

Appeal Ref:
APP/H1033/W/16/3147726

Robert White Proof of Evidence

Appendix E

Secretary of State Decision Letters



Department for Communities and Local Government

Mr Ian Ellis
Southern Planning Practice
Youngs Yard
Churchfields, Twyford
Winchester
SO21 1NN

Our Ref: APP/L3815/W/15/3004052
Your Ref:

25 April 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY SUNLEY ESTATES LTD
LAND EAST OF BROAD ROAD, HAMBROOK, CHICHESTER, WEST SUSSEX
APPLICATION REF: CH/14/02138/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Michael J Hetherington BSc (Hons) MA MRTPI MCIEEM, who held a public local inquiry between 22-25 September 2015 into your client's appeal against the refusal by Chichester District Council ("the Council") to grant planning permission for residential development of 120 single and two storey dwellings comprising 48 affordable homes and 72 market price homes, garaging and parking together with retail unit(s), sports pavilion/community facility, new vehicular and pedestrian access to Broad Road, emergency and pedestrian access to Scant Road West, sports facilities – 2 tennis courts, football pitch and 4 cricket nets, children's play area, public open space and natural green space at Land East of Broad Road, Hambrook, Chichester, West Sussex, PO18 8UA, in accordance with application ref: CH/14/02138/OUT dated 25 June 2014.
2. The appeal was recovered for the Secretary of State's determination on 28 September 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the scheme involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made.

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 recommendation. He considers that the appeal should be dismissed and planning permission refused. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Jean Nowak, Decision Officer
Planning Casework Division
Department for Communities and Local Government
3rd floor, Fry Building
2 Marsham Street
London, SW1P 4DF

Tel 0303 444 1626
Email pcc@communities.gsi.gov.uk

Matters arising after the close of the Inquiry

4. Following the close of the Inquiry the Secretary of State wrote to you on behalf of your client and to the other parties to this appeal on 13 January 2016 inviting the submission of representations on any implications that the examiner's report on the Chidham and Hambrook Neighbourhood Plan (CHNP) and the introduction of the Community Infrastructure Levy charging regime may have for the planning balance in this case. Representations received were circulated on 4 February 2016 and parties given a further period for final comments to be made. The Secretary of State has carefully considered all the representations received and has taken account of them as appropriate. The representations are listed in the Annex to this letter; and copies can be made available upon written request to the address at the foot of the first page of this letter.

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. In this case, the development plan is the Chichester District Local Plan: Key Policies 2014-2029 (LP:KP), adopted in July 2015. This replaced all the policies in the Chichester District Local Plan First Review (1999) except the settlement boundaries, and the appeal site lies outside those defined for Hambrook in the Local Plan First Review. The Secretary of State agrees with the Inspector that the most relevant policies of these Plans are those identified at IR7-14.
6. The Secretary of State has also had regard to the emerging CHNP (IR15). As the Examination has now been held and the Examiner's Report submitted to the Council (see paragraph 4 above) the Secretary of State gives it greater weight than the Inspector was able to do (see paragraph 9 below).
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (The Framework) and the subsequent planning guidance as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Main issues

8. The Secretary of State agrees with the Inspector that the main issues are those set out at IR120.

Settlement Hierarchy

9. For the reasons given in IR121-130, the Secretary of State agrees with the Inspector that the proposal would conflict with the objectives of the LP:KP settlement hierarchy as set out in policies 2 and 5 of that document. He notes that, although the Inspector states at IR121 that the Settlement Boundary for Hambrook/Nutbourne was to be reviewed through the Neighbourhood Plan, he also states at IR16 that, in fact, the result of that review is that the appeal site remains outside the amended Settlement Boundary. The Inspector goes on to say at IR122 that, as the appeal site lies outside the present Settlement Boundary, it would conflict with the first paragraph of LP:KP policy 45; and he concludes at IR122-123 that the fact that the Settlement Boundary had not been reviewed at the time of writing the IR reduced the weight that could be afforded to this policy conflict. However, not only does the Secretary of State agree that the policy conflict still remains but, while recognising that the CHNP has not yet been made, he takes the view that, as it has now passed the examination stage, and having regard to

paragraph 216 of the Framework, he should give more weight to that Plan and less weight to the conflict with the settlement boundaries in the Local Plan First Review than the Inspector felt able to do.

