This was accepted by Mr Tait in answer to questions from Mr Tabachnik

<sup>53</sup> See page 177 of Document CHEG/1/1

in the submitted DAS or the site layout option plan which explains how such a high density could sensibly be accommodated<sup>54</sup>.

- 5.26 There is a strong objection from Natural England (NE) on the grounds that there is insufficient information to show whether or not the scheme would adversely affect the adjoining Severn Estuary SAC, SPA and Ramsar site. There is also an EA objection which includes reference to the height of the flood defence and the need for an adequate width for maintenance access to the flood defence<sup>55</sup>. In view of all these factors it is not surprising that the site has failed to come forward notwithstanding its allocation in the LP. The Council's LSR puts back delivery from this site to the end of the 5 year period, no doubt in recognition of these obvious difficulties. The appellants consider that this is another hopeless site which should not be included.

*Highbridge Market (Council – 30 units; appellants – 0 units)*

- 5.27 There are considerable uncertainties as to whether there will ever be housing completions at this site. The site has been around for many years, through buoyant economic times as well as bad ones. Permission was granted for residential development in 1989 but not implemented. It was allocated by Policy H60 of the LP but no housing materialised. In 2009 the SHLAA entry noted that an application had been delayed due to the current economic climate<sup>56</sup>. Nothing has changed since then. In addition to these viability considerations, it appears that the owner's ambitions are for a retail scheme. This is recognised in the Council's LSR which notes that the aspiration of the developer to secure a commercial operator may have an impact on delivery timescales<sup>57</sup>. The LSR envisages completions in the last year of the 5 year period. No planning application for a residential scheme has come forward.

*Moorlands Industrial Estate (Council – 39 units; appellants – 0 units)*

- 5.28 The appellants' evidence is that 22 out of the 29 units at this employment site are occupied for a variety of employment uses<sup>58</sup>. There is no evidence regarding the basis of existing tenancies. The site is not available for residential development. Furthermore, this is another site to which CS Policy D11 applies where the Council's approach ignores its own employment-led strategy. There is no evidence before the inquiry that the relevant tests are capable of being met. Whilst the Council's planning witness discussed a scheme for 39 units it remains the case that no planning application has been made and that there is as yet no involvement of a housing developer<sup>59</sup>.

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<sup>54</sup> See page 150 and the section starting at page 178 of Document CHEG/1/1

<sup>55</sup> See pages 163 - 169 of Document CHEG/1/1

<sup>56</sup> See H281 of Document CD/5/2

<sup>57</sup> See page 42 of Appendix 4 to SDC/1/1

<sup>58</sup> See Appendix 10.24 of Document CHEG/1

<sup>59</sup> Inspector's note: In answer to questions from Mr Tabachnik, Mr Tait stated that the identity of the intended housing developer was known to the Council but that he did not know whether any option agreement had been signed.

*Brue Farm, Highbridge (Council – 100 units; appellants – 100 units)*

- 5.29 The appellants accept that matters have moved on in the light of the Council's resolution to grant permission subject to a S106 Agreement in March 2012<sup>60</sup>. The Council's suggested delivery of 100 units within 5 years is also accepted. The developers suggest a higher production rate but there is no basis for this. Before completions materialise it will be necessary to complete the S106 Agreement, sell parcels of land to house builders and obtain approvals of reserved matters. It will also be necessary to provide infrastructure, including extensive flood defence enhancements, which may themselves require further consents. Consequently, there will not be completions any earlier than the last 2 years of the 5 year period.

*Lower New Road, Cheddar (Council – 25 units; appellants – 0 units)*

- 5.30 The Council's evidence on this site is fundamentally flawed. The LSR states that the site is not subject to access or other constraints and is surplus to the requirements of the owner, Bristol Water<sup>61</sup>. However, it is now known that the land is not surplus to Bristol Water's requirements so it cannot be included in the 5 year supply<sup>62</sup>.

Commitments

- 5.31 There is a difference between the appellants and the Council on 3 sites. Land opposite the railway station, St John Street (10 units), Stockmoor Village (14 units) and Main Road, Middlezoy (8 units) should be excluded because they had no planning permission at the operative date. In any event, Main Road, Middlezoy is a working farm and not currently available for housing.

North East Bridgewater (Council – 900 units; appellants – 470 units)

- 5.32 On a realistic approach to the evidence there is little, if any, prospect of development beyond the first phase of the NEB development within the 5 year period. Assuming the completion of the 260 affordable units which are currently under construction together with completions of market housing at 35 dwellings per annum (dpa) the total supply will be 470 units<sup>63</sup>. The Council suggests that NEB will deliver 900 units. In cross examination, the Council's witness asserted that this figure is based on the most robust evidence available. However, no such evidence was forthcoming. The Council's general approach was that predicting completion rates at NEB was inherently speculative and uncertain. To date, progress at NEB has consisted of the Morrisons Regional Distribution Centre at the north of the site and the partial implementation of the phase 1 housing. It seems that the Morrisons development has generated sufficient funds to secure a new bridge over the railway connecting NEB to the A38<sup>64</sup>.

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<sup>60</sup> See Document ID/7

<sup>61</sup> See page 43 of Appendix 4 to Document SDC/1/1

<sup>62</sup> See Document ID/7

<sup>63</sup> Inspector's note: These figures relate to a 6 year period – the current year plus the next 5 years. This approach is consistent with the Council's preferred method for calculating housing land supply.

<sup>64</sup> See paragraph 1.4.9 of Document CHEG/4/4

- 5.33 The phase 1 housing will comprise 438 units, of which 260 will be affordable units. This development has been facilitated by some £11.1 million of Kick Start funding. It is self evident that this public subsidy would not have been given if it had not been needed. It follows that phase 1 would not have taken place without this large subsidy, which will not be available to later phases. There is no need for, or likelihood of, further affordable housing at NEB in the foreseeable future. The requirement for 20% affordable housing over the whole site means that the units already committed in phase 1 will more than meet the requirement for the balance of the land owned by Hallam Land Management (*Hallam*). Hallam has confirmed that the balance of its land has no affordable housing burden<sup>65</sup>. It is common ground that further land, owned by Innovia, can be ignored for the purposes of the 5 year land supply<sup>66</sup>. The progress made so far on phase 1 has an unusual profile in that it has been dependant on public subsidy. It does not provide a reliable guide to future delivery rates at NEB.
- 5.34 It is important to adopt a realistic delivery rate for market housing at NEB over the 5 year period. The evidence for the Council's figure of 150dpa comes mainly from Hallam, as may be seen from the entry in the LSR<sup>67</sup>. Hallam itself refers to a figure of 100dpa in its letter of 13 February 2012<sup>68</sup>. That figure is a substantial over-prediction. Hallam has a vested interest in resisting the release of what it sees as a competing residential development site.
- 5.35 There is substantial evidence to support the appellants' projected delivery rate, for market houses, of 35dpa. Although both Barratt Homes (*Barratts*) and DWH are on site at NEB, these are in fact two brands of a single organisation. The appellants' consultants have spoken to a representative of Barratts/DWH on site who has confirmed that 35dpa is a reasonable figure for the combined operation<sup>69</sup>. Moreover, Barratts and DWH have a similar product and are operating in the same segment of the market. Consequently, having 2 brands will only increase the total output by a modest amount – perhaps from 25 to 35 dpa. A decision of the Secretary of State at Picket Piece, Andover<sup>70</sup> shows that build rates derived from the trading statements of housing developers are a relevant source of evidence. Figures for Barratts/DWH indicate an average completion rate per site of 30.7dpa for all housing types and 23dpa for market housing. Figures for Taylor Wimpey indicate rates of 32.4dpa, for all housing types, and 26dpa for market housing<sup>71</sup>. Evidence from a firm of local agents, Greenslade Taylor Hunt (GTH) also confirms a figure of 35dpa<sup>72</sup>. That evidence is informed by the comparative lack of attractiveness of NEB. In particular, the site is blank and featureless, affected by noise from the railway and M5, close to the large and utilitarian Morrisons development, close to the unattractive

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<sup>65</sup> See Appendix 2 of Document SDC/1/2

<sup>66</sup> Inspector's note: Hallam owns around 10.5ha of land with planning permission for residential development to the north of the disused railway line that bisects the NEB site. Innovia owns a similar area of land with planning permission for housing, broadly within the southern part of the site.

<sup>67</sup> See page 17 of the report at Appendix 4 to Document SDC/1/1

<sup>68</sup> See Appendix 2 of Document SDC/1/2

<sup>69</sup> See Appendix 5 of Document CHEG/4/5 and paragraph 5.6 of Document CHEG/1/2

<sup>70</sup> Ref APP/C1760/A/10/2140962 – see paragraph 176 of the Inspector's report at Appendix 4 to Document CHEG/4/5

<sup>71</sup> See Appendix 3 to Document CHEG/4/5

<sup>72</sup> See Document CHEG/13

Innovia site and lacking in access to countryside or parkland. This is in marked contrast to the advantages of development sites at South Bridgwater.

- 5.36 There is no evidence that further phases of development are likely to come forward within the relevant period. Hallam does not build houses – it is in the business of selling development land to others. There is no evidence that any such sales are imminent. The letter referred to above shows that the most Hallam can say is that it is in discussions. The prospect of further land deals is speculative and there is no basis for the Council's assertion that a third housing developer will be on site this year. The situation at NEB is comparable to Picket Piece where the Inspector noted that there was no firm evidence of interest from other developers<sup>73</sup>. Furthermore, no reserved matters have been approved for any later phases of development. Any new developer coming in would require a significant lead-in time to carry out site investigations, complete the purchase and secure the necessary approvals. Even if a third developer were to become involved, this would not necessarily boost the overall rate of completions. Having regard to the lack of attractiveness of NEB, any new developer would be competing with Barratts/DWH for the same market segment – those seeking relatively small homes.
- 5.37 The appellants have produced a viability assessment of an assumed phase 2, with a completion rate of 35dpa. This shows that the net present value (NPV) of the land is barely positive<sup>74</sup>. With the NPV as low as £11,000 per gross acre, the commercial reality is that Hallam would not sell. Instead, it would be likely to hold on to the land until such time as the market improves. One of the main drivers of the lack of viability is the abnormally high cost of piling which results from the difficult ground conditions. These costs are supported by an engineering report which has not been disputed by the Council. The projected piling costs for phase 2 are £7.6million<sup>75</sup>. This is consistent with the piling costs for phase 1 which, the appellants understand, amounted to some £4million. The appellants accept that their viability appraisal was not done with the co-operation of Hallam. However, it was based on reasonable estimates and assumptions. Moreover, Hallam has not disputed the piling costs or indeed any other aspect of the appellants' viability appraisal. This is "par for the course" so far as Hallam is concerned. It did not produce any viability appraisal for NEB at the time the original affordable housing requirement of 20% was set for the site. Nor has the Council put forward any alternative viability evidence.
- 5.38 In fact the appellants' viability appraisal makes a number of assumptions which are favourable to the Council's case. It is assumed that phase 2 would start in 2013. For the reasons given above, in practice this is highly unlikely. The appraisal also assumes a completion rate for phase 2 of 35dpa. As this would be in parallel with phase 1, the combined completion rate is assumed to be 70dpa, well above the rate that the market could sustain. The assumed density would be the same as phase 1. In cross-examination the Council suggested that the density in phase 2 might be lower, a suggestion which shows a lack of understanding of the realities of the market appeal of NEB. In fact, a reduced

<sup>73</sup> See paragraph 174 of the Inspector's report at Appendix 4 to Document CHEG/4/5

<sup>74</sup> See Appendix 1 to Document CHEG/4/5

<sup>75</sup> See Appendix 2 to Document CHEG/4/4 and paragraph 1.3.4 and Appendix 2 of Document CHEG/4/5

density would only reduce further the NPV of the land. In answer to a question from the Inspector, the appellants' witness said that if the projected completion rate were doubled, this would increase the NPV<sup>76</sup> by a similar amount. Even so, as the projected NPV is so low, this increase would not make it likely that Hallam would sell the land for development.

- 5.39 In summary, when the prospects for NEB are realistically assessed, there is little, if any, possibility of completions extending beyond phase 1 in the 5 year period.

The situation in the event that there is a shortfall in housing land supply

- 5.40 If the appellants' primary case is accepted then the appropriate course of action is to release the appeal site. The Council suggests that, even in these circumstances, it should retain the discretion to decide how any shortfall might be met. That is the wrong approach because the matter has already been settled as part of the CS. If there is a shortfall against the 5 year requirement then CS Policy P1 makes clear that the appeal site should be released. This was confirmed in the Council's own proof of evidence<sup>77</sup>. This point is unsurprising because the appeal site has been assessed as being a sustainable urban expansion in line with the spatial strategy for Sedgemoor set out in CS Policy S1. It would not be right to wait until such time as a further AMR is produced in circumstances where the most recent AMR has been shown not to be robust. Paragraph 12 of the Framework emphasises the importance of the development plan. That is relevant to the appeal because the proposal aligns with the objectives and requirements of the CS. Furthermore, the appeal scheme would be in FZ1, would better prepare the District for the implementation of HPC and would offer family sized dwellings and much needed affordable housing.
- 5.41 Release of the site would be consistent with PPS3<sup>78</sup> and the Ministerial Statement *Planning for Growth* (PfG). Paragraph 71 of PPS3 requires that, where there is a shortfall of housing land supply, proposals for housing should be considered favourably, having regard to the considerations set out in paragraph 69. None of the matters in paragraph 69 weigh against the scheme. PfG states that "the answer to development and growth should whenever possible be yes except where this would compromise the key sustainable development principles set out in national planning policy". There is no suggestion that the scheme would compromise any such principle.
- 5.42 This analysis is not affected by any planning permissions the Council may have granted since April 2011. The Council has not provided evidence in relation to such permissions. Nor can the scheme be objected to on the grounds that it provides 20% of affordable units. It is common ground that the appeal scheme would not be viable with more than 20% affordable housing. The Council's housing witness agreed that, if there is found to be a shortfall in housing land supply, the proposal would accord with CS Policy D6<sup>79</sup>. There are no "in

<sup>76</sup> Inspector's note: I asked Mr Turner what the effect of increasing the completion rate to 70dpa would be. He estimated that, approximately, this would double the NPV.

<sup>77</sup> See paragraph 2.6 of Document SDC/3

<sup>78</sup> Inspector's note: PPS3 has since been cancelled by the Framework. This paragraph reports the case as it was made at the close of the Inquiry.

<sup>79</sup> Inspector's note: This was agreed by Mr Harvey, in answer to questions from Mr Tabachnik

principle” objections from local residents, whose main concerns are on highways and traffic grounds. The site is ideally placed to make a meaningful contribution to the shortfall which currently exists and could deliver around 240 units within the 5 year period<sup>80</sup>.

#### The situation in the event that there is no shortfall

- 5.43 The appeal should be allowed even if there is found to be no shortfall against the 5 year housing land requirement. The key question is whether allowing the appeal would undermine the Council’s policy objectives. There is nothing of substance in the Council’s suggestion that there would be a harmful over-supply of housing land. The Council believes it already has 6.1 years supply and clearly sees no difficulty with that position. Moreover, it sees no objection in principle to the release of Willstock White Land which, as already explained, has the same policy status as the appeal site.
- 5.44 If there were any overprovision, this could only assist in preparing the District for the implementation of HPC. The Council accepts that this project is likely to go ahead in the next few years and that it will generate a large number of jobs and other spin-off economic benefits. The site is only 6 miles from HPC and is ideally placed to meet some of the resulting demand for housing. This demand is not catered for in the CS and, if the Council waits until the project is underway, this will be too late to avoid local inflation in house prices. Paragraph 14 of the Framework emphasises the need for plans to have sufficient flexibility to adapt to rapid change.
- 5.45 The Council suggests that release of the appeal site would result in an undesirable increase in out-commuting. However, Bridgwater is the principal urban area within Sedgemoor District and is a focus for new employment. The Annual Monitoring Report (AMR) shows that, over the period 2006 – 2011, 80% of new employment in the District was in Bridgwater<sup>81</sup>. This is in excess of the monitoring target of 70%. Development of the appeal site would enable more people to live closer to employment opportunities in Bridgwater and would help to redress the balance between housing and employment growth. It would support the economic growth of Bridgwater, thereby contributing to the economic dimension of sustainable development.
- 5.46 The Council also argued that release of the appeal site would divert development from NEB, thereby undermining the Council’s policy objectives<sup>82</sup>. There is no evidence for that suggestion. There is no overlap between the target markets at the two locations. NEB will deliver smaller and lower value units in an urban setting whereas the appeal site would provide larger family homes in a greener and less dense setting. It would appeal to older and perhaps more affluent people rather than first time buyers.
- 5.47 It might be suggested that the delivery of 20% of the units as affordable housing, compared with the current target of 30% and the target from 2016 of

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<sup>80</sup> See paragraph 5.77 of CHEG/1

<sup>81</sup> See paragraphs 3.4 – 3.9 of the AMR at Appendix 6 to Document SDC/1/1

<sup>82</sup> Inspector’s note: In answer to my questions, Mr Tait stated that allowing the appeal would divert development from the strategic mixed use site at NEB. He also commented that the CS seeks to guide development up to 2027.



40%, would undermine the objectives of the CS. However, Sedgemoor has a chronic and urgent affordable housing problem. The Housing Needs Survey identified an annual requirement for 891 affordable units – a figure which is unrealistic in relation to total housing delivery<sup>83</sup>. The CS stresses that there is a particular need for affordable family housing. The appeal site is available now and would deliver 90 units of affordable housing, thereby making a meaningful contribution to meeting this need. The increased policy requirement from 2016 is contingent on viability considerations. It is not known what the market conditions will be at that time and there is no reason to think that holding the appeal site back would, in practice, deliver any more affordable houses in the future. In any event, the Undertaking includes a mechanism whereby the amount of affordable housing in later phases can be reviewed if the viability improves.

- 5.48 Release of the appeal site would be consistent with CS Policy D6 which contemplates acceptance of affordable housing provision below the 30% target, on viability grounds, where schemes will deliver other plan objectives. In this case the relevant plan objectives include the delivery of affordable housing and the delivery of market housing with a mix of unit sizes including family houses. This point is important because the AMR shows that there has been a lack of supply of family houses in recent years<sup>84</sup>. The Framework emphasises the importance of delivering a wide choice of high quality homes and paragraph 47 states that local authorities should set out an implementation strategy for the full range of housing. At present, around 80% of the District's housing supply is accounted for by 2 large sites – NEB and South Bridgwater. The proposal would accord with the objectives of PfG by increasing choice and providing a more flexible supply.
- 5.49 The appeal scheme would also provide open space, reduce flood risk by contributing to the Parrett Barrier, support the local economy including the local shop and public house and facilitate the expansion of the local primary school. In conclusion, even if there is a 5 year housing land supply, it is hard to see what harm the release of the appeal site would cause to the key locational and policy objectives of the CS.

### **Reason for Refusal 2 – Access to the A39**

- 5.50 There is no longer an objection in principle to the proposed primary access onto the A39<sup>85</sup>. Indeed, it is hard to see how the endorsement of the site in the CS could be realised without such an access. The modelling of traffic impacts has been the subject of extensive discussions between the appellants and Somerset County Council (SCC), the Highway Authority. The traffic growth from committed housing schemes has been factored in together with the construction traffic that would be generated if the HPC project were to go ahead. The split of generated traffic between the two access points would be around 70% via the A39 access and 30% via Inwood Road<sup>86</sup>. SCC has given detailed consideration to the modelling assumptions submitted by the appellants and has agreed with

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<sup>83</sup> See page 3 of Document SDC/3/1

<sup>84</sup> See paragraph 5.50 of the AMR at Appendix 6 to Document SCD/1/1

<sup>85</sup> See paragraph 3.14 of Document ID/9

<sup>86</sup> Inspector's note: The 70/30 split was confirmed by Mr Russell in answer to my questions.

them. The modelling shows that the site access onto the A39 would operate well within its design capacity<sup>87</sup>.

### **Reason for Refusal 3 – Traffic impact**

5.51 The appellants propose measures to address the traffic impacts of the scheme and to enhance the sustainability credentials of the site. These include a primary site access onto the A39 and a secondary access onto Inwood Road, contributions to off-site junction improvements, two pedestrian links to Wembdon Hill, a pedestrian access to Quantock Meadow and a contribution to improving pedestrian and cycling routes. The funding for public transport would allow for the frequency of buses to Wembdon to be increased from the current hourly service to a bus every 30 minutes. One bus per hour would be routed through the site, where new bus stops would be provided. This is a significant investment in sustainable transport measures. The proposals include a cycleway/footway along the A39 together with a Toucan crossing to serve Haygrove School, in the event that the school is relocated. At the Inquiry the witness for the Highway Authority accepted that, subject to these matters being secured by the Undertaking, this reason for refusal has been addressed<sup>88</sup>.

### **Reason for Refusal 4 – Parking for the school**

5.52 This matter was resolved by the deletion of the original proposal to provide parking for the school.

### **Reason for Refusal 5 – Archaeology**

5.53 Following further site investigations, including trial trenching, it has been agreed that this matter can be dealt with by a condition.

### **Reason for Refusal 6 – Infrastructure contributions**

5.54 The Undertaking makes provision for the necessary contributions. In addition to the transport and highways matters referred to above, it includes contributions to education, sports facilities and the Parrett Barrier. Affordable housing is proposed at 20% of the units, a level which has been justified by a viability appraisal. This appraisal was reviewed and accepted by a consultant appointed by the Council.

### **Reason for Refusal 7 – Visual and landscape impact**

5.55 The Council accepts that, in the light of the CS, neither visual nor landscape impact is a sufficient reason for refusing the appeal scheme if there is found to be a need for it. The Council's witness accepted in his proof of evidence that the proposed landscaping shown on the Masterplan and explained in the DAS offers a strong package of measures that will ameliorate much of the harm that will arise<sup>89</sup>.

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<sup>87</sup> Inspector's note: See Table 1 and Table 2 at Appendix 3 of Document CHEG/2/2. In answer to my questions Mr Russell stated that a degree of saturation of 77.4% on the A39 in the peak hour was acceptable and well within the capacity of the junction. He characterised the average delay to traffic on the A39 of 16.5 seconds as "minimum delay".

<sup>88</sup> Inspector's note: This position was confirmed by Ms Vittery in her evidence in chief.

<sup>89</sup> See paragraph 4.14 of Document SDC/2

### **Comments on the Undertaking**

- 5.56 The Council's objections to the Undertaking are technicalities of no substance. They relate to a suggested landscaping bond, the review date for the deferred affordable housing contribution and the definition of the affordable housing provider. With regard to landscaping, the Undertaking provides sufficient protection for the Council to be assured that the planning objectives will be achieved, whether the open spaces are transferred to the Council or to a management entity set up by the developer. The Council would have the ability to approve the management entity, including proposals for securing the necessary financial resources. If the need arose the Council would be able to enforce the terms of the Undertaking. The suggested bond is not needed.
- 5.57 The appellants have not reneged on any agreements with the Council. In any event, the Undertaking is unilateral. The Council might prefer additional review dates for the deferred affordable housing contribution but that preference has no policy basis in the CS. The developer would have to start by making reasonable endeavours to find an affordable housing provider from the Council's list. Only after that would the developer look elsewhere. The key point is, whoever the provider is, the units in question can only be affordable housing. The Undertaking is simple, understandable and policy compliant.

### **Conclusion**

- 5.58 The three dimensions of sustainable development identified in the Framework are economic, social and environmental. The appeal proposal would support the economic growth of Bridgwater. This is particularly significant given the proximity of the site to HPC. HPC would take 10 years to build with 20,000 construction workers required over the life of the project. Around 5,000 workers would be needed at the peak of construction activity. The appeal scheme would also contribute to critical infrastructure including the Parrett Barrier. Within the social dimension, it would provide much needed family housing at the key settlement in Sedgemoor District. Affordable housing would be provided, helping to meet an urgent need. The scheme would extend the range and choice of housing in the town. It would also represent a high quality of design with many non-standard units being required due to the sloping nature of the ground. With regard to the environmental dimension, the site is in a sustainable location adjacent to Bridgwater and it provides extensive areas for open space, allotments, strategic landscaping and ecological enhancements.
- 5.59 The Framework significantly strengthens the case for allowing the appeal because this is a sustainable and deliverable site. It states that local planning authorities should look for solutions rather than problems and decision-takers at every level should seek to approve applications for sustainable development wherever possible.
- 5.60 For all of the above reasons, the Secretary of State is invited to grant planning permission.

## THE CASE FOR SEDGEMOOR DISTRICT COUNCIL

*The main points are:*

### **Introduction**

- 6.1 If there is found to be a 5 year supply of housing land in the District then there is no reason to bring forward the appeal site at this time. Sedgemoor is a pro-development Council with a consistent record of housing delivery. The CS was adopted in October 2011, having been subject to a full review, and now forms the development plan for the District. The key objectives or transformational projects include South Bridgwater, NEB and Brue Farm. These projects will deliver important policy objectives such as strategic flood defences, new schools, infrastructure and town centre regeneration.
- 6.2 By contrast, the appeal scheme would bring no wider community benefits, only peripheral greenfield housing which would be poorly related to facilities such as employment and the new hospital. On close examination, the benefits claimed for the appeal scheme do no more than mitigate the impacts that the scheme would have. For example, when the enhancements to pedestrian and cycle routes are looked at in detail it becomes clear that, apart from some signage, these amount to no more than a single dropped kerb – hardly a major benefit. In reality the scheme will deliver little beyond housing, for which there is at present no need. The possible impact of HPC should not be a significant consideration in this appeal. The DCO application includes temporary accommodation for construction workers and it is uncertain how many would rent or buy in the general housing market. Although housing market distortion is of concern to the Council, any impacts would be spread across many local planning authority areas<sup>90</sup>.

### **The effect of the Framework**

- 6.3 The Inspector who conducted the examination of the CS sought comments on the draft Framework. He found that it did not fundamentally alter his conclusions because the CS was already essentially pro-business and because there was sufficient flexibility in the CS, and the future review process, for any changes in national policy to be accommodated. The CS was therefore found to be sound within the context of the draft Framework<sup>91</sup>. The Framework re-states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 confirms that the Framework does not change the status of the development plan and that proposals which conflict with an up-to-date local plan should be refused unless material considerations indicate otherwise. The CS is an up-to-date local plan.
- 6.4 The CS supports proposals that meet local sustainability principles (Policy S3) and promotes residential development where it meets specific objectives (Policy D5). It is therefore in accordance with paragraph 14 of the Framework which

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<sup>90</sup> Inspector's note: In answer to questions from Mr Tabachnik, Mr Tait stated that the assumption in the DCO application is that those travelling to the construction site from home would have a travel time of up to 90 minutes.

<sup>91</sup> See paragraph 4 at Appendix 5 to Document SDC/1/1

sets out a presumption in favour of sustainable development. Paragraph 17 sets out 12 core principles. Principle 3 refers to the need to drive and support sustainable economic development. The CS does just that. It includes contingency policies and has a 2016 review built into it. Principle 7 confirms that allocations of land for development should prefer land of lesser environmental value and Principle 8 encourages the re-use of previously developed land. This is consistent with the CS objectives of promoting the use of brownfield land and only releasing greenfield sites where it is shown that there are no suitable redevelopment opportunities (Policies D5 and P1).

- 6.5 Principle 9 promotes mixed use developments. This supports the priority given in the CS to the sustainable urban extension at NEB which will include employment, housing, open space, a new school and a local centre. Principle 11 states that planning should actively manage patterns of growth to make the best use of public transport, walking and cycling. The CS prioritises town centre sites and NEB which meet these objectives. The greenfield broad locations are peripheral and the appeal site is distant from employment opportunities with few opportunities for walking or cycling.
- 6.6 The CS takes full account of flood risk, in accordance with Principle 6. The appellants' arguments in relation to flood risk repeat points made at the CS examination. These arguments were considered by the Inspector who noted the widespread planning tension between the priority to regenerate brownfield land and the fact that a great proportion of such land is susceptible to flooding. He concluded that the CS provides an acceptable balance between greenfield and brownfield development<sup>92</sup>. The Council also has in place a funding mechanism that will deliver strategic flood defences. The Framework does not suggest that flood risk is the key factor that should be taken into consideration, only that it is one factor to be taken into account.
- 6.7 Footnote 11 to paragraph 47 of the Framework states that sites with planning permission should be considered deliverable until permission expires unless there is clear evidence that schemes will not be implemented within 5 years. This is a significant change from PPS3 which effectively reverses the burden of proof. It is particularly relevant to NEB which has planning permission and is under construction. There is no clear evidence that NEB will not be developed, only speculation based upon inaccurate or unverified information provided by the appellants who have a vested interest. There has been no independent viability assessment and the land owners continue to support the delivery rates in the Council's 5 year supply.
- 6.8 Paragraph 214 states that, for 12 months from the day of publication, decision makers may continue to give full weight to policies adopted since 2004 even if there is a limited degree of conflict with the Framework. However, in this case there is no conflict between the policies of the CS and the Framework. The CS is an up-to-date development plan and full weight should be given to its policies.

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<sup>92</sup> See paragraphs 12 to 17 and 27 at Appendix 5 to Document SDC/1/1

## **Housing land supply**

- 6.9 The Council's strategy for housing delivery is to prioritise regeneration opportunities within the towns on brownfield sites and at the strategic urban extension at NEB. The housing trajectory suggests that brownfield housing will accommodate around 50% of the strategic housing requirement. A number of brownfield allocations have been brought forward from the LP. Following a review of their deliverability, most of these have been saved and form part of the housing land supply<sup>93</sup>. The Council's approach is therefore well established and has recently been examined as part of the CS and found to be sound.
- 6.10 The appellants make no criticism of the SHLAA or AMR processes. The intention of policy is that the SHLAA should be a public document setting out the housing land supply position at a given time. Paragraph 60 of PPS3<sup>94</sup> makes clear that reviews are to be conducted annually and should involve the full list of sites. The SHLAA/AMR figures should be taken at face value until such time as a full review can take place. They should not be updated on an ad hoc basis in response to individual proposals. For example, a site for 67 units at Chilton Trinity has come forward since the last AMR and is not included in the Council's figures. If such changes were to be taken into account then perhaps some SHLAA sites would be excluded but others would have to be included.
- 6.11 The historic position demonstrates that in each of the last 8 years housing completions in Sedgemoor have consistently exceeded the previous LP requirement and the current, higher, CS requirement<sup>95</sup>. PPS3 has now been replaced by paragraphs 47 to 55 of the Framework. In accordance with paragraph 47, the CS has an evidence base which includes a Strategic Housing Market Assessment and a SHLAA. It identifies key sites which are important to the delivery of the strategy. It also identifies broad locations that could potentially come forward through the contingency element of Policy D5. The Framework requires authorities to identify a supply of specific deliverable sites sufficient for 5 years of housing with an additional buffer of 5%. As the Council has a supply of 6.1 years it can easily provide the 5% buffer. The definition of deliverability is broadly similar to that in PPS3. The Council reviews all sites through the AMR and engages with agents, developers and owners to ensure that sites are deliverable. Only sites that have a realistic prospect of delivery within 5 years are included. Consequently, the Council's figures represent an accurate picture.
- 6.12 Paragraph 48 of the Framework is significantly different from PPS3 in that it enables planning authorities to make an allowance for windfall sites in the 5 year supply if they have compelling evidence that such sites have consistently become available. In accordance with previous guidance, the Council's 5 year supply makes no allowance for windfall sites. Historically, windfall development has contributed, on average, 25% of total completions. There is no evidence to suggest that supply from conversions and small infill sites within settlements will be reduced in future years. On the basis of the historic average, an

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<sup>93</sup> See paragraphs 5.51 and 5.52 of Document CD/4/2

<sup>94</sup> Inspector's note: PPS3 has since been cancelled by the Framework. This paragraph records the case as it was put at the Inquiry.

<sup>95</sup> See section 5 of Document SDC/1

allowance for unidentified windfall sites would add 448 units to the supply, equivalent to a further 0.9 years<sup>96</sup>.

6.13 The Framework does not include guidance, previously found in paragraph 58 of PPS3, relating to the need for robust evidence in respect of sites with planning permission. Nor does it include the guidance in paragraph 71, to the effect that applications for housing should be considered favourably in circumstances where there is not a 5 year supply, or the advice in paragraph 70 relating to the situation where there is a 5 year supply. These are significant changes in relation to this appeal because the appellants have relied heavily on paragraphs of PPS3 which cannot now be taken into account.

6.14 The Council's preferred method is to calculate the residual requirement and the supply over a 6 year period including the current year (2011/12) and the next 5 years. The Council's position at the close of the Inquiry<sup>97</sup> is set out in the following table:

		<i>Position at close of Inquiry</i>
Annual requirement		481
5 year requirement (including the current year)		2,886
<i>Supply:</i>		
SHLAA sites	711	
Commitments (5 units or more, excluding NEB)	1,515	
NEB	900	
Small sites	273	
Total supply		3,399
Oversupply		513
Supply in years		6.1 years

<sup>96</sup> See paragraphs 3.7 to 3.10 of Document PIC/6

<sup>97</sup> Inspector's note: The Council's position, following an adjustment to the small sites total agreed at the Inquiry, is set out in a table attached to Document SDC/9

### The SHLAA sites<sup>98</sup>

#### *East of Bristol Road/Livestock Market (Council – 50 units; appellants – 0 units)*

- 6.15 There are two parcels of land. Land east of Bristol Road is a saved allocation from the LP<sup>99</sup>. The livestock market closed in 2007. It could not be brought forward for development until the market had been relocated and was not therefore allocated in the LP. There are no specific constraints to development. Both parcels are in the ownership of the Council. The land is the responsibility of the Council's Disposal of Assets Group and its development is seen as a priority. There is a development agreement in place with DWH, a housing developer. Work is in progress on a masterplan for the two sites. This would involve a new access from the north, across the Bristol Road playing fields which are within the control of DWH. Although that would involve the loss of some playing field land, enhanced playing fields could be provided within a comprehensive scheme. The second access would be from the south east and would require some improvement of the existing access to the livestock market. The 50 units allowed for is not the full capacity of the combined site, it is what could be delivered within the 5 year period.
- 6.16 The appellants suggest that the site is not suitable due to flood risk. However, the majority of brownfield sites within Bridgwater are in FZ3. Being a local plan allocation, the land east of Bristol Road can be regarded as having met the sequential test. The examination of the CS dealt with the regeneration of Bridgwater in relation to flood risk. The Council's strategic approach to this issue is covered in the BSFDT<sup>100</sup> and was found to be sound in the context of the CS examination.
- 6.17 The appellants also argue that the land east of Bristol Road should be regarded as public open space, that it is contaminated land and that there are archaeological constraints. The Council accepts that some people may have gained unauthorised access to the land. However, it is experienced in managing such land and there is no reason to think that any prescriptive rights have been created. The land should not be regarded, for planning purposes, as public open space. It is known to have some contamination but this is minor. Both the Council and DWH are aware of this issue<sup>101</sup>. The site has archaeological potential but this could be addressed by trial investigations and planning conditions.
- 6.18 Although there are some existing occupiers on parts of the livestock market these are short term uses. Given that the Council is seeking actively to dispose of the land it can be assumed that any leases are short term and that the land would be available when required.

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<sup>98</sup> Inspector's note: The Council's written evidence relating to the SHLAA sites is mainly found in the SHLAA document itself (Document CD/5/2) and the 5 Year Land Supply Report (Appendix 4 to Document SDC/1/1). Much of the evidence in the following paragraphs was given orally by Mr Tait, both in evidence in chief and in cross examination.

<sup>99</sup> See LP Policy H15 in Document CD/4/3 and Table 8.1 of the CS in CD/4/2

<sup>100</sup> See supporting document 4 in Document SDC/1/1

<sup>101</sup> Inspector's note: In answer to questions from Mr Tabachnik, Mr Tait stated that although he was not personally aware of the details he was confident that both the Council and DWH were aware of the extent of contamination.



*Crypton, Bristol Road (Council – 40 units; appellants – 0 units)*

- 6.19 The Council has resolved to grant planning permission for a mixed use scheme subject to a S106 agreement. Solicitors are engaged in discussions on the agreement and it is anticipated that it will be completed shortly. The scheme will provide employment floorspace for Elemis, the main occupier of the site, and others together with residential accommodation. It is accepted that there would be a net loss of employment floorspace. However, the existing buildings, which date from the 1950s, would be replaced by modern premises for a local employer<sup>102</sup>.

*Willstock White Land (Council – 100 units; appellants – 0 units)*

- 6.20 This site is adjacent to a housing site which was allocated in the LP and is now being built out by Bloor Homes, DWH and others<sup>103</sup>. It forms the 3<sup>rd</sup> and final phase of the Bridgwater South development. This phase was removed from the LP because it was not required at that time. The “white land” lies between the allocated land and the development plan boundary, as defined in the LP. The developers want to roll forward from the existing site and a planning application has been submitted. A previous Highways Agency direction has now been lifted following further modelling work.
- 6.21 This would complete a sustainable urban extension to Bridgwater and would make better use of the strategic infrastructure which is already in place, including a park and a primary school. The planning application is for up to 330 units – the Council is allowing for 100 units within the 5 year period.

*Westgate House, North Street (Council – 23 units; appellants – 0 units)*

- 6.22 Westgate House is a vacant office building formerly occupied by the Inland Revenue. It has been marketed as offices for 18 months without success. The Council held pre-application discussions with the former owner, initially seeking an employment use. However, there has been no commercial interest in the building and the Council’s valuer is now satisfied with the marketing that has been carried out. The Council’s understanding is that the only viable future for the site is a change to residential use. A planning application for residential use is expected in the next few months. The site is suitable, available and in a very sustainable location.

*3 - 7 North Street, Bridgwater (Council – 9 units; appellants – 0 units)*

- 6.23 This is a brownfield site which has been the subject of a planning application. Although the application was not approved, the principle of residential development is acceptable and there are no constraints.

*105 Taunton Road (Council – 20 units; appellants – 0 units)*

- 6.24 The site was occupied by a laundry at the time of the SHLAA. The buildings have since been demolished and it is now a cleared brownfield site within the

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<sup>102</sup> Inspector’s note: This paragraph records the evidence given by Mr Tait in January 2012. Subsequently, the Council and the appellant agreed that Elemis moved out of Bridgwater in the summer of 2011 and no longer has any interest in the Crypton site. This is confirmed in the agreed SHLAA site update of March 2012 (Document ID/7).

<sup>103</sup> See LP Policy H55 in Document CD/4/3 and Table 8.1 of the CS in CD/4/2

town. Although no planning application has been submitted the Council has had discussions with a developer and an affordable housing provider. A preliminary layout has been provided and the Council anticipates that there would be 20 units on the site.

*Newtown Road and Boatyard Site, Highbridge (Council 80 units; appellants – 0 units)*

6.25 The site is a saved LP allocation<sup>104</sup>. There are two parcels of land, the boatyard and land at Newtown Road which is owned by a consortium of occupiers and the Council. There is a need for strategic flood defences for Highbridge to be provided as part of the scheme. There is a long outstanding planning application on the whole site. More recently, an application has been submitted for the boatyard alone. This is significant because this scheme would deliver the necessary flood defences. Whilst it is correct to say that NE has lodged an objection, further ecological information has been submitted. There are also discussions with the EA regarding the width of a maintenance strip adjacent to the proposed flood defences. The issue of the height of the defences has been agreed. This is a brownfield site which is well located in relation to the town centre. The Council has taken a cautious approach, allowing for only 80 units within the 5 year period.