10. The Secretary of State has then gone on to consider the Inspector's assessment of the conformity of the appeal proposal with the LP:KP at IR124-130. For the reasons given at IR125-129, he agrees with the Inspector's conclusions at IR129 and 130 that the appeal scheme would conflict with the objectives of the LP:KP settlement hierarchy as set out in policies 2 and 5 and that this is an important consideration (IR130).

Character and appearance

11. For the reasons given in IR131-141, the Secretary of State agrees with the Inspector's conclusion at IR142 that the proposal would adversely affect the character and appearance of the area contrary to LP:KP policy 33. For the reasons given in IR131-134, the Secretary of State agrees with the Inspector that the Council's assessment that there would be a 'high level of change' is more realistic than your client's LVIA assessment that the magnitude of landscape change would be "low". He therefore also agrees with the Inspector (IR134) that the Council's conclusion that the appeal scheme would result in a "major/moderate adverse" landscape effect can be more robustly justified. Furthermore, for the reasons given at IR135-141, the Secretary of State also agrees with the Inspector that the proposal's built envelope would extend beyond what is a well-defined settlement edge into an area that is characterised by agricultural uses and the lack of built development. These factors would combine to create a detrimental effect on the established rural character of the site and its surroundings. Like the Inspector the Secretary of State agrees with the Council that the visual effects of the scheme would range from 'moderate adverse' to 'major/moderate adverse' depending upon the season (IR141) and that it would thereby be contrary to LP:KP policy 33.

Emerging Neighbourhood Plan

12. Taking account of his comments at paragraph 6 above on the current status of the CHNP and noting that, in response to his letter of 4 February 2016 (see paragraph 4 above), the Parish Council stated that community facilities are already being built so that the facilities forming part of this development are not required, the Secretary of State agrees with the Inspector's conclusions at IR143 and 144 that the appeal scheme would conflict with the emerging CHNP when read as a whole and that the emerging plan should attract moderate weight.

Five year supply of housing land

13. For the reasons given in IR145-148, the Secretary of State agrees with the Inspector that the headline housing requirement figure upon which the five year land supply calculation should be based should be the LP:KP housing requirement of 435 dwellings per annum; and that the period starting in April 2015 should form the basis for calculating housing land supply in the present appeal. The Secretary of State has gone on to give careful consideration to the Inspector's analysis of the five year land supply and surplus (IR149-155). He agrees with the Inspector that the Council's stated surplus of 220 houses for the five year period 2015-2020 has been significantly over-stated and should be reduced by 215 dwellings (IR156). Nevertheless, like the Inspector, he concludes that the Council can demonstrate a five year supply of land for housing as required by paragraph 49 of the Framework although, notwithstanding that this supply includes a 20% buffer, the margin for error is small; and that the appeal site's potential to deliver housing and contribute to a more robust five year land supply would represent a planning benefit.

The Inspector's assessment of the planning balance

14. For the reasons given at IR157, the Secretary of State agrees with the Inspector that the appeal scheme would not be in accordance with the development plan when considered as a whole, and he considers that the additional weight that he now feels able to give to the CHNP (see paragraphs 6 and 9 above) bears this out. Similarly, he is satisfied that the further progress on the CHNP has borne out the Inspector's conclusion at IR160 that there is no current local need for the level of new development proposed by the appeal scheme to be accommodated.
15. Nevertheless, the Secretary of State agrees with the Inspector at IR162 that it is necessary to consider the scheme in the context of the presumption in favour of sustainable development set out in the first part of paragraph 14 of the Framework. He has carefully considered the Inspector's assessment at IR162-166 and, for the reasons contained therein, he agrees that the site is in a sustainable location and would provide economic benefits. He also agrees that, while biodiversity improvements would be forthcoming, this environmental benefit would be outweighed by the adverse effect that would be caused to the area's character and appearance (IR162-163). The Secretary of State also concurs with the Inspector's assessment of the social role of sustainable development. The Secretary of State agrees with the Inspector (IR166) that granting permission would be at odds with the shared neighbourhood planning vision referred to in paragraph 183 of the Framework; and that it would fundamentally undermine confidence in the neighbourhood planning process that has taken place to date. Indeed, the Secretary of State gives even greater weight to this in view of the further progress which has been made on the CHNP since the close of the appeal inquiry (see paragraph 6 above).

Conditions

16. The Secretary of State has considered the proposed conditions at Appendix 3 to the IR and the Inspector's comments on them at IR106-119. He is satisfied that the conditions recommended by the Inspector are reasonable and necessary and meet the tests of the Framework and the guidance. However, he does not consider that these overcome his reasons for refusing the appeal.