*Highbridge Market (Council – 30 units; appellants – 0 units)*

6.26 The former Highbridge Market is a prominent site in the centre of the town. It was in use as a market until 2007/8 and was not available for development before that time. It had previously been identified in the LP for retail use. The CS has now removed this requirement and the Council is engaged in detailed pre-application discussions with the owner regarding a mixed use scheme, although there is no longer a policy requirement for mixed use. A scheme is being worked up and community engagement is taking place.

*Moorlands Industrial Estate (Council – 39 units; appellants – 0 units)*

6.27 The site comprises partially vacant and underused employment floorspace. Over half of the units are vacant. It offers a poor standard of accommodation and there is a high turnover of occupiers. Discussions are taking place with a developer regarding a scheme for 39 residential units and a community centre. The Council is a land owner and will be involved in a land swap to enable the community hall to be provided. The developer intends to be on site this year. The Council is facilitating the relocation of the remaining employment uses and these should not be seen as a reason to discount the site. It accepted that there would be a loss of employment floorspace but the CS must be applied as a whole. In this case the opportunity to provide housing and enhanced community facilities outweighs the loss of employment floorspace.

*Brue Farm, Highbridge (Council – 100 units; appellants – 100 units)*

6.28 The land is allocated in the CS by Policy P3. There is a current outline planning application for 550 dwellings, a primary school, nursery and highway works which the Council has resolved to approve subject to conditions and a S106

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<sup>104</sup> See LP Policy H17 in Document CD/4/3 and Table 8.1 of the CS in CD/4/2

Agreement<sup>105</sup>. The site will be built out by Bloor Homes, Barratts and DWH. The developers estimate that there will be a start on site in March 2013 with completion by 2017. The Council adopts a more conservative assumption of just 100 units within the 5 year period.

*Lower New Road, Cheddar (Council – 25 units; appellants – 0 units)*

6.29 Bristol Water is the owner and operator of this site. It put the site forward as being surplus to operational requirements. There are limited opportunities for development in Cheddar. There have been initial pre-application discussions and there is a reasonable prospect of the site coming forward<sup>106</sup>.

### Commitments

6.30 There are 3 sites in dispute. Land opposite the railway station, St John Street (10 units), had planning permission in 2008. Various conditions were subsequently discharged. Although the permission lapsed in October 2011 it was extant on the base date of the survey. In any event, a renewal application has been submitted which indicates continued interest in developing the site. There is no evidence why this site should be taken out of the housing land supply.

6.31 There is an existing commitment for 27 units at the Stockmoor Village local centre. This entry, for 14 units, is an addendum which would replace a previous proposal for a public house. The applicants have been seeking an operator for the public house for 2 years without success. There is no planning objection to the provision of 14 additional units in this location.

6.32 The site at Main Road, Middlezoy (8 units) has a planning permission granted in June 2011. The appellants suggest that the site should be discounted because the permission granted previously in February 2008 was not implemented and because it contains farm buildings. There are few opportunities to develop housing in smaller settlements such as Middlezoy and the site will therefore be attractive to potential developers. It is not unusual for farm buildings to be redeveloped for small housing schemes in Sedgemoor. The presence of semi-redundant farm buildings is not a reason to take this site out of the supply.

### North East Bridgwater (Council – 900 units; appellants – 470 units)

6.33 NEB is a strategic mixed-use urban extension, comprising the former Innovia cellophane factory and adjoining greenfield land to the south and further greenfield land to the north. A hybrid planning application was submitted in 2008 for 2000 dwellings; a commercial services centre including retail, leisure and community uses; a primary school; about 110,000 square metres of employment development; trade units and car showrooms; a hotel; sports and recreation facilities; strategic landscaping and transport network. NEB was identified in Bridgwater Vision as one of the key transformational projects

<sup>105</sup> See Document ID/7

<sup>106</sup> Inspector's note: This paragraph records the evidence given by Mr Tait in January 2012. Subsequently, the Council and the appellants agreed that Bristol Water has now stated that the site is not presently available for disposal and that it has a medium to long term requirement for the land. This is confirmed in the agreed SHLAA site update of March 2012 (Document ID/7).

supporting the regeneration of the town. The key driver for the application was a regional distribution centre for Morrisons which will provide around 1300 jobs. Planning permission was issued in July 2010 following the completion of a S106 Agreement and construction of the distribution centre started later that year.

- 6.34 Hallam was awarded £11.1 million of Kick Start 2 funding to deliver infrastructure and affordable housing. Only 18 months into the project, the distribution centre and the spine road have been completed, surface water management and utilities services have been delivered and a substantial number of dwellings are under construction. First occupations were in September 2011. Work is well advanced on the design of the primary school. Hallam intends that it will be open in September 2013. Although that would be in advance of the Section 106 requirement, it would avoid the need for temporary accommodation and would be a catalyst to further residential sales. The construction of a railway bridge linking the site directly to the A38 Bristol Road will be completed by December 2012<sup>107</sup>. There is simply no evidence that this major project is in danger of stalling. There is no dispute that NEB will deliver housing, the point at issue is the rate of delivery.
- 6.35 The appellants' first proof of evidence on land supply adopted a delivery rate, for market housing, of 93dpa, based on a comparison with the rates achieved at South Bridgwater. The appellants' witness accepted that this was little different to the Council's position and, moreover, that there had been no change in the factual position since that proof was submitted<sup>108</sup>. The appellants now suggest a delivery rate for market housing of 35dpa. The letter from Hallam, the land owner, is supportive of continuing strong housing delivery at NEB and confirms that Hallam is in discussions regarding the release of further residential land. Furthermore, the letter states that completion of the railway bridge will stimulate interest in the employment land which would in turn be a catalyst for further residential development<sup>109</sup>. The appellants have simply dismissed this evidence, without good reason.
- 6.36 Contrary to their initial evidence, the appellants now assert that delivery rates at NEB will be far below those achieved at South Bridgwater. They suggest that South Bridgwater is more attractive in marketing terms. However, there is no evidence for that assertion. NEB is close to the town centre and has good links to local facilities such as schools, a college, employment and open space. It is conveniently located for Junction 23 of the M5 motorway. The Stockmoor development at South Bridgwater is at a higher density than NEB and is also adjacent to existing and proposed employment sites. The appellants rely on the views of GTH. However, GTH is just one agent and it is not clear whether the views expressed are based on a proper understanding of the comprehensive nature of the NEB development. GTH comments on the proposed temporary accommodation for HPC construction workers which, it is suggested, would reduce the attractiveness of NEB. In fact that would be in the southern part of NEB at some distance from the areas to be developed within the next 5 years.

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<sup>107</sup> See paragraphs 2.5 and 2.6 of Document SDC/1/2

<sup>108</sup> Inspector's note: See paragraph 5.59 of Document CEG/1. In answer to questions from Mr Collett, Mr Mellor stated that his knowledge had improved since his first proof of evidence. However, he did not identify any changes in circumstances on the ground.

<sup>109</sup> See Appendix 2 to Document SDC/1/2

- 6.37 The appellants question the viability of future phases of development. However, their viability assessment is no more than a desk-top exercise, carried out without any involvement of either the house builders on site or the land owner. The assessment is based on assumed land values and a delivery rate of 35dpa. As the appellants' witness accepted, different assumptions would lead to a different result.
- 6.38 Reference is made to an appeal decision at Picket Piece. That decision was based on entirely different facts. The local planning authority in question had less than 5 years supply of housing land, a situation which had persisted for several years. The appellants also draw attention to average delivery rates per outlet of national house builders. Those figures are, by definition, broad averages. Inevitably there will be some sites that deliver at a higher rate and some at a lower rate. The appellants' witness accepted that, at South Bridgwater, Persimmon achieved 78 dwellings per year over a 2 year period<sup>110</sup>.
- 6.39 In fact, the appellants' original approach of comparing NEB with South Bridgwater was the correct one. There are currently 5 brands on offer at South Bridgwater but that is only after 4 years on site. Over the life of the development the average delivery rate has been 165dpa, (for all dwellings, both market and affordable), despite the recession. In the last monitoring year there was an average of 50dpa for each developer<sup>111</sup>. At NEB there are currently two brands on offer. That is hardly surprising, given that the spine road was only completed in October 2011 and the emphasis in the early months of the project has been on the delivery of affordable units. The only way the appellants can make the case for a future rate of 35dpa, (for market housing), at NEB is to take the lowest of the available estimates per housing developer and then to make no allowance for the presence of two brands on site. That is not a realistic approach – no company would persist in supplying two brands at the same location other than in the expectation that this would enable more houses to be built and sold.

#### Conclusions on housing land supply

- 6.40 The Council has an identified housing land supply of 6.1 years. Within a two month period the appellants have produced 5 different speculative delivery scenarios. In contrast, the Council's case is based on the AMR and 5 year housing land supply report. These documents are subject to robust annual monitoring. In relation to NEB, the appellants' figure for delivery has varied from 808 to 470 units over the course of the Inquiry<sup>112</sup>. Even on the lowest of these figures, the Council would still have a 5 year supply.
- 6.41 Housing land supply is dynamic. Whilst the appeal should be determined on the basis of the current published figures, during the current year a significant number of additional houses have been granted planning permission. The SHLAA sites will need to be updated to include the 67 dwellings permitted at Chilton Trinity and the Council's resolution to grant permission at Brue Farm will

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<sup>110</sup> Inspector's note: This was accepted by Mr Mellor in answer to questions from Mr Collett, although he qualified his answer by saying that the delivery rate had been boosted by the Homebuy scheme which was operating at that time. See page 3 of Document CHEG/13.

<sup>111</sup> See paragraph 3.1.5 of Document SDC/1/2

<sup>112</sup> See Appendix 3 to Document SDC/1/2

require an accelerated delivery rate to be factored in. The April 2012 monitoring report will include additional dwellings with consent and completions will once again exceed the strategic requirement. The Council is able to demonstrate success in operating a plan, monitor and manage approach, as evidenced by several years of delivery above strategic housing requirements.

#### The situation in the event that there is a shortfall in housing land supply

6.42 As explained above, the Council's case is that there is no shortfall. However, if there is found to be a shortfall of just a few units then that should be addressed via the AMR rather than by an application on a greenfield site such as this. It cannot be the intention of policy that a small shortfall could result in a free-for-all within a local authority area.

6.43 In any event, even if there were to be a dip in supply, it would be for the Council to determine what corrective action to take. CS Policy D5 sets out strict policy guidelines for the release of additional greenfield sites. It states that housing delivery will be managed through the housing trajectory and that the release of additional greenfield land for housing will only be approved where it is demonstrated in the AMR that there is a shortfall in the 5 year supply. There is a commonsense reason for this approach. If supply could be reassessed during the year a false situation could arise whereby a developer might withdraw one site with a view to bringing forward a preferred alternative site. The trigger event is the AMR showing a shortfall. If that happens then it is open to developers to promote other sites to meet the shortfall.

#### The consequences of an oversupply of housing land

6.44 The appellants suggest that, if there were to be an oversupply, this would not be harmful. The Council does not agree. Oversupply affects the housing market which, in turn, affects the delivery of key sites identified in the CS. In particular, release of the appeal site would divert demand from the strategic mixed use urban extension at NEB, a fundamental part of the strategy of the CS<sup>113</sup>. Consequently it would not assist with the delivery and build out of this key transformational project. In this context, it is relevant to note that GTH argued that, with NEB, there will be 10 housing developers on large sites in the District. GTH suggests that this would limit the overall sales rate at NEB<sup>114</sup>. If that view were accepted, it follows that release of the appeal site would only exacerbate this oversupply and undermine the delivery of NEB and other brownfield housing sites.

6.45 If sites are brought forward sooner than envisaged in the Council's housing trajectory then, in the current economic climate, they are likely to under-perform in terms of the delivery of affordable housing. It is accepted that there would be a condition requiring the appropriate level of energy efficiency at the time the properties were developed, in accordance with CS Policy D5. Even so, if the units are brought forward sooner than they are needed the consequence would be that they would have a lower level of energy efficiency.

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<sup>113</sup> Inspector's note: This was stated by Mr Tait in answer to my questions.

<sup>114</sup> See Document CHEG/13

6.46 The CS sets out a spatial strategy for the whole of the plan period to 2027. This incorporates a staged release of housing sites, as described in CS Policy P1, in the interests of sustainable development. Release of the appeal site in advance of any need would be detrimental to the proper planning of the area. For all these reasons, oversupply of housing land would be harmful to the policies and objectives of the CS.

### **Affordable housing**

6.47 The application triggers a requirement for affordable housing. The CS states that the Council will normally seek to ensure that 40% of the units are affordable – this is known as Target A. However, the CS accepts that such a policy target will not be viable on all sites at all times. Policy D6 states that, as a minimum, all qualifying housing proposals should meet Target B which, in the case of the appeal site, would be 30% affordable housing<sup>115</sup>. In this case the appellants guarantee a minimum of just 20% affordable housing, even though the latest viability assessment suggests that this may not be viable. This is well below even the minimum policy target.

6.48 Where it is shown that Target B cannot be achieved on viability grounds, Policy D6 states that the Council may exceptionally support a lower provision where the scheme would address a long term housing land supply deficiency and/or where it would deliver other plan objectives that outweigh the need to provide affordable housing at target levels. The development of the appeal site is not one of the key transformational projects set out in the CS. Therefore, unless there is a lack of a 5 year housing land supply, the proposed affordable housing would be contrary to the requirements of the CS.

### **Sustainability**

6.49 The appeal scheme does not offer any retail or employment uses on site. The following table provides an agreed indication of the distances to food shops, primary schools and other facilities compared with the target and maximum walking distances set out in RPG10<sup>116</sup>.

<i>Facility</i>	<i>Target RPG10 distance (m)</i>	<i>Max RPG10 distance (m)</i>	<i>Distance from Inwood Road access</i>	<i>Distance from A39 access</i>
Food store	300	600	2820	1900
Primary school	300	600	470	1350
Bus stop	200	400	860	500
Sports provision	600	1000	2520	2320
Town centre	600	1000	2920	2000

<sup>115</sup> See paragraphs 5.87 and 5.88 and tables 5.4 and 5.5 of Document CD/4/2

<sup>116</sup> Inspector's note: The figures are given at paragraph 4.46 of SDC/4 and were accepted by the appellants' highways witness in answer to questions from Mr Collett. Annex A to RPG10 is at Document ID/8.

6.50 Other than the primary school distance from the Inwood Road access, all the distances exceed the RPG10 maxima. The appellants dispute that RPG10 is the correct test to apply. The Council submits that it is the correct test and that it has been applied in many planning inquiries throughout the south west. The appeal scheme will increase the need to travel and is therefore unsustainable.

### **Highways and Transport**

6.51 The position at the start of the Inquiry was that there was insufficient information on which either a Travel Plan or a Transport Assessment could properly be considered. During the adjournment the appellants' consultants accepted the limitations of the submitted material and provided further information. This resulted in a further assessment by SCC and it is now accepted that the effect of the proposal on the highway network could be resolved with appropriate mitigation. On this basis, the Council has no further reason to oppose the development on highways or transport grounds. Nevertheless, it is clear that many local residents take a different view on this issue.

### **Comments on the Undertaking**

6.52 The Council is concerned about some aspects of the drafting of the Undertaking. In particular, it appears that some matters which had been agreed during discussions between the Council and the appellants have not been included in the submitted version of the document. First, the Council would like to see provision for a financial bond which would be available to the Council in the event that the developer did not meet the obligations relating to landscaping the public open spaces. An earlier version of the document made express provision for such a bond<sup>117</sup>. There is a risk that the developer could default on carrying out the necessary works leaving the Council with an expensive maintenance liability. It may be the case that the developer simply does not have the funds to do the work in which case it would be unlikely that the Council would be able to recover its costs.

6.53 Second, the Undertaking provides for a deferred affordable housing contribution in the event that the viability of the development improves from the current position<sup>118</sup>. The Council would wish to see reviews of viability after 3 years, 5 years and at the end of the project. The submitted Undertaking has a single review date. Third, the definition of the affordable housing provider is inadequate in that it could result in any organisation whose functions include the provision of affordable housing being selected. After 6 months, if the developer had not reached agreement with one of the organisations on the Council's preferred list, the Council would lose the ability to influence the selection of a suitable provider of affordable housing<sup>119</sup>.

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<sup>117</sup> See clause 4.15.5 (B) (i) of Document ID/10 where the Council would wish to see "either by bond or other arrangement" inserted after "securing of future financial resources"

<sup>118</sup> See section 4.14 of Document ID/10

<sup>119</sup> See the definition at clause 1.9 of Document ID/10 where the Council would wish to see the words "as first approved by the Council" inserted after "such other body".



## **Conclusions**

- 6.54 This inquiry turns on the housing land supply figures. Many authorities have struggled to achieve their strategic requirements. In contrast, through forward thinking, provision of infrastructure and affordable housing projects, Sedgemoor has more than met its targets. The fact is that this local planning authority has produced more than the required number of units in each of the last 9 years<sup>120</sup>. In order to reduce the supply below 5 years the Council would have to be spectacularly wrong across every area of housing land supply. That assertion is simply not credible.
- 6.55 Whilst the appellants have tried to question a number of the SHLAA sites, their evidence is based on conjecture. There is no evidence that delivery has slipped in any meaningful way. There is currently a supply of 6.1 years and this will be added to by decisions such as Chilton Trinity and Brue Farm. In any event, the supply should be assessed as part of an overall review, not a mid-period snapshot which only looks at certain sites. The local planning authority must be allowed to have a degree of certainty in its figures until an annual review. Otherwise the process of plan, monitor and manage would have no meaning.
- 6.56 NEB is a flagship project for the Council. It is one of the key transformational projects identified in the CS and a great deal of development has taken place already. Infrastructure has been installed or is being provided. That is a good indicator of Hallam's intent to push the project forward. The appellants suggest that further development will not come forward or, if it does, only at a rate of 35dpa. At that rate the project would take 45 years to complete. Clearly, Hallam will have to bring sites forward sooner than that or risk complete failure. The suggestion that the site will stagnate is unrealistic.
- 6.57 In conclusion, the Council has established a robust housing land supply in excess of the required 5 years which has stood the test of time. There is no reason to think that it has erred substantially in the last year. In the forthcoming review some sites may move back in time or drop out altogether. However, other sites will move forward and new sites will be included. On the basis of a robust supply position, the appeal site is not needed.
- 6.58 Finally, there is strong local feeling against this appeal scheme. The situation here is unlike many Inquiries where residents are against any development whatsoever. The local residents that attended this Inquiry regard the appeal proposal as being at the wrong time and in the wrong location.
- 6.59 The Secretary of State is therefore requested to dismiss the appeal.

## **OTHER ORAL REPRESENTATIONS TO THE INQUIRY**

- 7.1 Several local residents and local Councillors spoke against the appeal and one resident of Bridgwater spoke in favour. Those giving oral evidence are listed under Appearances in Annex A to the report. Some also produced documents at the Inquiry and/or submitted post Inquiry representations in response to the Framework. These are listed in Annex B under the prefix TP and PIC

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<sup>120</sup> Inspector's note: Based on the table at paragraph 5.3 of Document SDC/1 the figure should be 8 years.

respectively. The main points have been summarised below although some contributions have been adjusted to reduce repetition.