Obligation

17. The Secretary of State has considered the Inspector's assessment of the two legal agreements tabled during the Inquiry (IR22 and IR103-105). However, as the Council's Community Infrastructure Levy (CIL) charging regime came into force on 1 February 2016, the terms of those obligations have now fallen away with all contributions now being subject to CIL.

Planning balance and conclusion

18. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State concludes that, for the reasons outlined above, the appeal proposal is not in accordance with the Development Plan as a whole and would also conflict with the emerging CHNP when read as a whole. He has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal.
19. With regard to the benefits of the proposal, the Secretary of State considers that, while the Council can demonstrate a five year supply of land for housing, the margin for error in that calculation is very small. The appeal scheme would deliver housing and contribute to a more robust five year housing land supply and assist in meeting

affordable housing needs at the District level. He gives significant weight to these benefits. He also gives weight to the fact that the scheme provides economic benefits, would occupy a sustainable location and biodiversity improvements would be forthcoming.

20. However, against this, the Secretary of State concludes that the scheme would conflict with the objectives of the LP:KP settlement hierarchy as set out in policies 2 and 5 and would adversely affect the character and appearance of the area contrary to policy 33. While he considers the conflict with policy 45 would attract less weight, he concludes that the scheme would not be in accordance with the development plan when considered as a whole. He gives substantial weight to this conflict. He also considers that granting planning permission for the scheme would be at odds with the shared neighbourhood planning vision that is referred to in paragraph 183 of the Framework and would also fundamentally undermine confidence in the neighbourhood planning process that has taken place to date in Chidham and Hambrook. The Secretary of State gives moderate weight to this conflict given the current stage of the CHNP, and also considers that the adverse effect that would be caused to the area's character and appearance adds weight against the scheme.
21. Overall, the Secretary of State considers that, taking these matters together, the scheme would not amount to sustainable development and that there are no material considerations which would justify granting planning permission.

Formal Decision

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation to dismiss the appeal and refuse planning permission. He hereby dismisses your clients' appeal and refuses planning permission for residential development of 120 single and two storey dwellings comprising 48 affordable homes and 72 market price homes, garaging and parking together with retail unit(s), sports pavilion/community facility, new vehicular and pedestrian access to Broad Road, emergency and pedestrian access to Scant Road West, sports facilities – 2 tennis courts, football pitch and 4 cricket nets, children's play area, public open space and natural green space on a site of 9.31 hectares in accordance with application No CH/14/02138/OUT dated 25 June 2014.

Right to challenge the decision

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
24. A copy of this letter has been sent to Chichester District Council. Notification has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

JEAN NOWAK

Authorised by the Secretary of State to sign in that behalf

ANNEX

Land East of Broad Road, Hambrook, Chichester, West Sussex PO18 8UA

Appeal by Sunley Estates Ltd

Responses to 'Reference back' letters/emails of 13 January 2016 and 4 February 2016

Name of Party	Date of response
Chidham and Hambrook Parish Council	27 January 2016, 9 February 2016 and 13 April 2016
Southern Planning Practice on behalf of Sunley Estates Ltd	29 January 2016
Hambrook District Residents Association	9 February 2016



Department for
Communities and
Local Government

Our Ref: APP/F0114/A/14/2217216

Daniel Sharp
Ian Jewson Planning Ltd
1 Gas Ferry Road
BRISTOL
BS1 6UN

12 September 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY CHARLES CHURCH SEVERN VALLEY & EDWARD WARE HOMES LTD
ON RESIDUAL LAND AT CAPPARDS ROAD, BISHOP SUTTON
APPLICATION REF: 13/04975/OUT**

1. I am directed by the Secretary of State for Communities and Local Government to say that consideration has been given to the report of the Inspector, Geoffrey Hill BSc DipTP MRTPI, who held a public local inquiry on several days between 27 January and 27 February 2015 into your client's appeal against the refusal of Bath & North East Somerset Council ("the Council") to grant outline planning permission for a residential development of up to 32 dwellings and associated infrastructure on residual land at Cappards Road, Bishop Sutton, BS39 5PS in accordance with application reference 13/04975/OUT, dated 13 November 2013.
2. On 20 May 2015, the Secretary of State recovered the appeal for his own decision because it involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where otherwise stated, and with his recommendation. Accordingly, the Secretary of State dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. Following the close of the inquiry, the Secretary of State wrote to the main parties on 22 February 2016 inviting their comments on the following matters:

Department for Communities and Local Government
Jean Nowak
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1626
Email: PCC@communities.gsi.gov.uk

- whether the Judgment of Mr Justice Holgate, which was handed down in the High Court on 27 January 2016 in the case of *Edward Ware Homes Ltd v Secretary of State for Communities and Local Government and Bath and North East Somerset Council* (Claim No. CO/3058/2015), concerning two other appeal cases that were considered at the same appeal Inquiry as this case, had any implications for this case; and
 - the fact that, since the appeal Inquiry, the Stowey Sutton Neighbourhood Plan (NP) had been made by Bath and North East Somerset Council on 11 September 2015; and the relevance of any policies therein to this case.
5. On 12 May 2016, the Secretary of State again wrote to the main parties to this appeal inviting their comments on the following matters:
- the implications, if any, of the Court of Appeal judgment in the cases of *Suffolk District Council v Hopkins Homes Ltd & Secretary of State for Communities and Local Government*; and *Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government* [2016] EWCA Civ 168;
 - the Council's *Housing Land Supply Findings Report* dated April 2016 in which, at page 60, there is a summary of the Council's position on housing land supply; and
 - the Council's *Housing Trajectory 2011 – 2029*.
6. The representations received by the Secretary of State in response to the correspondence referred to at paragraph 4 above were recirculated to the main parties on 5 April 2016 and those received in response to that at paragraph 5 above were similarly recirculated on 31 May 2016. All the representations received are listed in the schedule at Annex A to this letter and copies may be obtained from the address at the foot of the first page above. However, the Secretary of State is satisfied that the issues raised do not affect the Secretary of State's decision and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to the parties.
7. An application for a partial award of costs was submitted by your client against the Council and an application for a full award of costs was made by the Council against your client (IR1.4). These applications are the subjects of separate decision letters.

Policy and statutory considerations

8. 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. In this case, the development plan comprises the Bath & North East Somerset Core Strategy (CS), adopted in July 2014, the saved policies of the Bath and North East Somerset Local Plan (BANESLP), adopted in October 2007, and the Stowey Sutton Neighbourhood Plan (NP) which was 'made' in September 2015 and which includes Bishop Sutton.
9. The Secretary of State agrees that the development plan policies of most relevance to this appeal are those identified by the Inspector at IR11.5 - 11.7 and 11.11, and that the primary development plan document in this appeal is the CS, in which Policy DW1 (IR11.7 *et seq*) sets out the basic structural objectives for the plan. Policy DW1

provides for Bath to be seen as the primary focus for economic development; for development in the rural areas to be located at settlements with a good range of local facilities and good access to public transport; and for an overall net increase in the supply of housing land of around 13,000 homes.

10. The CS includes the opportunity for further development in the villages identified in policy RA1 (which include Bishop Sutton) on sites adjacent to the Housing Development Boundary (HDB), but only where this has been promoted through a Neighbourhood Plan. However, the appeal site lies outside the HDB for Bishop Sutton as shown on the BANESLP Proposals Map. Similarly, policy SSHP01 of the Stowey Sutton NP indicates that the appeal site lies outside, although immediately adjacent to, the HDB boundary as indicated on the NP. Overall, therefore, the Secretary of State considers that the proposal is contrary to the development plan.
11. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* March 2012 (the Framework) and the planning practice guidance first published in March 2014 (the guidance).

Main issues

12. The Secretary of State agrees that the main issues in this case are those identified by the Inspector at IR11.1.

5-year housing land supply

13. In coming to a view on the Council's housing land supply position, the Secretary of State has given careful consideration both to the Inspector's analysis of the position at IR11.8-11.30 and to the representations made by the main parties in response to his letter of 12 May 2016 (see paragraph 5 above). He has taken into account the Council's claim that they now have 5.4 years' housing land supply at District Level against your client's view that it is no more than 3.8 years; and that the main parties do not dispute that a 5 year supply of housing land can be demonstrated in the Rural Areas Policy Area, which covers the village of Bishop Sutton. Overall, the Secretary of State agrees with the Inspector (IR11.31) that it would be reasonable to accept that, while the Council cannot convincingly demonstrate a five year supply of deliverable sites across the District as a whole, there is more than a 5-year supply of housing land in all the Policy Areas except Bath.
14. However, the Secretary of State has gone on to carefully consider the Inspector's interpretation of paragraphs 14 and 49 of the Framework at IR11.61-11.65 as well as the representations received in response to his letters to the parties. He disagrees with the Inspector's interpretation at IR11.65 that the CS should not be considered out-of-date, and notes that the Council have not sought to argue in their later representations that the policy should be implemented in this way. Taking account of the uncertainty as to whether there is a 5-year supply of housing land across all the policy areas, the Inspector's comments at IR11.63 – 11.64 and representations made in response to his letter of 12 May 2016 in relation to the Court of Appeal judgment, the Secretary of State concludes that the relevant policies for the supply of housing are out-of-date and paragraph 14 of the Framework is engaged. Hence, in line with recent case law, the Secretary of State has gone on to consider whether the proposed scheme can be shown to be sustainable development and, if so, to determine whether the material considerations identified in this case are sufficient to outweigh the fact that the scheme is contrary to the Development Plan.