- 7.2 **Councillor Mike Solomon** is the chairman of Wembdon Parish Council (WPC)<sup>121</sup>. The appeal has attracted a great deal of interest from local residents, many of whom have attended throughout the Inquiry. WPC has 3 main areas of concern - the impacts of the scheme on the community, traffic and the environment. Wembdon is not a suburb of Bridgwater, it is a long established village community. It has the physical elements of a village community, including a church, a school, a shop/post office and a public house. It also has the social elements of village life. The Wembdon Community Association gives support to the elderly and there are social groups, community events and a parish newspaper. This sense of community cannot be created overnight. For most of its history Wembdon has grown slowly. However, the village offers an attractive environment and there is a high demand for houses. In recent years it has experienced rapid population growth. The village needs time to absorb the new population into the community before further housing is permitted.
- 7.3 WPC is shocked that SCC has accepted the appellants' transport assessment. For many local people traffic is the primary issue. Most of the traffic ends up on the A39. This is a very busy road. It is a holiday route and suffers from many accidents and delays. WPC has already seen convoys of heavy goods vehicles connected with the preliminary works for HPC. There is a pinch point where the Northern Distributor Road (NDR) meets the A39. This is a dangerous junction where pupils from Haygrove School need to cross the road. The development of the appeal site now would add traffic to the A39 at the same time as the construction traffic that will be needed for HPC. There is a further pinch point where Wembdon Rise meets the NDR and traffic often backs up at this point.
- 7.4 WPC is also concerned that the new junction onto the A39 will create a rat run through the village at times when the A39 is congested. Wembdon Rise is an old turnpike road which was designed for horses and carts. It has narrow pavements and is not suited to large volumes of traffic. The transport assessment anticipates that 70% of the traffic generated by the appeal scheme would enter and leave the site via the A39 with just 30% using the Inwood Road access. However, for most of the site, Inwood Road would provide a more direct route to the town and a greater proportion of the generated traffic is therefore likely to use this route. Although cycling is to be encouraged, Wembdon Rise does not provide a suitable cycle route to the town. The road is too narrow for the provision of a dedicated cycle lane. With regard to environmental issues, WPC shares the ecological concerns that have been raised by others. Development of this scale should have been supported by a full Environmental Impact Assessment.
- 7.5 **Councillor Ann Bown** is a Member of Sedgemoor District Council. Wembdon has seen over 1000 new houses in the last 10 years. The local school is at capacity. There is no need for the release of the appeal site at this stage with land coming forward at NEB and Brue Farm. The CS has only recently been adopted and ignoring it so soon would discredit the whole process. There is no employment within the appeal scheme which will therefore generate additional

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<sup>121</sup> See Document WR/1

travel to work. Traffic on the A39 is a major concern, especially having regard to the construction of HPC. The local roads around the site are already very congested, especially at school times. Although there is a cycle route along the NDR in practice cyclists still use the road. The relocation of Haygrove School may never happen, due to lack of funding.

- 7.6 **Councillor John Edney** represents the Cannington division of SCC which includes Wembdon. Although the appeal site is scheduled for development in the future it is not needed now because there is a sufficient reservoir of land within the District. It seems likely that HPC will go ahead and that the construction traffic will affect the A39. The timing of any development at the appeal site should coincide with the completion of HPC. Earlier in the Inquiry Julie Nicholson drew attention to an incidence of anthrax in the vicinity of the site in 1966 and there is now documentary evidence of that fact<sup>122</sup>.
- 7.7 **Anne Heritage** is a local resident. The appeal should be rejected on the grounds of impacts on habitats and biodiversity and on grounds of visual impact. The appellants' Phase 1 habitat survey does not provide a complete list of the habitats or species found at the site. The mapping was done in 2008 and is not current. Information from the Somerset Environmental Records Centre indicates the presence of 52 species of birds protected under the European Birds Directive<sup>123</sup>. All species of bat are present including the lesser and greater horseshoe bat. The removal of hedgerows and the introduction of street lighting would reduce the habitat available to bats and it would not be possible to maintain all the bat species at a favourable conservation status. 15 of the 17 hedgerows are classified as important. There are also reptiles present at the site as well as important plant species including Bristol Rock Cress which is found along the edge of the neighbouring field. Pollution, noise, additional traffic and habitat loss resulting from the development would be harmful to the biodiversity of the site, contrary to the objectives of the CS.
- 7.8 The appeal site is of great landscape value. The proposed development would block views from Skimmerton Lane, Quantock Road and the Inwood Road area of Wembdon. The rural character of Skimmerton Lane, which is much used by walkers, would be ruined by the construction of a ubiquitous housing estate. If the appeal scheme is permitted it is more likely that the relocation of Haygrove School would also go ahead, resulting in further loss of countryside. The appeal site is subject to localised flooding problems.
- 7.9 **Roy Franklin** is a local resident. It has been put to Ms Heritage that the environmental records she produced date from 2008. However, this does not undermine the force of her argument because the species in question have been present for many years.
- 7.10 **Gloria Durston** lives adjacent to the appeal site. Lyndhurst Crescent is a cul-de-sac backing onto open countryside with an uninterrupted view towards the Quantock Hills. The site is not allocated for development in the CS. The

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<sup>122</sup> Cllr Edney submitted Document TP/2 on behalf of Julie Nicholson.

<sup>123</sup> See Document TP/1. There are further written comments from Ms Heritage at Documents PIC/5 and PIC/9, the main points of which are summarised above. In answer to questions from Mr Tabachnik, Ms Heritage agreed that the environmental records relate to 1km grid squares and were obtained in June 2008.

developers started to carry out clearance work along Gypsy Lane<sup>124</sup>. This had to be stopped because the banks alongside the lane are not in the same ownership as the appeal site. Badgers, hares, grass snakes and adders have been seen on or close to the site and bats are often seen flying over the land. The development traffic would be added to the already high volumes of traffic on the A39 resulting in pollution and safety concerns. The Council's CS is a comprehensive policy which is consistent with the Framework and which will provide a sustainable source of housing land<sup>125</sup>.

- 7.11 **Peter Major** is a local resident. The appellants' evidence concentrates on housing land supply and fails to deal with the factors directly affecting local residents. There are inaccuracies in the Transport Assessment. The scheme is purely residential so it would generate a demand for travel. Most journeys would be by car. Little effort has been put into walking and cycling routes, with no consultation or public input. The Rights of Way Officer suggested a link to the footpath to the west of the site but this has not been provided.
- 7.12 **Margaret Major** is a local resident. The appeal proposal seeks to build houses on the west side of the town whereas all the employment is to the east. The site is out on a limb and access to the town on foot is not practical. The adjoining primary school is at capacity. If the number of classrooms is increased the ethos of the school would be damaged. The proposed bus stops would be a benefit but it would be necessary to specify buses suitable for disabled people. This would encourage the use of public transport by those with young children. There would be congestion along Inwood Road which would make it difficult for emergency vehicles to get through.
- 7.13 **Dr Anne Reed** is a local resident, GP and parish councillor. The appeal scheme is a threat to the identity of Wembdon as a separate entity. The village has absorbed enough new housing for the time being. The local shop/post office is very small and has no parking.
- 7.14 **Julie Nicholson** is a local resident. In the mid 1960s there was an outbreak of anthrax and animal carcasses were burnt on the land. Children were not allowed to play there and no animals have been kept there since. If the land were developed there would be a hidden danger because the spores remain forever.
- 7.15 **Mark Phillips** is a local resident. Inwood Road serves 174 houses. Adding 30% of the traffic from the appeal site would be equivalent to adding another 150 houses – nearly double the existing number. It would be irresponsible to open up a through route to 450 new homes. The scheme would bring no benefits to the locality but would have substantial impacts on existing residents. It is not needed because there is plenty of housing land in Sedgemoor. When Haygrove School relocates that will create another large brownfield site.
- 7.16 **Mr Upham** is a local resident. On a recent visit to Inwood Road at 1500hrs there were 93 parked vehicles. It would not have been possible for any vehicle to get through.

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<sup>124</sup> Gypsy Lane is the footpath running adjacent to the eastern site boundary.

<sup>125</sup> Mrs Durston's comments on the Framework are in Documents PIC/7 and PIC/12. She also submitted some photographs which are at Document TP/4.

- 7.17 **Roger Brown** is a local resident. Inwood Road is a curving estate road which was designed as a cul-de-sac. It is not suitable for through traffic.
- 7.18 **Mrs Kelly** is the owner of a property on Wembdon Hill. She commented on the Undertaking in relation to the proposed transfer of land to SCC for the purposes of expanding the primary school. The land in question is subject to a covenant which limits any new buildings to agricultural use.
- 7.19 **Mr Cudlipp** is a resident of Bridgwater who spoke in support of the appeal. The Council has resolved to permit housing at Brue Farm on the basis that the scheme accords with CS Policies S1, D1, D3, and D5. That scheme is an overdevelopment of the site which was objected to by the Parish Council and Wessex Water. Moreover, the scheme provides just 10% affordable housing on site plus a financial contribution to off-site affordable housing. The Council's decision to refuse the appeal scheme is inconsistent with the stance it has taken at Brue Farm. There has been a Wembdon Poll, reported in the local press, in which the residents of Wembdon have voted to support improved leisure facilities in the village. The appeal scheme is a natural extension of Wembdon and the appeal should be allowed.

## WRITTEN REPRESENTATIONS

- 8.1 **WPC** (Document WR/1) objected to the appeal, making similar points to those made by Councillor Solomon at the Inquiry. In addition, attention is drawn to work on the Parish Plan which demonstrates that 95% of the community do not want to see another large housing estate in Wembdon. The report of the Inspector who conducted the examination of the CS anticipated that the site would not be needed until around 2021.
- 8.2 **The EA** (Document WR/2) has no objection to the scheme. The need for a contribution to strategic flood defences in accordance with the BSFDT is emphasised. The EA supports the landscape and ecological recommendations submitted with the application and requests planning conditions relating to a sustainable urban drainage system (SUDS) and a construction management plan.
- 8.3 **The Parrett Internal Drainage Board** (Document WR/3) has no objections. Discussions with the appellants have resulted in a workable surface water management strategy. The Board is pleased to note the use of SUDS technology. This will be important to reduce the risk of surface water flooding in the Wembdon Rise and Church Road area. Issues requiring further attention include the construction details of the balancing facilities and arrangements for future maintenance. These matters could be covered by conditions.
- 8.4 **CPRE (Somerset)** (Document WR/4) objects to the loss of a greenfield site. There is no justification for the early release of the site given the strategic priorities of the CS. Wembdon has absorbed more than its fair share of housing growth and risks losing its village identity. The site is on sloping ground and is prominent in the landscape. It is in a strategic gap and the landscape impact of the scheme would be contrary to CS Policy D14.
- 8.5 **SCC (Finance and Property)** (Document WR/5) comments that prior to the Council's decision to refuse the application agreement had been reached on the need for education contributions and for the transfer of land to enable the

expansion of St George's Primary School. In answer to my questions, SCC submitted a further document explaining the need for additional pre-school and primary school places. The proposal is that the land to be transferred by the Undertaking would become a new sports field, allowing the school to expand onto its existing open spaces (Document TP/5).

- 8.6 There were 17 individual/joint responses to consultation on the appeal (Document WR/6). The main points made are as follows. **Mr S Flook** comments that there is no need for the scheme because there are already many houses under construction in the locality. **Ms Y Tingle** comments that brownfield sites in the town are better located in relation to employment opportunities and objects to the impact of the scheme on the village community and on traffic conditions on Inwood Road and the A39. **Mrs S Whytock** comments that there are ample opportunities to build on brownfield sites. **Councillor Ann Bown** makes similar points to those made by her at the Inquiry. **Mr R Dickinson** states that the HPC traffic converges at the A39/NDR roundabout and that congestion here will result in traffic diverting through Wembdon.
- 8.7 **Mr Tony Howes** is concerned about overlooking of houses in Wembdon Hill which back onto the site. **Mr A Taylor** comments that Inwood Road can scarcely cope with the existing amount of school traffic. **Mr D Gliddon** objects to the loss of agricultural land and wildlife habitat. **Mr and Mrs Phillips** comment that opening up Inwood Road will create a rat run and that the whole traffic network in Bridgwater needs to be improved before more houses are built. **Mr and Mrs Harrison** state that the village is already under pressure from housing development and HPC construction traffic. The appeal scheme will change the dynamic of the village.
- 8.8 **Mr and Mrs Martin** are concerned about dust during the construction phase and comment that there is no need for the development. **Mrs P Sellick** draws attention to existing congestion on the A39 and the lack of school places in the locality. **J Putnam** objects to the loss of a valuable green wedge. **B Cooper** comments that any increase in the size of the school would increase the existing levels of traffic congestion and that the width of Inwood Road would make bus access very difficult. **S Berryman** is concerned about congestion on the NDR and A39 which is already resulting from other developments in the area. **Mrs S Gliddon** objects on landscape, wildlife and traffic grounds. **Mr A Bright** comments that the introduction of a signal controlled junction on the A39 would cause delays which would, in turn, result in traffic diverting through Wembdon. This would also encourage those living at the site to use the Inwood Road access in preference to the A39 access.
- 8.9 The representations received at application stage are summarised in Document CD/5/1. The consultation responses included an objection from the County Highway Authority on grounds which were subsequently reflected in the reasons for refusal. WPC and Durleigh Parish Council objected on grounds similar to those which were expanded on at the Inquiry by WPC. The EA, the Parrett Internal Drainage Board and Wessex Water raised no objections. The Police did not object but made some comments on the illustrative layout in relation to crime prevention. The County Archaeologist and English Heritage commented that further survey work was needed. NE raised no objection and commented that the ecological and landscape submissions which accompanied the

application were most satisfactory and that the extent of ecological/green infrastructure provision appeared most promising and well thought out. The consultation responses are at Document CD/6/1.

- 8.10 There were also 76 letters of objection from members of the public. These are also summarised in Document CD/5/1. In general the matters raised reflect the points made by those who spoke at the Inquiry and by those who made written representations on the appeal.

## CONDITIONS

- 9.1 A list of suggested conditions was submitted by the Council<sup>126</sup> and was discussed at the Inquiry in the light of the guidance in Circular 11/95 *The use of conditions in planning permissions*. As a result of those discussions the Council and the appellants agreed that some of the suggested conditions were not necessary, that they could be combined to avoid duplication or that they could be amended to follow model conditions published by The Planning Inspectorate. In most cases there was agreement between the parties on these matters. I shall comment below on the main area of disagreement. The schedule of recommended conditions set out at Annex C is based on the discussion at the Inquiry although I have adjusted some of the detailed wording to reflect Circular guidance.
- 9.2 **Conditions 1 – 3** are based on the standard conditions for outline planning permissions, adapted to enable the submission of reserved matters in phases. **Condition 4** requires the phasing programme to be approved by the Council. This would be needed because implementation of the scheme would take several years. The approval of the reserved matters would be phased and it would also be necessary to consider the timing of the provision of footpath and cycleway links in the interests of promoting sustainable transport modes. **Condition 5** requires approval of a Construction Method Statement which would be required in the interests of highway safety and also to protect the living conditions of nearby residents during the construction of the development. The recommendations of the EA regarding approval of pollution prevention measures have also been incorporated.
- 9.3 **Condition 6** requires archaeological investigations within the areas of archaeological significance identified by the additional archaeological information submitted to the Council<sup>127</sup>. The condition accords with the conclusions of that further work. **Condition 7** requires the approval of an Ecological Method Statement, dealing with minimising impacts during the construction phase, and an Ecological Management Plan dealing with longer term mitigation and enhancement. This condition would be needed to mitigate the impacts of the scheme on wildlife habitats.
- 9.4 The provision and retention of appropriate car parking for each dwelling would be secured by **Condition 8**. **Condition 9** requires details of external lighting which would be needed in order to control light pollution in the interests of protecting the character and appearance of the area and minimising impacts on

<sup>126</sup> See Document SDC/12

<sup>127</sup> The plan referred to in the condition is included at Appendix 4 to the Statement of Common Ground at Document ID/9.

wildlife. **Condition 10** requires electricity and telephone services to be placed underground. It would be needed in the interests of protecting the character and appearance of the area. **Condition 11** requires details of foul and surface water drainage, to include the provision of SUDS. This condition would be needed in the interests of managing flood risk and preventing pollution. It reflects the recommendations of the EA and the Parrett Internal Drainage Board.

- 9.5 **Condition 12** requires approval of a scheme for the protection of existing trees and hedgerows. It would be needed in order to protect the character and appearance of the area and also in the interests of nature conservation. **Condition 13** requires investigations into any contamination of the site in accordance with a methodology which would be agreed by the Council. This would be needed to manage any risks to human health or the environment arising from the condition of the land. It would also address the concerns raised by a local resident in relation to an occurrence of anthrax at Cokerhurst Farm. **Condition 14** would ensure that individual dwellings are connected to the public highway by properly constructed roads and footways at the time they are first occupied, in the interests of safety and amenity.
- 9.6 **Condition 15** requires approval of the strategic landscaping. Although landscaping would be a reserved matter, as noted above submission of some of the details may be in phases. The strategic landscaping would form part of the green infrastructure for the site and it should be considered as a whole at the outset, in the interests of integrating the development into its rural surroundings. **Condition 16** would require the approval of information relating to the Code for Sustainable Homes. The requirements of the CS in relation to the Code would change during the life of the development so it would be appropriate for these details to be submitted in phases. This would ensure that later phases comply with the policy requirements at the time they are brought forward.
- 9.7 The Council suggested conditions relating to the means of access from the A39 and Inwood Road<sup>128</sup>. However, these would not be necessary because they would duplicate matters covered in the Undertaking.

## PLANNING OBLIGATIONS

- 10.1 The final draft of the Undertaking was discussed during the Inquiry and a fully executed version was submitted shortly thereafter. The obligations are conditional in that, if the Secretary of State finds a particular obligation to be incompatible with Regulation 122 of the Community Infrastructure Levy Regulations 2010, then that obligation shall cease to have effect<sup>129</sup>.
- 10.2 The Undertaking provides that 20% of the dwellings would be affordable. These would be delivered in accordance with a phasing plan, to be agreed by the Council. Five years after the commencement of the development there would be a review of the viability of the scheme. If the viability improves from the present position then a deferred affordable housing contribution would become payable.

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<sup>128</sup> See suggested conditions 12 and 18 in Document SDC/12

<sup>129</sup> Clause 7 of Document ID/10



- 10.3 The provisions relating to public open space require all of the public spaces, including the play areas, to be laid out in accordance with details to be agreed by the Council. No more than 250 units could be occupied until the public open spaces had either been offered to the Council for £1 or transferred to a management entity. If they were offered to the Council then a commuted maintenance sum would be paid. The management entity would be subject to the approval of the Council.
- 10.4 Subject to confirmation that the school expansion land was required, the Undertaking provides for the land to be offered to SCC for £1. The allotment land would be laid out in accordance with details to be approved by the Council and would be offered to the Council for £1. The Undertaking also provides for financial contributions to strategic flood defences, sports facilities and education.
- 10.5 The obligations relating to highways and transport include financial contributions to improvements in the vicinity of 7 junctions along the main traffic routes passing to the north, east and south of the town centre. There would also be financial contributions to bus service enhancements, pedestrian and cycle route enhancements and a school travel plan for St George's Primary School. The developers would carry out the works required to form the site accesses at the A39 and at Inwood Road and would construct 4 bus stops within the site. If the relocation of Haygrove School goes ahead then the developers would construct a cycleway along the A39, including a Toucan crossing, which would link the site to the new school.
- 10.6 The Undertaking includes an obligation to implement the travel plan. The travel plan includes the formation of pedestrian links to Wembdon Hill, at the north west and north east corners of the site, and to Lyndhurst Crescent/Quantock Meadow. The cycle route enhancements would include cycle signing along the route between the site and town centre. The travel plan also includes the provision of travel packs and personalised travel planning advice designed to give more specific and relevant information to individuals. The travel packs would be supplied to each household upon occupation as well as to existing dwellings along the sustainable transport corridors leading to the town centre. The packs would include walking and cycling maps, public transport information, vouchers for spending on sustainable travel and information on car sharing services and other local and national travel planning initiatives.
- 10.7 The travel plan includes targets to change the modal split of journeys to and from the site. For example it is proposed to reduce the proportion of trips made by vehicles from a baseline figure of 55.6% to 42.6% over a 10 year period. The target is to increase the proportion of trips made by public transport from 2.5% to 5.5% and the proportion by cycle from 2.6% to 8.6% over the same period.

## INSPECTOR'S CONCLUSIONS

*The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions.*

11.1 Taking account of the oral and written evidence, my observations on site and the Secretary of State's reasons for recovering determination of the appeal the main considerations are:

- Whether there is a case for the release of the appeal site, having regard to the development plan and housing land supply;
- Whether the development would be accessible by a range of transport modes and would promote sustainable travel choices; and
- The effect of the development on highway safety and traffic conditions on the local highway network.

### *The development plan*

11.2 The development plan includes RPG10, the CS (including the saved policies of the LP) and the saved policies of the SP. The CS was adopted in October 2011. The Council referred to guidance in Annex A of RPG10 relating to walking distances to local facilities. Apart from that, the parties did not rely on RPG10 to any great extent. I consider that the guidance in Annex A is consistent with section 4 of the Framework which deals with promoting sustainable transport. Consequently, the Government's intention to revoke RPG10 does not significantly alter the policy context for this appeal. Similarly, although the saved policies of the SP are referred to in the reasons for refusal, ultimately the parties did not rely on these policies. The CS therefore provides the main source of local policy. Paragraph 214 of the Framework therefore applies. [4.1, 4.2, 6.49]

### **Consideration 1: Whether there is a case for the release of the appeal site, having regard to the development plan and housing land supply**

#### *Introduction*

11.3 CS Policy D5 establishes a district-wide housing target of 10,605 new homes over the period 2006 to 2027. Policy P1 is a place-making policy which applies to Bridgwater. With regard to housing, it defines 3 sequential priorities. The first is the development of brownfield sites and a strategic mixed use urban extension at NEB. Where it can be demonstrated that a 5 year supply of deliverable housing land is not available, the second priority is development at 3 broad locations on the edge of the urban area. The appeal site falls in one of these broad locations, described in the CS as "land at Wembdon – adjacent to Wembdon development boundary and north of the A39". This is a broad location as opposed to a site-specific allocation. Nevertheless, at the Inquiry the Council accepted that in practical terms this description can only refer to the appeal site. [4.3, 4.4, 5.3]

#### *General approach to housing land supply*

11.4 The Council and the appellants agreed that the assessment of housing land supply should be carried out in relation to the housing numbers set out in Policy D5 of the CS. I agree that this is the correct approach because the CS was

informed by an independent locally based assessment of housing requirements. It was subject to examination during 2011, was found to be sound and has recently been adopted. The Council's preferred methodology is to calculate both the residual requirement and the supply over a 6 year period, including the current year (2011/12) and the 5 years running from April 2012 to March 2017. The appellants agreed that this is an appropriate methodology. [4.3, 6.14]

- 11.5 On this basis, the Council and the appellants agreed that the CS requirement is 2,886 units. The Council considered that the supply is 3,399 which would exceed the requirement by 513, indicating a supply of 6.1 years. The appellants, on the other hand, argued that the supply is 2,531, resulting in a shortfall of 355 units. Paragraph 47 of the Framework refers to an additional buffer of 5% moved forwards from later in the plan period. This would increase the requirement to 3,030. On the Council's figures there would still be a supply of more than 5 years. However, on the appellants' figures the shortfall would increase to 499. The difference between the parties relates to their respective assessments of delivery rates at NEB and to the deliverability of some SHLAA sites and sites with planning permission. [5.10, 6.14]
- 11.6 The Framework sets out a presumption in favour of sustainable development. The social dimension of sustainable development includes providing the supply of housing required to meet the needs of present and future generations. Paragraph 49 of the Framework states that relevant policies for the supply of housing land should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. In this case the availability, or otherwise, of a 5 year supply is central to the implementation of the CS because of the sequential priorities set out in Policy P1. Advice on assessing whether sites are deliverable is set out in Paragraph 47, (and footnote 11), of the Framework and there is also relevant advice in the Practice Guidance *Strategic Housing Land Availability Assessments*. In summary, sites should be available, suitable and achievable with a realistic prospect that housing will be delivered within 5 years. I have taken account of this advice in considering the housing land supply in Sedgemoor.

#### *North East Bridgwater*

- 11.7 NEB is a strategic urban extension which is one of the key transformational projects identified in the CS. Planning permission has been granted for 2,000 dwellings together with other uses including retail, leisure and community uses, a primary school, employment uses, and facilities for sports and recreation. Hallam is the developer of the northern sector of NEB. Land in the southern part of NEB is in a different ownership and this land is not relied on in relation to the 5 year supply. Hallam was awarded £11.1 million of Kick Start 2 funding to deliver infrastructure and affordable housing. Following a start on site in 2010 the Morrisons distribution centre and the spine road have been completed, surface water management and utilities services have been delivered and a substantial number of dwellings are under construction. Work is well advanced on the design of the primary school and the construction of the railway bridge linking the site directly to the A38 Bristol Road will be completed by December 2012. During my visit to NEB I was able to see the considerable progress that has been made during a relatively short period. There are currently two house builders on site – Barratts and DWH. On site they have the appearance of

separate operations although in fact they are two brands within a larger organisation. [5.33, 5.35, 6.33, 6.34]

- 11.8 The Council adopts a delivery rate of 150dpa (market and affordable housing). The LSR indicates that this figure is based on information from Hallam. The letter from Hallam, which was submitted by the Council during the course of the Inquiry, refers to a figure of 100dpa. This figure relates to housing completions on the remainder of the Hallam land, beyond phase 1, which is likely to be market housing. Hallam was not represented at the Inquiry so it was not possible to test this evidence in cross examination. That must be borne in mind when deciding how much weight to attach to Hallam's comments. Nevertheless, I consider that the comments are a material consideration to be taken into account alongside the other evidence. [5.32, 5.34]
- 11.9 The appellants' approach is to look separately at the delivery of market and affordable housing. That seems to me to be reasonable because the 260 affordable units already committed in phase 1 will meet the whole of the affordable housing requirement for the Hallam land. Moreover, there is no dispute between the Council and the appellants that the affordable units are likely to be provided well within the 5 year period, this being a requirement of the Kick Start 2 funding. The nub of the dispute between the parties is the delivery rate for market housing. [5.33, 5.35]
- 11.10 The appellants' initial position was that the rate of delivery for market housing would be 93dpa. This was based on a comparison with delivery rates at South Bridgwater. I consider that the position at South Bridgwater is an important source of evidence because it relates to delivery on a broadly comparable strategic urban extension to the town of Bridgwater. Although there are now 5 brands on offer at South Bridgwater, that situation has only been reached after 4 years of the development. The fact that the appellants based their initial evidence on delivery rates at South Bridgwater is a further indication that the comparison is a reasonable one to make. [6.35, 6.39]
- 11.11 Shortly before the Inquiry opened the appellants proposed a revised delivery rate of 35dpa. This figure was based on advice received from GTH, a firm of estate agents. GTH was not represented at the Inquiry and its opinions could not therefore be tested through questioning, a point to be taken into account when considering how much weight to attach to those opinions. In any event, it is clear from the written comments that the conclusions reached by GTH are much influenced by its view of the attractiveness of NEB, having regard to factors such as the proximity of the Morrisons development and the motorway, and by the fact that there are currently just 2 outlets. I consider that this assessment does not take sufficient account of the strategic scale and comprehensive nature of the NEB development which will in time provide a range of facilities. Moreover, the scale of the development is such that it will create its own environment. There is no reason to think that the environment created will be an unattractive one. Although there are currently only 2 outlets, as the experience of South Bridgwater shows, the number of outlets can change during the life of a large development. Consequently, whilst I take account of the evidence of GTH, I attach greater weight to the evidence from South Bridgwater. [5.35, 6.33, 6.34, 6.35, 6.36]

- 11.12 The appellants rely on notes of a telephone conversation between one of their planning consultants and an employee of Barratts. The individuals concerned did not appear at the Inquiry and could not therefore be questioned. The comments were not confirmed in writing by Barratts. In any event, it seems to me that the pattern of sales in the first few months of a strategic housing site such as NEB is unlikely to be representative of the situation as the site matures. The experience of South Bridgwater shows how, on a strategic site, delivery rates build up over time. For all these reasons I consider that little weight should be attached to this evidence. [5.35]
- 11.13 The appellants referred to an appeal decision at Picket Piece where the Inspector and Secretary of State took account of delivery rates derived from the trading statements of national house builders. I agree that such information is a material consideration. The evidence suggests recent average delivery rates, (for market housing), of around 25dpa per outlet. However, these are averages derived from a wide range of sites. Individual sites may perform at a higher or lower rate. Moreover, this evidence does not justify an overall rate for NEB as low as 35dpa unless Barratts/DWH is regarded as a single outlet and the possibility of an additional developer or developers is discounted. The appellants suggested that Barratts and DWH have a similar product and are competing in the same market. However, there was limited evidence in support of that assertion. In general terms it seems unlikely that a development company would operate two brands at a single location unless it expected to sell more houses. I will comment below on the prospects for further developers becoming involved at NEB. In summary, I consider that the appellants have not justified the figure of 35dpa which I regard as unrealistically low. [5.35, 6.38, 6.39, 6.56]
- 11.14 I turn to the appellants' evidence on the viability of future phases. It was argued that there would be abnormally high development costs, particularly in relation to the need for deep piling of foundations. The first point to note is that the appellants did not suggest that future development would be unviable in the sense that developers would not be able to build and sell houses at a profit. Rather, it was argued that the NPV of the land would be so low that, in practice, Hallam would hold on to the land until the market improves rather than selling to house builders. Hallam, on the other hand, states that it is in discussions with potential developers of future phases. [5.37, 6.35]
- 11.15 The viability assessment is a theoretical model based on assumptions regarding costs and values. None of the inputs to the model are based on figures from Hallam or the developers on site. The results of all such models are dependant on the assumptions used. In this case one of the inputs to the model is a completion rate of 35dpa which results in a lengthy development period. For the reasons given above, I regard that rate as unrealistic. There has been no sensitivity testing of alternative delivery rates or indeed of any other variations in the input assumptions. [5.37, 6.37]
- 11.16 The appellants argued that the implementation of phase 1 would not have been possible without a large public subsidy – a subsidy that will not be available for later phases. Whilst there was little information before the Inquiry on the financial position in relation to phase 1 it seems reasonable to assume that the Kick Start 2 funding would not have been made available unless needed. However, matters have moved on in that phase 1 is now well

underway. With the spine road and other infrastructure complete, and the railway bridge committed, Hallam is in a position to offer serviced development sites to the market. Any abnormal costs on an individual site would no doubt be reflected in the price paid by an incoming developer. [5.33]

- 11.17 The appellants emphasised that Hallam does not itself build houses and suggested that the prospect of future land sales is speculative. However, Hallam is promoting a large and comprehensive scheme of development. Having assembled the land, secured planning permission and provided infrastructure it can reasonably be assumed that Hallam will sell serviced plots to housing developers in order to obtain a return on its investment. Given that the first occupations in phase 1 only occurred in September 2011 it is not surprising that further phases have yet to be released. Hallam has stated that it is in discussions with potential developers. Whilst that cannot be directly verified, it is consistent with Hallam's actions in completing the spine road and other infrastructure and pressing ahead with the railway bridge and primary school. [5.36, 6.34, 6.35]
- 11.18 It is necessary to weigh the appellant's viability evidence against the evidence of actual progress on the ground. I attach greater weight to the latter and conclude that it is unlikely that the development of NEB will stall following the completion of phase 1. It appears to me more likely that the number of outlets will increase during the next 5 years, as it has done at South Bridgwater over the last 4 years. Having regard to all of the available evidence, I consider that the average delivery rate, for market housing, of 93dpa achieved at South Bridgwater provides a reasonable estimate of the likely rate of delivery at NEB. That figure would result in 558 units over a 6 year period. Adding the 260 committed affordable units in phase 1 brings the total to 818 – a reduction of 82 units from the Council's figure.

#### *SHLAA sites*

- 11.19 Before dealing with the individual sites, I shall make some general comments on points raised by the appellants in relation to flood risk and employment land. Several of the SHLAA sites are in FZ3, as defined in the Technical Guidance to the Framework. On this basis, the appellants argued that the appeal site, which is in FZ1, should be regarded as sequentially preferable. One of the objectives of the Framework is to avoid flood risk to people and properties where possible and to manage any residual risk. The Framework states that Local Plans should be supported by the preparation of Strategic Flood Risk Assessments. [5.4]
- 11.20 One of the key themes of the CS is the priority afforded to achieving the regeneration of the main settlements by securing the re-use of previously developed land. Many of the sites in question are within FZ3. The Inspector who conducted the examination of the CS recognised the widespread planning tension between the priority to regenerate previously developed land and the fact that a great proportion of such land is susceptible to flooding. He noted that this tension is especially acute in the towns of Sedgemoor. His conclusion was that the CS provides appropriately for flood risk and should achieve an appropriate, flexible and workable balance of development between greenfield and brownfield sites. In reaching this conclusion he took account of the Council's strategic approach to managing flood risk in Bridgwater, which

involves requiring development contributions towards the implementation of the Parrett Barrier in accordance with the BSFDT. [6.6]

11.21 This strategic approach does not remove the need to consider flood risk on a site by site basis, in accordance with CS Policy D1, the Framework and the Technical Guidance. Policy D1 states that a sequential test will not be required in relation to sites allocated or identified for housing in the plan.

Consequently, a sequential test would not be required for the following sites:

- East of Bristol Road, Bridgwater - allocated by saved LP Policy H15,
- Part of Willstock White Land, Bridgwater – identified by CS Policy P1
- Newtown Road and Boatyard, Highbridge – allocated by saved LP Policy H17, and
- Brue Farm, Highbridge – identified by CS Policy P3

It would still be necessary for the Exception Test to be applied. The SHLAA sites at Crypton, Bristol Road, Bridgwater and the Livestock Market, Bridgwater are not specifically identified and thus would be subject to the sequential test and the exception test. It is not for me to pre-judge the application of these tests to a specific proposal. However, given the priorities of the CS in relation to brownfield land and the strategic response to flood risk set out in the BSFDT, I do not consider that any of these sites should be regarded as unsuitable in principle for housing on flood risk grounds. [4.6, 4.10]

11.22 The CS promotes economic prosperity and employment and, amongst other matters, Policy D11 seeks to safeguard existing employment land and buildings. The delivery of some of the SHLAA sites would result in a reduction of employment floorspace and, in some cases, no employment would remain. The appellants argued that such sites should be excluded from the supply on the basis of a conflict with Policy D11. However, many planning decisions involve a balance of planning issues and it seems to me reasonable that a local planning authority may find, on an individual site, that the loss of employment floorspace could be outweighed by the achievement of other planning objectives. [4.6, 5.12, 5.18, 5.22, 5.28]

11.23 *Bridgwater – East of Bristol Road/Livestock Market*

These two sites are owned by the Council which has entered a development agreement with DWH, the owner of playing fields to the north, with a view to securing a comprehensive scheme of redevelopment. The appellants argued that the land East of Bristol Road should be regarded as open space within the terms of the Framework. However, in terms of planning policy, this is an allocated housing site under LP Policy H15 which has been carried forward into the CS. On my visit I noted that the site has been fenced and a ditch has been constructed, no doubt with a view to preventing unauthorised access. The fence is broken at one point and it appears that there has been some unauthorised pedestrian access to the land. Nevertheless, it does not have the character or appearance of public open space. The appellants' suggestion that the public may have acquired prescriptive rights to the use of the land is not supported by evidence. [5.13, 6.15, 6.17]

11.24 The main constraint is access. Looked at in isolation, there is no suitable access to the land East of Bristol Road. The Council suggested that comprehensive development would enable a new access to be achieved from

the north, together with an improved access from the south east. Access from the north would require additional land outside the Council's control and would also involve some loss of playing fields. Whilst these issues may be resolved by the masterplan which is currently being prepared, that is not yet in the public domain. The existing access to the Livestock Market is poorly aligned and constrained by changes in levels. There was no evidence before the Inquiry of any solutions which are being considered. From what I saw, any such solutions may require additional land outside the site boundaries. Having regard to these access constraints the sites cannot be considered suitable for housing development at this time. [5.11, 6.15]

11.25 There are some existing commercial occupiers of the Livestock Market but, given that the Council is actively promoting the redevelopment of land in its ownership, I see no reason to doubt the Council's assurance that these are short term uses which would not compromise the availability of the site. Any reduction in employment floorspace would need to be considered in the light of CS Policy D11. That would be a matter for the Council to assess in the light of any specific proposals that come forward. There may be some contamination from previous uses and the land East of Bristol Road may have some archaeological and/or ecological interest. The same could be said for many urban brownfield sites and there is no evidence that these factors amount to fundamental constraints to development. My general comments on flood risk apply to these sites. [5.12, 5.13, 5.15, 6.15, 6.17, 6.18]

11.26 In conclusion, these sites should not be included in the 5 year supply due to the access constraints. This results in a deduction of 50 units from the Council's supply figure.