Potential prejudice to the implementation of the Core Strategy

15. For the reasons given at IR11.32–11.51, the Secretary of State agrees with the Inspector that the corollary of allowing a greater proportion of housing development in the Rural Areas solely to make up the possible overall shortfall across the District would be to undermine the CS strategy of directing the main initiatives for growth to Bath (IR11.37). He agrees that some degree of limitation or restraint outside Bath would be appropriate for reasons of achieving a balanced, sustainable growth strategy but that permitting significant growth in excess of the current land supply situation in the Policy Areas outside Bath would undermine the principles of sustainable development set out in the CS, thereby significantly undermining the confidence of developers and residents in the plan-making process (IR11.40 and IR11.69).
16. Furthermore, the Secretary of State agrees with the Inspector (IR11.42 and IR11.69) that no evidence was put forward at the inquiry to show that new employment opportunities have been established in the village to match the amount of committed and proposed housing development. The proposed scheme would therefore go against the underlying strategic objective of the CS to direct growth to locations which can be seen to be sustainable in terms of a reasonable match between jobs and dwellings so as to minimise commuting for work purposes, and especially by car.
17. Against these arguments, the Secretary of State agrees with the Inspector (IR11.54–11.55) that, as one of the larger villages in the Rural Areas Policy Area, Bishop Sutton may not be an inappropriate place in which to provide a home needed by households living in the wider rural hinterland (IR11.54). He notes that the Unilateral Undertaking offers 35% affordable housing (11 units) of mixed sizes (IR11.55) and, while he agrees with the Inspector that 11 units may be more than the number needed to meet the local connections criteria, he accepts that it would not be in conflict with the relevant CS policy or unduly skew the housing mix on the proposed development (IR11.55).
18. Furthermore, the Secretary of State agrees with the Inspector at IR11.56 that there seems to be no reason why Bishop Sutton could not accommodate additional population in terms of the capacity of facilities and services; and he also notes (IR11.57) that none of the relevant agencies responsible for safeguarding nature conservation and landscape interests have expressed an objection to the proposed scheme.
19. Overall, therefore, the Secretary of State considers that, while there would be some benefits arising from the proposed scheme, it would not fulfil the social and economic criteria of sustainable development as set out in the Framework; and he agrees with the Inspector's conclusion at IR11.52 that granting planning permission for the proposed development would unacceptably prejudice the implementation of the CS and would be contrary to the objectives of the BANESLP. He therefore shares the Inspector's view that the circumstances in this appeal do not represent material considerations which justify making a decision other than in accordance with the development plan.

Planning conditions

20. The Secretary of State has considered the Inspector's assessment of the conditions at IR10.1–10.6 and the suggested conditions at the Appendix to the IR. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests

of paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing this appeal.

Planning obligations

21. The Secretary of State has taken account of the submitted Unilateral Undertaking (IR10.7) and the Inspector's comments on it at IR10.8-10.11. He has noted that several of the items included are now covered by the Council's CIL Schedule and so deleted from the obligation (IR10.8), and he is satisfied that the remainder accord with the provisions of paragraph 204 of the Framework and meet the statutory tests in Regulation 122 of the CIL Regulations as amended. However, he does not consider that these provisions are sufficient to overcome the concerns he has identified in this decision letter with regard to this appeal proposal.