11.27 *Bridgwater – Crypton, Bristol Road*

At the time the LSR was compiled a mixed use redevelopment was proposed which would have provided improved accommodation for Elemis, the main commercial occupier on the site. The Council supported the proposal, which would have enabled a local employer to remain in Bridgwater, and resolved to grant outline planning permission subject to a S106 agreement. Since then Elemis has relocated elsewhere and it has no further interest in the site. The S106 agreement has not been signed and there is, as yet, no planning permission. As a result of this change in circumstances there is considerable uncertainty as to whether this particular scheme will go ahead. The Council's rationale for accepting a reduction in employment floor space was that the scheme would have provided improved premises for a local employer. That rationale would need to be reconsidered in the current circumstances, in terms of CS Policy D11, if any alternative schemes were to come forward. [5.16, 5.18, 6.19]

11.28 The appellants questioned the availability of the site on the basis that it is partially occupied and that commercial space is currently being offered to let for 3 year terms. It is not unusual for the owners of commercial buildings to seek short term occupiers pending redevelopment and this does not in itself indicate that the site is not available. However, following the departure of Elemis, and in the absence of any up-to-date information about the current intentions of the owner, I do not consider that the site can be regarded as available for residential use. [5.16]



- 11.29 The site is in FZ3. The appellants argued that the flood risk issue would need to be re-assessed by the Council before any permission could be issued as the CS has been adopted since it resolved to grant planning permission. It would be for the Council to decide what action to take on that point but, in any event, my general comments on flood risk would apply. The proposed flood risk mitigation measures include avoiding habitable residential accommodation at ground floor level. This is not an unusual situation where urban brownfield sites are subject to flood risk and does not indicate to me that the site is inherently unsuitable for housing. [5.18]
- 11.30 In conclusion, I consider that the site was correctly included in the supply at March 2011, the base date of the LSR. However, due to subsequent changes in circumstances there is now considerable uncertainty as to whether the current scheme will go ahead. The issue of loss of employment would need to be revisited in the context of any revised scheme and the site can no longer be regarded as available. This results in a deduction of 40 units from the Council's supply.
- 11.31 *Bridgwater – Willstock White Land*  
The site would form the third phase of the South Bridgwater development. There is a current outline planning application for up to 330 dwellings. The Council's evidence was that the proposal would complete a sustainable urban extension for which the necessary strategic infrastructure, including a park and a new primary school, is in place. Nevertheless, in terms of the CS, the site has the same policy status as the appeal site in that it is one of the broad locations identified under Policy P1. When the Council comes to determine the application there will no doubt be a range of considerations to take into account and it is not for me to pre-judge that decision. However, for the purposes of this appeal, it is necessary for me to consider whether there are any policy constraints which affect the suitability of the site for housing. The Council's case is that there is a 5 year supply. It therefore seems inconsistent to rely on this greenfield site as part of the housing land supply because release of the site would conflict with CS Policy P1. This results in a deduction of 100 units from the Council's supply. [5.19, 5.20, 6.20, 6.21]
- 11.32 *Bridgwater – Westgate House*  
This is a vacant office building, formerly occupied by the Inland Revenue. The property has been marketed for a period of 18 months to establish whether it could be retained in office use. Whilst there was no viability evidence before the Inquiry, the Council's officers were minded to accept the view of the agents marketing the building that conversion to residential use is the only viable option for the building. No application has yet been submitted although the Council states that pre-application discussions have taken place. It would be for the Council to consider any future applications in the light of CS Policy D11 and other material planning considerations. The site is vacant and in a highly accessible location on the edge of the town centre. From what I saw on my site visit there is no obvious reason why the building would not be suitable for conversion. I consider that, as of March 2011, there was a reasonable prospect of the site coming forward for residential use and it was correctly included in the supply. However, this is another site where circumstances have changed since March 2011. Earlier this year the property was sold to a new owner whose intentions are unknown. In these changed circumstances it

cannot be assumed that the site is available for residential use. This results in a deduction of 23 units from the Council's supply. [5.21, 5.22, 6.22]

#### 11.33 *Bridgwater – 3-7 North Street*

The Council refused planning permission for a scheme of 9 units in October 2011 because, amongst other matters, the proposal would have resulted in a cramped form of development. Although the Council stated that the principle of residential development is acceptable there was no evidence before the Inquiry to justify any particular number of units. Nor was there any evidence regarding the current intentions of the owner. The site should not be included. This results in a deduction of 9 units from the Council's supply. [5.23, 6.23]

#### 11.34 *Bridgwater – Former laundry at 105 Taunton Road*

This is an unallocated brownfield site within the urban area. There is no evidence that it is unsuitable for housing. The former laundry buildings have been demolished. Although no planning application has been submitted the Council states that pre-application discussions are taking place and that these include the involvement of an affordable housing provider. A preliminary layout has been provided. The site therefore appears to be available and there is no evidence to suggest that it would not be achievable. I consider that it was correctly included in the supply. [5.24, 6.24]

#### 11.35 *Highbridge – Newtown Road and Boatyard*

The site is a saved LP allocation. It is in various ownerships and includes a boatyard. An application relating to the whole site was submitted in 2007 - this remains undetermined. A further application has recently been submitted in relation to the boatyard alone. The Council regards this as an important step forward because the scheme would deliver improved flood defences which would protect the whole site and thus enhance its prospects of being delivered. The site is adjacent to a tidal waterway and inter-tidal wetlands of international importance. It is therefore a sensitive location in terms of impacts on nature conservation and in terms of landscape impact. The scheme proposes a very high density and I share the appellants' concern that this is not realistic in this location. Whilst I have taken account of the illustrative information submitted with the application this is essentially diagrammatic and does not demonstrate a credible way of providing the number of units proposed. Objections from NE and the EA remain outstanding. My general comments on employment land apply to this site. [5.25, 5.26, 6.25]

11.36 Whilst it is not for me to pre-judge the Council's decision on this application, for the purposes of this appeal the site does not appear to me to be suitable for the number of units proposed. Moreover, the viability assessment submitted with the application shows that the land value generated by the scheme would be less than half the existing use value of the site. On that basis the scheme would not be viable. These conclusions result in a deduction of 80 units from the Council's supply. [5.25]

#### 11.37 *Highbridge Market*

This site is a saved LP allocation. Planning permission for residential development was given in 1989. However, as the site was in use as a livestock market until 2007/8 I attach little weight to the fact that this permission was not implemented. A mixed use scheme is now being prepared

which is the subject of community engagement and pre-application discussions. I saw that the site is cleared of buildings and is in a prominent location adjacent to the town centre. It is available for development and appears suitable for a mixed use scheme. Whilst the details of such a scheme may take some time to resolve, there is no reason why this should not happen within the 5 year period. The Council suggests the delivery of 30 units which appears to me to be reasonable and achievable. The site was correctly included in the supply. [5.27, 6.26]

11.38 *Highbridge – Moorlands*

The site comprises business units and a social club. I saw that it is located in close proximity to existing residential properties. Although no planning application has been submitted the Council is in discussions with a developer with a view to bringing forward a scheme for 39 houses and a community hall. The developer intends to be on site during 2012. The Council is a landowner and intends to agree a land swap to facilitate the delivery of the scheme. The appellants and the Council provide differing estimates of the current level of occupancy. Whichever estimate is correct, the Council considers that the site offers a poor standard of accommodation, is underused and has a high turnover of occupiers. When assessing the availability of the site the intentions of the owners are an important consideration. In this case the Council is actively engaged in discussions regarding a land swap and is facilitating the relocation of the existing businesses. I therefore consider that the site should be regarded as being available. [5.28, 6.27]

11.39 The appellants argue that the proposal would amount to a loss of employment floorspace contrary to CS Policy D11. Ultimately that would be a matter for the Council to consider in the context of any application that may come forward. However, on the basis of the evidence before me, it appears that the scheme envisaged would bring benefits which may be found to outweigh the loss of employment land. These include the opportunity to deliver housing, improved community facilities and environmental improvements. Consequently, I do not consider that the site is, in principle, unsuitable for housing. The proposals are achievable and the site was correctly included in the supply. [5.28, 6.27]

11.40 *Highbridge – Land at Brue Farm*

CS Policy P3 identifies Brue Farm, Highbridge as the location for a greenfield urban extension. There is a current outline planning application for 550 houses which the Council has resolved to approve subject to conditions and a S106 agreement. The Council and the appellants agree that this site could deliver 100 units within the 5 year period. [5.29, 6.28]

11.41 *Cheddar – Lower New Road (Bristol Water Site)*

The site was correctly included in the supply at March 2011 on the basis that the owner, Bristol Water, put it forward as being surplus to operational requirements. Subsequently, in March 2012, Bristol Water changed its position and stated that it has a medium to long term requirement for the land and that the site is not presently available for disposal. This results in a deduction of 25 units from the Council's supply. [5.30, 6.29]

### *Sites with planning permission*

#### 11.42 *Bridgwater – opposite Railway Station*

Planning permission was granted in 2008. The appellants argued that the site should be discounted because the permission expired in October 2011. However, as the permission was extant in March 2011 I do not agree that it should be discounted on this basis. Pre-commencement conditions were discharged and, although the permission has now lapsed, a renewal application has been submitted. This indicates that there is still interest in bringing this site forward. The site was correctly included in the supply. [5.31, 6.30]

#### 11.43 *Bridgwater – Stockmoor Village Local Centre*

Planning permission has been granted for a local centre, including 27 residential units and a public house, forming part of the South Bridgwater development. However, although the site has been marketed for 2 years no operator for the public house has been found. The developers are now proposing to provide an additional 14 units where the public house would have been. A planning application has been submitted. Although the 14 units do not have planning permission these additional units are in effect an amendment to a larger development which does have permission. In the absence of an operator for the public house there is no evidence of any constraint to the delivery of an additional 14 units. The site was correctly included in the supply. [5.31, 6.31]

#### 11.44 *Middlezoy – Main Road*

Outline planning permission for 8 units was granted in February 2008. There is no evidence that the reserved matters were submitted so the permission would have lapsed in February 2011, before the base date for LSR. The site should not therefore have been included and 8 units should be deducted from the Council's supply. [5.31, 6.32]

11.45 In June 2011 a further outline permission was granted for 8 units. The appellants suggest that the site should not be regarded as available because it contains farm buildings which are in use. However, it is not uncommon for such sites within rural villages to be redeveloped for housing. The Framework states that sites with planning permission should be considered deliverable unless there is clear evidence that they will not be implemented within 5 years. There is no such evidence in this case. An assessment of the supply made now would therefore include these 8 units. [5.31, 6.32]

### *Conclusions on consideration 1*

11.46 Housing land supply is subject to frequent change as sites are developed, new housing sites come forward and some previously identified sites fall away. The most up-to-date comprehensive information available to the Inquiry was the LSR published in December 2011 which includes monitoring information up to March 2011. The Council and the appellants adopted different approaches. The Council argued that reviews can only be done annually and must consider the full list of sites. The advantage of that approach is that it provides clarity and consistency. The disadvantage is that it requires the decision maker to disregard the most up-to-date evidence on some sites. The appellants, on the other hand, submitted evidence which included changes in circumstances since the base date of the LSR. The disadvantage of that approach is that it is partial and does not take account of planning permissions granted since March

2011. It will therefore tend to understate the true position. For example, permission has been granted for 67 units at Chilton Trinity but these are not included in the Council's figures. [6.10, 6.41]

11.47 Mindful of this difference of approach, I have looked at the supply both ways. In my comments on individual sites I have identified where, in my view, sites were correctly identified as deliverable in March 2011 but where circumstances have since changed. Dealing first with the position as it was in March 2011, I have made deductions from the Council's supply in relation to the following sites totalling 329 units: North East Bridgwater; East of Bristol Road/Livestock Market; Willstock White Land; 3 -7 North Street, Bridgwater; Newtown Road and Boatyard Site, Highbridge and Main Road, Middlezoy. This results in a supply of 3,070 units.

11.48 I have concluded that changes in circumstances since March 2011 have reduced the supply by a total of 88 units on the following sites: Crypton, Bristol Road; Westgate House, North Street and Lower New Road, Cheddar. However, if those reductions are to be taken into account then the planning permissions granted at Chilton Trinity and Main Road, Middlezoy, (a total of 75 units), should be added resulting in a supply of 3,057. The Council argues that there will have been other permissions, amounting to a significant number of additional units, which also ought to be taken into account. In the absence of any evidence regarding such permissions, they cannot be included in my quantitative assessment. Nevertheless, it is reasonable to bear in mind that my figure for the updated position is likely to understate the true situation to some extent.

11.49 The following table shows that it makes little difference which approach is taken. The supply in years is around 5.4 in either case.

*Inspector's conclusions in relation to the CS housing requirement:*

	Position at March 2011	Updated position
Annual requirement	481	481
5 year requirement (including the current year)	2,886	2,886
Total supply	3,070	3,057
Surplus	184	171
Supply in years <sup>130</sup>	5.4	5.4

11.50 The Framework states that, in certain circumstances, windfall sites may be taken into account as part of the housing land supply. The Council suggested that this could add around 0.9 years supply. However, it seems likely that some of the previous supply from this source would have been on residential garden land. The Framework indicates that residential garden land should not be included in the supply. In the absence of evidence on this point, it is not possible to include any allowance for windfall sites in my quantitative assessment. Nevertheless, on the Council's figures, it can reasonably be

<sup>130</sup> Rounded to 1 decimal place

assumed that an allowance for windfall sites would make some contribution to supply which is not currently accounted for. [5.9, 6.12]

- 11.51 Paragraph 47 of the Framework states that local planning authorities should identify a 5 year supply of deliverable sites with an additional buffer of 5% moved forward from later years in the plan period. However, CS Policy P1 refers to a 5 year supply without any additional buffer. I therefore set out below the position with the 5% buffer added. The following table shows that there would still be 5 years supply.

*Inspector's conclusions in relation to the CS housing requirement with 5% buffer added:*

	Position at March 2011	Updated position
Annual requirement	505	505
5 year requirement (including the current year)	3,030	3,030
Total supply	3,070	3,057
Surplus	40	27
Supply in years	5.1	5.1

- 11.52 I turn to some further factors which are relevant to an overall assessment of housing land supply. The first point to note is that Sedgemoor District Council has a good track record of housing delivery. In each of the last 8 years the number of housing completions has exceeded the former LP requirement and the current CS requirement. Whilst this past performance does not guarantee future delivery, it does demonstrate that the Council has actively managed its housing land supply in order to meet its strategic objectives. [6.11]

- 11.53 The appellants draw attention to the additional pressure for housing that would result from the construction of HPC. An application for a DCO under the Planning Act 2008 is currently subject to examination. At the Inquiry the Council and the appellants agreed that the project is likely to be approved at some point although the timescale for delivery is uncertain. If approved, the project would take at least 10 years to build so any housing demand from those employed once HPC was operational would be a matter for future reviews of the CS. The application documents indicate that up to 20,000 construction workers would be required over the life of the project with around 5,000 at the peak time. Housing market distortion is one of many impacts of HPC which are of concern to the Council and its forthcoming LIR will comment on this issue. However, although HPC was discussed at the CS Examination, the CS itself makes no specific provisions in relation to accommodation for construction workers. [4.7, 5.1, 5.58, 6.2]

- 11.54 The Secretary of State is due to consider the DCO application in 2013 and it would not be appropriate to pre-judge that decision. If the project is approved there would be a lead-in time before works started and the number of construction workers would build up over time. Moreover, the DCO application includes temporary accommodation for migrant workers and there is

uncertainty over how many workers would rent or buy in the general housing market. Any impacts would be spread over a wide area covering several local planning authorities. Consequently, I attach limited weight to the potential demand for housing resulting from the HPC project. [4.7, 6.2]

11.55 Section 6 of the Framework is concerned with delivering a wide choice of high quality homes. The appellants argued that 80% of the supply is accounted for by two large sites at South Bridgwater and NEB and suggested that a greater degree of choice would be beneficial. There are currently 5 brands on offer at South Bridgwater and 2 at NEB. For the reasons given above, it is likely that the number of outlets at NEB will increase. Moreover, the Council has resolved to approve a scheme of 550 dwellings at Brue Farm which is expected to offer 3 outlets. The LSR shows that the remainder of the supply comprises a range of sizes and locations of sites. Whilst any additional housing site will add to the choice available, the evidence does not indicate to me that there is currently any lack of choice in Sedgemoor. [5.48, 5.58, 6.28, 6.39]

11.56 To conclude on the first consideration, the Council has demonstrated that there is a 5 year supply of deliverable housing sites in relation to the requirements of the recently adopted CS. Although the appeal site is identified as a broad location for housing under CS Policy P1, release of the land now would conflict with that policy because it is not needed to maintain a 5 year supply.

### **Consideration 2: Whether the development would be accessible by a range of transport modes and would promote sustainable travel choices**

11.57 The appeal site is located on the edge of Bridgwater, which is the principal town within Sedgemoor District. Policy S1 of the CS states that, to create the most sustainable form of growth for Sedgemoor, Bridgwater is to be the focus for the District's housing, employment and retail growth. It follows that, in general terms, development at the appeal site is likely to be better located in relation to employment and other facilities than many other locations within Sedgemoor. Housing development elsewhere, other than on centrally located sites within Bridgwater, is likely to generate an equivalent or greater need to travel. [4.3]

11.58 The Council argued that the site is in a peripheral location which is poorly located in relation to local facilities and that the appeal scheme would not include any retail or employment uses, thereby increasing the need to travel. It is correct to say that the site is in a peripheral location. It has that in common with the two other broad locations identified by CS Policy P1. However, the CS must be considered as a whole. Had the Council regarded the broad location at Wembdon as inherently inaccessible then it would not have identified it under Policy P1 as part of a sustainable form of growth for Sedgemoor. There is no requirement in Policy P1 for a mixed use development in this location. [4.4, 6.2, 6.49]

#### *Opportunities for walking*

11.59 The internal layout of the site would be determined at the reserved matters stage. However, proposed pedestrian links are shown in the travel plan. The links to Wembdon Hill would improve connectivity and provide access to local community facilities in Wembdon. The link to Lyndhurst Crescent/Quantock Meadow would provide a safe and convenient route towards the NDR and town

centre. It would also provide an alternative route to St George's Primary School from the southern part of the site. If the relocation of Haygrove School goes ahead then the pedestrian/cycle route along the A39 would be available to those walking to secondary school. The site access to the A39 would include a signalised pedestrian crossing which would be useful to those walking to destinations south of the A39 including the existing Haygrove School. [2.1, 3.2, 3.3, 10.5, 10.6]

11.60 The guidance in Annex A to RPG10 is that major residential development should be within walking distance of a primary school and a food shop. Table 1 sets out interim criteria which are described as "target" and "maximum" distances of 300m and 600m respectively. The internal site layout is indicative so precise measurement is not possible at this stage. However, St George's Primary School adjoins the site boundary. The indicative masterplan shows a pedestrian and cycle link from the appeal site to the school. The detail of this link would be considered as part of the reserved matters. The Undertaking includes the transfer of land and a financial contribution to facilitate the expansion of the school. It also includes funding for a school travel plan. No doubt the options for promoting walking and cycling to the school would be fully explored at the detailed design stage. At this stage it is reasonable to assume that much of the site could be within the target distance of 300m. [6.49, 10.4, 10.5]

11.61 There is a post office/store on Wembdon Hill to the north east of the site. Although precise measurements are not possible, for the reasons mentioned above, it seems likely that the northern part of the site would be within 600m of the post office/store via the proposed pedestrian link to Wembdon Hill at the north east corner of the site. However, regardless of the actual distance, I saw on my site visit that this is a small facility. It seems likely that future residents of the appeal site would look to the town centre for most of their food shopping requirements. The travel plan indicates that much of the town centre would be within 2000m of the site. Whilst some future residents would be able to walk there, it is likely that many would be deterred by this distance. [2.1]

#### *Opportunities for cycling*

11.62 There would be opportunities to cycle to the primary school and, potentially, to the relocated secondary school. The town centre, adjoining retail areas, some employment areas and a range of educational and community facilities would all be within a reasonable cycling distance. However, the lack of dedicated cycle lanes leading towards the town centre is likely to deter some from choosing this mode of travel. WPC draws attention to the section of Wembdon Rise to the north west of the NDR. This has narrow footways and there is insufficient width to include a cycle lane. The cycle route enhancements are, in the main, confined to improved signage and would not alter the situation in Wembdon Rise. Despite these limitations, I consider that cycling would be a realistic option for a proportion of any future residents of the appeal site. [2.1]

#### *Opportunities to use public transport*

11.63 Annex A to RPG10 suggests that major residential development should have access by public transport to employment, convenience and comparison



shopping, education, health care and other essential facilities. Table 3 suggests that, in urban areas, there should be a frequency of 30 minutes with a lower frequency in the evenings and on Sundays. Wembdon is currently served by an hourly bus service to the town centre and there are no evening or Sunday services. It does not therefore achieve the level of service suggested in RPG10. The Undertaking includes provision for funding additional services. The frequency of services to Wembdon would increase to two per hour. One bus per hour would be routed through the appeal site where there would be new bus stops. I consider that both the increased frequency and the opportunity for buses to serve the site directly would make an important contribution to improving travel choices and I attach significant weight to these obligations. Even so, the enhancements would not result in any evening or Sunday services. I note that the public transport enhancements would be funded for a period of 4 years. This “pump priming” approach is not unusual and allows time for the patronage of new services to become established. The details of the funding package emerged from discussions between the appellants and SCC and the Council did not object to the terms of the Undertaking relating to this matter. [2.7, 5.51, 10.5]

#### *Travel Plan*

11.64 The Undertaking would secure the implementation of the travel plan which would include the provision of travel packs and personalised travel planning advice designed to give more specific information to individuals and households. The appellants state that this approach has resulted in material changes in modal split in other locations. I consider that, taken together with the other measures described above, the personalised approach would make a useful contribution to promoting sustainable transport choices. [10.6]

#### *Conclusions on consideration 2*

11.65 The broad location at Wembdon has been identified in the CS as being suitable for significant housing development. The location is not ideal in terms of the frequency and timings of existing bus services and the limited opportunities for food shopping close to the site. On the other hand, it is adjacent to a primary school which could be extended to meet the demand arising from the appeal scheme. If the relocation of Haygrove School goes ahead then the pedestrian/cycle route along the A39 would be available to those walking or cycling to school. These are important advantages in terms of reducing the need for car journeys. The scheme seeks to maximise connectivity within the locality by providing pedestrian links to the existing network and new pedestrian crossing facilities at the A39. The Undertaking and the travel plan would secure the delivery of a comprehensive package of transport measures including enhanced bus services.

11.66 I conclude that the development would be reasonably accessible by a range of transport modes and that the appeal scheme, together with the Undertaking and travel plan, would promote sustainable travel choices. It would accord with CS Policy D9 which seeks to encourage sustainable transport and to allow for a wide choice of modes of transport.

### **Consideration 3: The effect of the development on highway safety and traffic conditions on the local highway network**

11.67 SCC and the Council initially raised an objection to the principle of a new access onto the A39 Quantock Road as well as an objection to the adequacy of the traffic impact assessment. As a result of discussions which continued during the course of the Inquiry, further information was submitted which ultimately resolved these concerns. Nevertheless, objections on traffic grounds were maintained by WPC and by many local residents who appeared at the Inquiry or made written representations. Those concerns can be summarised as follows:

- the impact on the highway network in general, and the A39 in particular, having regard to existing levels of development and the likely impact of HPC;
- the effect of introducing a signal controlled junction on the A39 which may cause delays and result in traffic diverting through Wembdon; and
- the effect of turning Inwood Road into a through route carrying buses, in particular having regard to the congestion that is caused by school traffic.

#### *Impact on the highway network*

11.68 The modelling of traffic impacts was refined as a result of the extensive discussions referred to above. The Addendum Transport Assessment includes an assessment of the traffic generated by the appeal scheme added to predicted base flows together with committed housing developments and the construction traffic that would result if the HPC project were to go ahead. The scope of the assessment included the modelling of 15 junctions along the A39, the A38 and other main routes through the town. This work identified the need for mitigation at 7 junctions. Some of the mitigation proposals involve adjustments to highway layout whereas others involve adjustments to traffic signalling. The roundabout junction of the A39/NDR was of particular concern to WPC. This was included in the assessment and was predicted to operate within its capacity. The scope of the assessment, the modelling assumptions and the predicted impacts were accepted by SCC as Highway Authority. [5.50, 10.5]

11.69 The mitigation would be provided by way of financial contributions, secured by the Undertaking, which would enable the works to be carried out by the Highway Authority. The amounts of the contributions have been agreed by SCC. I attach significant weight to the obligations relating to junction improvements which would provide appropriate mitigation for the impacts of the scheme on the wider traffic network. [10.5]

#### *Effect of new junction on the A39*

11.70 Access is not a reserved matter and details of the proposed access to the A39 Quantock Road are included with the application. The submitted layout shows a signal controlled junction. On the A39 there would be two approach lanes on either side of the junction – one for turning traffic and one for traffic travelling straight on. The traffic modelling shows that turning traffic would be a small proportion of the through traffic and it can be assumed that the pattern of

demand would be reflected in the phasing of the signals. The traffic modelling included the operation of the proposed access in the morning and evening peak hours. This shows that the junction would operate well within its design capacity with the average delay to westbound traffic during the evening peak hour being 16.5 seconds. Average delays for eastbound traffic and during the morning peak would be lower. [5.50]

- 11.71 This assessment was accepted by SCC and there is no technical evidence to the contrary. It seems unlikely that delays of this order would cause drivers to leave the A39 and divert through Wembdon.

#### *Effect on Inwood Road*

- 11.72 Inwood Road is currently a cul-de-sac which also serves a number of side roads. It is a typical 20<sup>th</sup> century residential estate road with a gently curving alignment. The traffic modelling assumes that around 30% of the traffic generated by the appeal scheme would enter/leave via Inwood Road. Although that figure was questioned by some residents it was accepted by SCC and I see no reason to take a different view. The introduction of the appeal scheme would therefore result in a significant number of additional vehicles using Inwood Road. However, there was no technical evidence before the Inquiry of any lack of capacity or unsafe highway geometry. [5.50]

- 11.73 Several local residents described traffic conditions in Inwood Road at the beginning and end of the school day at St George's Primary School and I was able to see this for myself during my visits. At these times vehicles park on both sides of Inwood Road reducing the effective width to a single lane. The additional traffic from the appeal site would add to this localised congestion. However, this situation occurs for relatively short periods which are predictable. Future residents at the appeal site would have the options of varying the timing of their journeys or using the alternative access to the A39 Quantock Road during busy periods. Moreover, although any additional congestion may result in car journeys being delayed to some extent, there is no evidence that this would result in hazards to highway safety. [7.5, 7.12, 7.16, 7.17, 8.7]

- 11.74 The proposed public transport enhancements include the creation of a new bus route through the site via Inwood Road. From what I saw there is no reason to think that buses would be unable to pass, even at busy times. In any event, as the proposed frequency is one bus per hour this would not significantly affect overall traffic conditions.

#### *Conclusions on consideration 3*

- 11.75 Subject to the mitigation measures provided for by the Undertaking, the proposal would not result in material harm to highway safety. In general, it would not result in material harm to traffic conditions on the wider highway network. I recognise that it may add to localised congestion in Inwood Road. However, this would be for short periods associated with the beginning and end of the school day and the impact would not be so significant as to warrant refusing planning permission on these grounds. The proposal would not conflict with CS Policy D10 which seeks to manage the transport impacts of development. This policy requires applications to be supported by appropriate

transport assessments and travel plans and states that there should be safe access to roads of adequate standard within the route hierarchy.

## **Other matters**

### *Affordable housing*

- 11.76 CS Policy D6 sets a target of 40% affordable housing for the appeal site (Target A). Provision of 30% affordable housing, (Target B), is seen as a minimum where Target A cannot be achieved. Where even this minimum cannot be achieved on viability grounds the policy states that the Council may exceptionally support a lower provision where the scheme would address a long term housing land supply deficiency and/or where it would deliver other plan objectives that outweigh the need to provide affordable housing at target levels. In this case the Council and the appellants agree that 20% affordable housing is the maximum that can be achieved and I have no reason to doubt that evidence. [6.47, 6.48]
- 11.77 I have concluded above that there is not a deficiency in housing land supply. The scheme would contribute to the delivery of other plan objectives, for example by contributing to strategic flood defences, providing land for school expansion and promoting sustainable transport. However, in general the contribution to plan objectives would be commensurate with mitigating the various impacts of building 450 additional houses at Cokerhurst Farm. I do not consider that this would be sufficient to outweigh the need to provide affordable housing at target levels. I therefore conclude that the proposal conflicts with CS Policy D6. If, contrary to my recommendation, the Secretary of State finds that there is a deficiency in housing land supply then the proposal would accord with Policy D6.
- 11.78 It must be recognised that there is a pressing need for affordable housing in Sedgemoor. The appellants point out that the Housing Needs Survey identified an annual need which is well above the total annual housing requirement. The appeal site is available now. Assuming that the delivery of affordable housing was in proportion to the delivery of market housing, this would result in around 48 affordable units within the 5 year period. The appeal scheme is projected to be completed by 2020 so a total of 90 affordable units would be delivered by then. The Undertaking includes a review mechanism whereby the viability of the scheme would be reassessed 5 years after commencement. If the viability improves a deferred affordable housing contribution would become payable. Notwithstanding my conclusion in relation to Policy D6, the opportunity to secure some affordable housing within the 5 year period is an important benefit of the scheme which should be taken into account in the overall planning balance. [5.1, 5.47]

### *Landscape and visual impact*

- 11.79 The Council did not pursue its initial objection on grounds of landscape impact. Its position at the Inquiry was that the proposal would result in harm to the countryside which would be premature in advance of any need for housing at the site. However, local residents and the CPRE did raise objections on these grounds. The site is agricultural land which is part of an undulating landscape of ridges and vales forming the foreground to the Quantock Hills. Although it is not subject to any statutory landscape designations, it is an attractive tract

of land which is characteristic of the countryside to the west of Bridgwater. The main body of the site lies within a valley and is screened by topography and built development. Consequently, there are limited opportunities for middle or longer distance views. Nevertheless, there are views into this area from Skimmerton Lane and the footpath running to the west of the site as well as numerous private views from the properties backing on to the site. [1.7, 2.2, 2.3, 2.4, 7.8, 8.4]

- 11.80 The southern part of the site slopes down towards the A39 Quantock Road and is seen from the road and the cemetery to the south. It is designated as a Green Wedge, Green Edge or Strategic Gap by LP Policy CNE4 which seeks to maintain the landscape character and urban containment functions of such areas. The illustrative masterplan responds to the greater landscape sensitivity of this part of the site by retaining a significant area of public open space in the southwest corner adjacent to the frontage of the A39 Quantock Road. The area within the southern part of the site which is proposed to be developed would be set well back from the road and would be seen against the backdrop of existing housing to the south of Inwood Road. [2.3, 4.8]
- 11.81 More generally, the illustrative masterplan shows how public open spaces, strategic landscape planting and allotments would provide a framework of green infrastructure which would do much to mitigate the landscape impact of the development. The Undertaking contains provisions relating to public open space and allotments which would secure the delivery of these elements of the scheme. Landscaping is a reserved matter so full details would be considered at a later stage. In summary, the proposals would result in the loss of an attractive tract of countryside. There would therefore be harm to the existing rural character and appearance of the area. However, the appeal scheme would provide significant mitigation. The degree of harm would not be so great as to amount to a fundamental objection to the scheme if there were found to be a need for the development.

#### *Impact on nature conservation*

- 11.82 The Ecological Appraisal identifies 3 international statutory designated sites for nature conservation within 10km of the site. The River Parrett, approximately 3.5km to the north, is part of the Severn Estuary SPA, SAC and Ramsar Site. Hestercombe House SAC is approximately 9km to the south west and the Somerset Levels and Moors SPA and Ramsar Site is approximately 9.8km to the east and north east. The appraisal considers the interest features and conservation importance of these sites. It concludes that, due to distance and the lack of hydrological links, it is unlikely that they would be significantly affected. This conclusion has been accepted by NE. The Secretary of State will be the competent authority for the purposes of the Habitats Regulations. On the evidence before the Inquiry, I consider that it is unlikely that the scheme would have a significant impact on the designated interest features of the 3 designated sites, either alone or in combination with other plans and projects. Moreover, it would be unlikely to have a significant impact on the Screech Owl LNR or on the non-statutory nature conservation sites in the locality. [2.6, 8.9]
- 11.83 The appeal site is not subject to any statutory nature conservation designations. The Ecological Appraisal concluded that the majority of the

habitats within the site are of negligible to low value although the site does support some habitats of local value. These include important hedgerows, mature trees and the stream corridor. The masterplan shows how most of the important hedgerows around the edges of the site would be maintained and supplemented by new planting. The stream corridor would be maintained and enhanced by new planting within a linear open space. [2.5]

- 11.84 All UK species of bat are protected. The ecological appraisal identified the presence of various species of foraging bats and environmental records submitted by a local resident indicate that all UK species have been observed within the locality at some time. No bat roosts were identified although some mature trees were assessed as having potential as roosting sites. The recommended mitigation measures include retaining mature trees, retaining and enhancing hedgerows, improving habitat connectivity, taking a sensitive approach to external lighting and providing bat roosting sites. The framework of green infrastructure, referred to above, would retain and enhance much of the locally important habitat and would improve connectivity for wildlife. The mitigation measures could be secured by a condition requiring the submission of an Ecological Method Statement and an Ecological Management Plan. [2.5, 7.7]
- 11.85 Local residents drew attention to environmental records which include observations of numerous species of wild birds in the locality. There are also records of reptiles and important plant species nearby. A resident living next to the site has made direct observations of various animals and reptiles and there is a badger sett, now thought to be disused, within the site. The Ecological Appraisal considers the various species which are present and those which, although not identified, may nevertheless be present. Mitigation measures are proposed, including habitat enhancement and sensitive working methods. These could be secured by the condition referred to above. NE has commented that the ecological and landscape submissions which accompanied the application were most satisfactory. [2.5, 3.5, 7.7, 7.10, 8.9]
- 11.86 In summary, although the site does not have any statutory nature conservation designations, it does support habitats of local value and provides foraging for bats and other species. The appeal scheme would however include significant mitigation such that the loss of habitat would not amount to a fundamental objection to the scheme if there were found to be a need for the development.

#### *Flood risk*

- 11.87 The appeal site is in FZ1 and is not itself at risk of flooding. Nevertheless, some local residents are concerned that the development could increase run-off resulting in localised flooding in the Wembdon Rise area. The masterplan makes provision for SUDS to be incorporated into the scheme. This would include balancing ponds adjacent to the stream to attenuate surface water flows. This approach has been welcomed by the EA and the Parrett Internal Drainage Board. Both of those bodies recommend a condition to cover the details of the SUDS approach and I agree that this would be appropriate. [3.5, 5.4, 8.2, 8.3]

### *Effect on heritage assets*

11.88 There are two designated heritage assets in the vicinity of the site – Cokerhurst farmhouse and barns, which are grade II listed buildings, and St John's Well which is a Scheduled Monument. These assets lie outside the site boundaries. Subject to satisfactory design, layout and landscaping, which would be controlled at the reserved matters stage, there would be no harm to their settings or to their significance. The appeal site also has archaeological potential. Following further survey work, including trial trenching, the Council and the appellants agree that this matter could be addressed by way of a condition. I agree with that approach. [1.7, 2.1, 2.4]

### *Effect on living conditions of neighbouring residents*

11.89 As noted above, the scheme would result in increased traffic on Inwood Road which would create some additional noise and disturbance to local residents. There is no evidence to suggest that the degree of impact would be sufficient to warrant refusal of the application. Some residents are concerned about potential overlooking and loss of privacy. That is an issue which could be controlled at the reserved matters stage when the detailed layout and design of the houses would be considered. Some residents were concerned about the impact of dust during the construction phase. That could be controlled by a condition requiring the submission of a construction method statement.

### *Impact on community identity*

11.90 WPC and local residents expressed the view that Wembdon is a village community with a distinct identity, not merely a suburb of Bridgwater. It was argued that there has been a lot of new housing in recent years and that there needs to be time for the new population to be absorbed into the community before further housing is permitted. Whilst these concerns are understandable, they must be considered in the context that Wembdon is identified in the CS as a broad location for further housing growth. Consequently, I consider that only limited weight can be attached to this factor. [7.2, 7.13]

### *Contaminated land*

11.91 A local resident submitted records from 1966 which refer to cases of anthrax at Wembdon. These indicate that some carcasses were cremated at Cokerhurst Farm. At the Inquiry a local resident recalled that children were not allowed to play on the land and that no animals have been kept there since. There was no evidence before the Inquiry from any public health body regarding any risks to health that may result from this history. I consider that it would be appropriate to impose a condition requiring investigations to be carried out and, if need be, remediation to be approved. [7.6, 7.14]

## **Planning Obligations**

11.92 I have commented above on several of the obligations contained in the Undertaking. In this section of the report I shall comment on the extent to which the obligations meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. This states that obligations should be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale

and kind to the development. I shall also comment on the Council's concerns regarding some of the details of the Undertaking.

- 11.93 The Undertaking would provide for the delivery of 20% of the units as affordable housing. Scheme viability would be reviewed after 5 years and a deferred affordable housing contribution would become payable if viability improves. These obligations are necessary in the interests of delivering sustainable, inclusive and mixed communities. The obligations relating to the provision and future management of public open space, the provision of allotments and the transfer of allotment land to the Council should be considered jointly because together they would create, and secure the continuing management of, a framework of green infrastructure within which the proposed housing development would be contained. The obligations are necessary because they would mitigate the landscape and visual impact of the scheme, they would mitigate the impacts of the scheme on nature conservation and they would meet the needs of the new residents for public open space and play space. [10.2, 10.3]
- 11.94 SCC has submitted evidence relating to the need for additional pre-school and primary school places arising from the appeal scheme. This provides a justification for the education contribution. The need is likely to be met at St George's Primary School and the transfer of land to enable the expansion of the school is required to allow that to happen. A contribution to sports facilities is needed, in accordance with the Council's policies, to meet the requirements of the new population. A contribution to flood defence is needed in accordance with the Council's strategic approach to managing flood risk. [4.10, 8.5, 10.4]
- 11.95 Contributions to off-site junction improvements and the implementation of highway works at the access points to the site are needed to mitigate the impacts of the scheme on the highway network and in the interests of highway safety. Contributions to bus service enhancements, pedestrian and cycling improvements and a school travel plan together with the implementation of the travel plan and the provision of bus stops within the site are needed to ensure that the development would be accessible by a range of travel modes and would promote sustainable travel choices. [10.5, 10.6]
- 11.96 In summary, I consider that all of the above obligations meet the relevant requirements and I shall take them into account in making my recommendation to the Secretary of State.
- 11.97 Turning to the details of the Undertaking, the Council questions the definition of "affordable housing provider" and would prefer to see additional review dates. The Council would also wish to see a financial bond in relation to the landscape works. I am not qualified to offer a legal opinion and the Secretary of State will consider any legal issues arising from the Council's submissions. The Council does not suggest that the Undertaking is fundamentally flawed to the extent that it should be given no weight. Nor have I identified any such flaws. In relation to the planning objectives underlying the Undertaking, I consider that the document as a whole contains sufficient safeguards to ensure that the purposes of the obligations would be realised in practice. I see no reason to reduce the weight to be attached to the Undertaking. [5.56, 5.57, 6.52, 6.53]



## Overall conclusions

11.98 In relation to the three main considerations I have concluded that:

- the Council has demonstrated that there is a 5 year supply of deliverable housing sites in relation to the requirements of the recently adopted CS;
- the development would be reasonably accessible by a range of transport modes and that the appeal scheme, together with the Undertaking and travel plan, would promote sustainable travel choices; and
- the proposal would not result in material harm to highway safety or to traffic conditions on the local highway network.

11.99 It follows from my conclusion on the first consideration that release of the appeal site would be contrary to CS Policy P1. The appellants argued that, even if there is found to be a 5 year supply of deliverable sites, planning permission should still be granted for the appeal proposal because the Council had not shown that any oversupply would be harmful.

11.100 The starting point is the spatial strategy of the CS. Policies S1 and S3 seek to promote a sustainable form of growth for Sedgemoor. I consider that, in seeking a sustainable form of growth, the planning authority is not merely concerned with the location of development. It is also concerned with the phasing and sequence of development. Through Policies D5 and P1, the CS sets sequential priorities which require the development of brownfield sites within Bridgwater and NEB before the release of the greenfield broad locations. That sequential priority is an important element in the strategy of the CS and I consider that release of a broad location before it is needed would significantly undermine the spatial strategy. The appeal scheme would therefore conflict with CS Policies S1, S3, D5 and P1.

11.101 The appellants draw attention to the support given by Council officers to an outline application relating to the Willstock White Land. That application relates to another of the 3 broad locations identified by Policy P1. I have not included this site in my assessment of the 5 year supply because, on the evidence before me, release of the site now would conflict with Policy P1. However, the application has yet to be determined. In any event, it is not for me to comment on the overall merits of that application which is not before the Secretary of State.

11.102 The scheme would deliver 20% of the units as affordable housing. This would be well below the Council's Target B (currently 30%), contrary to CS Policy D6. Under that policy, Target B will increase to 40% from 2016. As the actual delivery of affordable housing would be informed by viability considerations, there can be no certainty that release of the site at a later date would ultimately yield more affordable houses. That said, if the site is released now, the opportunity to achieve a greater proportion of affordable houses at a later date would be lost. If viability improves the deferred affordable housing contribution would become payable. Nevertheless, there was no evidence before the Inquiry as to how many units of affordable housing such a contribution might generate. The fact that the affordable housing yield achieved now would be below Target B is a factor which weighs against the appeal.

11.103 The Council suggested that release of the appeal site would divert development from NEB and would also generate an undesirable level of out-commuting. However there was little evidence in support of these suggestions and I do not consider that these points weigh against the appeal.

11.104 CS Policy D3 sets requirements for sustainable construction based on the Code for Sustainable Homes. These require a higher Code level from 2016 onwards. Release of the appeal site now would mean that a proportion of the dwellings would be built to a lower Code level than might otherwise be the case. However, the development would be phased over a number of years and it would be possible to impose a condition to ensure that later phases were compliant with Policy D3 at the time they were brought forward.

*The balance of planning considerations*

11.105 The proposal is supported by a comprehensive package of highways and transport measures and I have not identified any harm in relation to the second and third considerations. In the main these measures would mitigate impacts flowing from the scheme itself. Similarly, the provision of green infrastructure and the school expansion land would mitigate direct impacts of the scheme. The financial contributions to sports provision and flood defences would be pooled contributions to meet broader impacts of building additional housing at Bridgwater. I therefore regard all of these considerations as broadly neutral factors in the overall balance.

11.106 The most important factors weighing in favour of the appeal are:

- It would contribute to the supply of housing in a reasonably sustainable location, delivering around 240 units within the 5 year period and around 450 units in total;
- It would provide affordable housing, delivering around 48 units within the 5 year period and around 90 units in total; and
- It would contribute to choice in the housing market.

The objectives of the Framework include boosting the supply of housing and meeting the needs for both market and affordable housing. I therefore attach significant weight to the first two points. I have commented above that there is no evidence of any lack of choice in Sedgemoor. I therefore attach only moderate weight to the 3<sup>rd</sup> point.

11.107 The most important factors weighing against the appeal are:

- It is in conflict with CS Policies S1, S3, D5 and P1 because there is currently no need to release this greenfield site;
- It is in conflict with CS Policy D6 because it would not deliver affordable housing at the required target level;
- It would result in harm to the rural character and appearance of the area; and
- It would result in the loss of locally significant wildlife habitat.

The appeal scheme includes mitigation in relation to the 3<sup>rd</sup> and 4<sup>th</sup> points. In both cases this would significantly reduce the degree of harm such that it would not amount to a fundamental objection to the scheme if there were found to be a need for the development. However, as there is not currently a need the residual harm should be included in the overall balance.

11.108 I conclude that the factors weighing against the appeal outweigh those in its favour. The appeal proposal would be contrary to the CS and I have not identified material considerations which indicate that the appeal should be determined other than in accordance with the development plan. I shall therefore recommend that the appeal be dismissed.

11.109 Notwithstanding my overall conclusion, I shall comment on the situation that would arise if the Secretary of State finds that there is a shortfall of deliverable housing sites in Sedgemoor. The appeal site is within one of 3 broad locations identified in Policy P1. The policy does not rank the broad locations in any order of preference.

11.110 CS Policy P1 states that the three broad locations are second in the sequential priorities for housing at Bridgwater, to be released in accordance with Policy D5 and where the plan objectives are met. The Council argues that Policy D5 states that the release of greenfield land for housing is contingent upon a shortfall being demonstrated through the Council's AMR. Release of the appeal site now would not meet that requirement because the latest AMR does not recognise any shortfall. To this extent, the proposal would still conflict with CS Policies P1 and D5.

11.111 On the other hand, it would accord with the general thrust of Policy P1 which is that the broad locations are suitable places for additional housing subject to need being demonstrated. As noted above, the Framework lays considerable emphasis on boosting the supply of housing. If the Secretary of State concludes that there is a shortfall this would be an important factor weighing in favour of the appeal. Moreover, if there is found to be a shortfall then the proposal would comply with CS Policy D6 relating to affordable housing.

## **RECOMMENDATION**

12.1 I recommend that the appeal be dismissed.

12.2 If however the Secretary of State considers that the appeal should be allowed, and planning permission granted, the recommended planning conditions are at Annex C.

*David Prentis*

Inspector

## **Annex A**

### **APPEARANCES**

#### **FOR THE LOCAL PLANNING AUTHORITY:**

Gavin Collett	of Counsel, instructed by the Solicitor to the Council
He called	
Shawn Fleet	Principal Planning Officer, Development
MTP	Management Group, Sedgemoor District Council
Nicholas Tait	Service Manager – Policy, Sedgemoor District
BSc BTP MRTPI	Council
Helen Vittery	Principal Planning Liaison Officer, Transport
HND Civ Eng	Development Group, Somerset County Council
Duncan Harvey	Affordable Housing Policy and Development
	Manager, Sedgemoor District Council

#### **FOR THE APPELLANTS:**

Andrew Tabachnik	of Counsel, instructed by Barton Willmore
He called	
Ian Mellor BSc (Econ)	Partner, Barton Willmore
DipTP FRTPI FFBe	
Anthony Russell	Partner, Peter Brett Associates
BTp MSc MRTPI MIHT	
Clive Self	Managing Director, CSa Environmental Planning
DipLA CMLI MA(UrbDes)	
John Turner	Turner Morum, Chartered Surveyors
BSc (Hons) MRICS	

#### **INTERESTED PERSONS:**

Cllr Mike Solomon	Chairman, Wembdon Parish Council
Cllr Ann Bown	Member, Sedgemoor District Council
Cllr John Edney	Member, Sussex County Council

#### *Local residents*

Anne Heritage  
Roy Franklin  
Gloria Durston  
Peter Major  
Margaret Major  
Dr Anne Reed  
Julie Nicholson  
Mark Phillips  
Mr Upham  
Roger Brown  
Mrs Kelly

W R Cudlipp (*supporting*)

## **Annex B**

### **DOCUMENTS**

*Abbreviations used in document list:*

*SDC – Sedgemoor District Council*

*SCC – Somerset County Council*

*BW – Barton Willmore*

*PBA – Peter Brett Associates*

### **CORE DOCUMENTS**

<i>CD/1</i>	<i>Application documents</i>
CD/1/1	Application form
CD/1/2	Application covering letter
CD/1/3	Planning Statement – September 2010
CD/1/4	Design and Access Statement – October 2010
CD/1/5	Landscape Assessment – CSa Environmental Planning
CD/1/6	Flood Risk Assessment – PBA
CD/1/7	Outline Services Report – PBA
CD/1/8/1	Transport Assessment and appendices (file 1) – PBA
CD/1/8/2	Transport Assessment and appendices (file 2) - PBA
CD/1/9	Archaeological statement – EDP
CD/1/10	Ecological Appraisal – EDP
CD/1/11	Arboricultural Assessment – Alan Engley Associates
CD/1/12	Tree Constraints Plan - Alan Engley Associates
CD/1/13	Statement of Community Engagement – Engage Planning
CD/1/14	Sustainability and Low Carbon Energy Statement
CD/1/15	Letter from SDC to BW of 11 October 2010
CD/1/16	Letter from BW to SDC of 11 October 2010
CD/1/17	Letter from BW to SDC of 19 October 2010
CD/1/18	Letter from SDC to BW of 20 October 2010
CD/1/19	Letter from BW to SDC with lighting plan by PBA – 24 November 2010
CD/1/20	Letter from BW to SDC with minor revisions to site boundary and Masterplan – 25 November 2010
CD/1/21	Letter from BW to SDC of 2 December 2010
CD/1/22	Email from BW to SDC of 6 December 2010 with affordable housing statement
CD/1/23	Letter from BW to SDC of 15 December 2010
CD/1/24	Letter from SDC to BW confirming registration of the application – 20 December 2010
CD/1/25	Letter from SDC to BW regarding S106 of 20 December 2010
CD/1/26	Letter from BW to SDC of 22 December 2010
CD/1/27	Email from SDC to BW of 26 January 2011
CD/1/28	Email from BW to SDC of 31 January 2011
CD/1/29	Email from PBA to SDC of 2 February 2011 with updated Flood Risk Assessment dated February 2011
CD/1/30	Letter from BW to SDC of 8 February 2011
CD/1/31	Letter from BW to SDC of 17 February 2011
CD/1/32	Email from EDP to SCC of 1 March 2011
CD/1/33	Rights of Way Statement by PBA

CD/1/34 Notice of refusal of the application dated 7 March 2011

*CD/2 Plans*

*Application Plans:*

CD/2/1 8005 9001 Rev I – Red line boundary

CD/2/2 10164/101/006 – Proposed access to A39

*Illustrative Plans:*

CD/2/3 8005 9304 Rev H – Masterplan

CD/2/4 CSa 1080/104 Rev D – Landscape Strategy

CD/2/5 8005 9010 – Site Survey

CD/2/6 8005 9050 – Location Plan

*CD/3 Statements of Case*

CD/3/1 Statement of Case for SDC

CD/3/2 Statement of Case for the appellants

*CD/4 Development Plan*

CD/4/1 Regional Planning Guidance for the South West (RPG10)<sup>131</sup>

CD/4/2 The Sedgemoor Local Development Framework Core Strategy

CD/4/3 The Sedgemoor District Local Plan

CD/4/4 The Somerset and Exmoor National Park Joint Structure Plan Review<sup>132</sup>

*CD/5 Council reports*

CD/5/1 Officer's delegated report on the appeal application

CD/5/2 Strategic Housing Land Availability Assessment July 2009

*CD/6 Responses to the appeal application*

CD/6/1 Questionnaire and consultation responses

CD/6/2 Written representations from interested parties

## APPELLANTS' EVIDENCE

*Proofs of evidence*

CHEG/1 Proof of evidence of Mr Mellor

CHEG/1/1 Background information to sites within appendices 9 and 10 of Mr Mellor's proof of evidence

CHEG/1/2 Supplementary proof of evidence of Mr Mellor (NEB)

CHEG/2 Proof of evidence of Mr Russell

CHEG/2/1 Summary proof of evidence of Mr Russell

CHEG/2/2 Appendices to proof of evidence of Mr Russell

CHEG/2/3 Travel Plan (Revision A)

CHEG/2/4 PBA response to areas of disagreement with the Highway Authority dated 1 February 2012

CHEG/3 Proof of evidence of Mr Self

CHEG/4 Proof of evidence of Mr Turner

CHEG/4/1 Proof of evidence of Mr Turner – revised version

<sup>131</sup> Reproduced as supporting document 3 to Document SDC/1/1

<sup>132</sup> Relevant extracts at Appendix 3 to Document SDC/1/1

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CHEG/4/2	Additional proof of evidence of Mr Turner (NEB)
CHEG/4/3	Additional proof of evidence of Mr Turner (NEB) – 1 <sup>st</sup> revision
CHEG/4/4	Additional proof of evidence of Mr Turner (NEB) – 2 <sup>nd</sup> revision
CHEG/4/5	Additional proof of evidence of Mr Turner (NEB) – 3 <sup>rd</sup> revision
CHEG/5	Summary of Archaeological Investigation – Mr Crutchley

*Other documents*

CHEG/6	Opening submissions for the appellants
CHEG/7	Strategic Housing Land Availability Assessments – practice guidance
CHEG/8	Appeal decision ref APP/N4720/A/08/2077481 – Fleet Lane, Oulton
CHEG/9	Council's decision ref 08/11/00187 – 3-7 North Street, Bridgwater
CHEG/10	Sedgemoor Infrastructure Delivery Strategy June 2010
CHEG/11	Bridgwater Vision (extracts)
CHEG/12	BW letter to the Planning Inspectorate of 3 February 2012
CHEG/13	Greenslade Taylor Hunt letter to BW of 31 January 2012
CHEG/14	SDC committee reports on NEB planning application and on variation of condition at NEB
CHEG/15	Hinkley Point C – Draft Development Consent Order
CHEG/16	BW letter to the Planning Inspectorate of 9 February 2012
CHEG/17	Email from Greenslade Taylor Hunt to BW of 28 February 2012
CHEG/18	PBA letter to the Planning Inspectorate of 21 February 2012 with revised Travel Plan (revision C)
CHEG/19	Revised Travel Plan (revision D)
CHEG/20	Revised Travel Plan (revision E)
CHEG/21	Draft Undertaking (28 February 2012)
CHEG/22	Position statement from PBA on transport matters
CHEG/23	Draft Undertaking (14 March 2012)
CHEG/24	Draft Undertaking (15 March 2012)
CHEG/25	Email from Mr Tait to Mr Fleet of 6 February 2012
CHEG/26	Kides v South Cambridgeshire District Council [2002] EWCA Civ 1370
CHEG/27	Closing submissions for the appellants

## **COUNCIL'S EVIDENCE**

*Proofs of evidence*

SDC/1	Proof of evidence of Mr Tait
SDC/1/1	Appendices to proof of evidence of Mr Tait
SDC/1/2	Rebuttal proof of evidence of Mr Tait (NEB)
SDC/2	Proof of evidence of Mr Fleet
SDC/3	Proof of evidence of Mr Harvey
SDC/3/1	Proof of evidence of Mr Harvey – revised version
SDC/4	Proof of evidence of Ms Vittery plus appendices

*Other documents*

SDC/5	Housing land supply summary tables
SDC/6	Email from SDC to the Planning Inspectorate of 14 February 2012
SDC/7	Letter from SDC to the Planning Inspectorate of 15 February 2012
SDC/8	Letter from SCC to the Planning Inspectorate of 28 February 2012 confirming the position of the highway authority
SDC/9	Email from SDC to the Planning Inspectorate of 21 February 2012

	responding to points raised by the Inspector
SDC/10	Email from SDC to the Planning Inspectorate of 21 February 2012 with report from DJC Housing Consultants
SDC/11	Letter from SDC to the Planning Inspectorate of 1 March 2012 confirming SDC's position in relation to affordable housing
SDC/12	Schedule of conditions suggested by SDC
SDC/13	Closing submissions for SDC

### **DOCUMENTS FROM THIRD PARTIES SUBMITTED AT THE INQUIRY**

TP/1	Records from Sussex Environmental Records Centre submitted by Ms Heritage
TP/2	Records of notifiable animal diseases submitted by Cllr Edney
TP/3	Photographs submitted by Mrs Taylor
TP/4	Photographs submitted by Mrs Durston
TP/5	Email from SCC responding to Inspector's questions on education contributions

### **WRITTEN REPRESENTATIONS ON THE APPEAL FROM THIRD PARTIES**

WR/1	Statement from Wembdon Parish Council dated October 2011
WR/2	Letter from the Environment Agency of 13 October 2011
WR/3	Letter from the Parrett Internal Drainage Board of 4 October 2011
WR/4	Comments from CPRE Somerset dated 18 January 2012
WR/5	Comments from SCC regarding the need for education contributions dated 12 October 2011
WR/6	Letters and comments from local residents

### **INQUIRY DOCUMENTS**

ID/1	The Council's notification of the appeal
ID/2	The Council's notification of the Inquiry
ID/3	The Secretary of State's letter recovering the appeal
ID/4	The Planning Inspectorate's letter of 30 January 2012 setting out the timetable for the submission of documents during the adjournment
ID/5	The Planning Inspectorate's letter of 6 February 2012 setting out points raised by the Inspector
ID/6	Statement on transport matters agreed between the highway authority and the appellants
ID/7	Update on SHLAA sites agreed between SDC and the appellants
ID/8	Extract from Regional Planning Guidance for the South West
ID/9	Statement of Common Ground between SDC and the appellants
ID/10	Unilateral Undertaking dated 20 March 2012

### **POST INQUIRY CORRESPONDANCE**

PIC/1	The Planning Inspectorate's letters of 3 April 2012 seeking comments on the Framework
PIC/2	Letter from BW of 10 April 2012
PIC/3	Email from Mr and Mrs Taylor of 11 April 2012
PIC/4	Letter from Ms Blackburn of 12 April 2012



PIC/5	Letter from Ms Heritage of 11 April 2012
PIC/6	Email and report from SDC of 16 April 2012
PIC/7	Letter from Mrs Durston of 14 April 2012
PIC/8	The Planning Inspectorate's letters of 23 April 2012 seeking final comments on the responses received
PIC/9	Letter from Ms Heritage of 24 April 2012
PIC/10	Letter from Ms Kelly of 26 April 2012
PIC/11	Letter from BW of 27 April 2012
PIC/12	Letter from Mrs Durston of 26 April 2012
PIC/13	Letter from SDC of 2 May 2012

## **Annex C**

### **CONDITIONS**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development begins within that phase and the development shall be carried out in accordance with the approved details. The phases of the development shall be those approved pursuant to condition 4.
- 2) Application for approval of the reserved matters shall be made to the local planning authority either not later than three years from the date of this permission or not later than any date for the phased submission of reserved matters approved pursuant to condition 4, whichever is the later.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved in respect of the first phase of development. Any subsequent phase shall begin not later than two years from the date of approval of the last of the reserved matters to be approved in respect of that phase. The phases of the development shall be those approved pursuant to condition 4.
- 4) No development shall take place until a programme showing the phasing of the development has been submitted to and approved in writing by the local planning authority. The programme shall include the timing of the submission of reserved matters for each phase and the timing of the provision of footway and cycleway connections to each phase. Development shall be carried out in accordance with the approved programme.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) travel plan for site operatives
  - ii) the parking of vehicles of site operatives and visitors
  - iii) loading and unloading of plant and materials
  - iv) traffic routing strategy
  - v) storage of plant and materials used in constructing the development
  - vi) the hours at which construction work will take place
  - vii) wheel washing facilities
  - viii) pollution prevention measures
  - ix) measures to control the emission of dust and dirt during construction
  - x) a scheme for recycling/disposing of waste resulting from construction works
- 6) No development shall take place within Areas A, B or C on Plan EDP728/09 until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with

- a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The programme shall include measures to protect the said areas from accidental damage prior to the investigations being carried out.
- 7) No development shall take place until an Ecological Method Statement and an Ecological Management Plan have been submitted to and approved in writing by the local planning authority. The Method Statement shall include measures to minimise impacts on biodiversity during the construction of the development. The Management Plan shall include measures for mitigation and enhancement. Development shall be carried out in accordance with the approved Ecological Method Statement and Ecological Management Plan and shall be permanently retained as such thereafter.
  - 8) The construction of any dwelling hereby permitted shall not commence until details of the parking facilities for that dwelling have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The approved parking facilities shall be provided prior to the occupation of the dwelling and thereafter shall be permanently kept available for vehicle parking.
  - 9) No development shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter shall be permanently retained as such.
  - 10) All electricity and telephone services shall be placed underground.
  - 11) No development shall take place until details of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The details shall include the implementation, maintenance and management of a sustainable urban drainage system. The foul and surface water drainage shall be implemented and thereafter managed and maintained in accordance with the approved details. The details shall include:
    - (a) a timetable for implementation, and
    - (b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker or any other arrangements to secure the operation of the sustainable urban drainage system throughout its lifetime.
  - 12) No development shall take place until a scheme for the protection of trees and hedgerows during the construction of the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
  - 13) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate

the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of the development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 14) The proposed roads, including footpaths and turning spaces, shall be constructed in such a manner as to ensure that before any dwelling is occupied it shall be served by a properly consolidated and surfaced footway and carriageway to at least base course level between the dwelling and the existing highway.
- 15) No development shall take place until details of the strategic landscaping shown on the Landscape Strategy Plan 1080/104 Rev D have been submitted to and approved in writing by the local planning authority. The details shall include the phasing, method of implementation and management plan for a minimum period of 5 years from the completion of the development. Development shall be carried out in accordance with the approved details.
- 16) No development within any phase defined in the programme approved pursuant to condition 4 shall take place until details of sustainable construction measures for that phase have been submitted to and approved in writing by the local planning authority. The details shall include a statement of the Code Level the dwellings in that phase will achieve under the Code for Sustainable Homes. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that the approved Code Level has been achieved.