Planning balance and conclusion

22. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with BANESLP policies HG4 and HG10 and NP policy SSHP01 and so not in accordance with the development plan overall. He has therefore gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

23. The Secretary of State is not satisfied that the Council can convincingly demonstrate a five year housing land supply across the District as a whole. Accordingly, he considers that the policies for the supply of housing are out-of-date and paragraph 14 of the Framework is engaged. He has therefore considered whether the proposed development is sustainable in terms of the principles set out in the Framework and, if so, whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the terms of the Framework as a whole. However, whilst attaching significant weight to the positive benefit that the contribution of housing, including affordable housing, would make to the District and to the fact that the village has capacity in terms of facilities and services, the Secretary of State considers that this is outweighed by the fact that granting planning permission for the proposed development would go against the objective of providing a reasonable match between jobs and dwellings, thereby calling into question its overall sustainability. The Secretary of State does not therefore consider that the circumstances in this appeal represent material considerations of sufficient weight to justify a decision otherwise than in accordance with the development plan.

Formal Decision

24. 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 planning permission for a residential development of up to 32 dwellings and associated infrastructure on residual land at Cappards Road, Bishop Sutton. BS39 5PS in accordance with application reference 13/04975/OUT, dated 13 November 2013.

Right to challenge the decision

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

for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

26. A copy of this letter has been sent to Bath and North East Somerset Council, with notifications 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

Schedule of representations

DATE	CORRESPONDENT	
4 April 2016	Ms Rachel Tadman, Senior Planning Officer, Bath and North East Somerset Council	Response to ref back of 22 February 2016.
27 May 2016	Mr Ian Jewson,	Response to ref back of 22 February 2016.
3 April 2016	Mr Keith Betton Chairman, Stowey Sutton Parish Council	Response to ref back of 22 February 2016.
4 April 2016	Mr Daniel Sharp, Principal Planner, Ian Jewson Planning Ltd	Response to ref back of 22 February 2016
13 April 2016	Ms Rachel Tadman, Senior Planning Officer, Bath and North East Somerset Council	Response to recirculation email of 5 April 2016
15 April 2016	Mr Daniel Sharp Principal Planner Ian Jewson Ltd	Response to recirculation email of 5 April 2016
15 April 2016	Mr Keith Betton Chairman, Stowey Sutton Parish Council	Response to recirculation email of 5 April 2016
27 May 2016	Keith Betton Chairman, Stowey Sutton Parish Council	Response to letter of 12 May 2016
27 May 2016	Richard Walker, Bath and North East Somerset Council	Response to letter of 12 May 2016
27 May 2016	Ian Jewson, Director, Ian Jewson Ltd	Response to letter of 12 May 2016
10 June 2016	Ian Jewson, Director, Ian Jewson Ltd	Response to recirculation email of 31 May 2016



Department for
Communities and
Local Government

Mr Paul Collins
Phoenix Planning Consultancy
Forum House
Stirling Road
Chichester
PO19 7DN

Our Ref: APP/C3810/A/14/2228260

13 September 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL
KEITH LANGMEAD LIMITED
LAND TO THE SOUTH OF FORD LANE, EAST OF NORTH END ROAD, YAPTON**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Nicholson RIBA IHBC, who carried out an inquiry between 7-10 July 2015 into your client's appeal against a decision of Arun District Council ('the Council') to refuse outline planning permission with some matters reserved for 4.5 hectares of residential development comprising 3.4 hectares of land for up to 100 dwellings (up to 30 (30%) affordable housing) together with 1.1 hectares of land set aside for public open space and strategic landscaping and 2.2 hectares of public open space and green corridors with vehicle access from Ford Lane and pedestrian/cycle access only from North End Road, in accordance with application Ref Y/60/14/OUT, dated 27 June 2014.
2. The appeal was recovered for the Secretary of State's determination on 8 September 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development of over 10 dwellings in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. An application for an award of costs in regard to this appeal was made by the appellant against the Council. This application is the subject of a separate costs decision letter, also being issued today.

5. The Secretary of State has had regard to correspondence submitted too late to be considered by the Inspector, as set out in the Annex to this letter. He has carefully considered these representations but, as they do not raise new matters that have affected his decision, he has not considered it necessary to circulate them to all parties.
6. On 9 May the Secretary of State wrote to the appellant and the Council seeking further representations. The matter was:

the implications, if any, of the Court of appeal judgment in the cases of Suffolk District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council & Secretary of State for Communities and Local Government [2016] EWCA Civ 168.
7. As the representations were circulated to the parties the Secretary of State has not found it necessary to reproduce them here. Copies of all representations received can be made available on written request to the address at the foot of the first page of this letter.

Policy and Statutory considerations

8. In deciding the 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. In this case, the development plan comprises the saved policies of the Arun District Local Plan (ADLP) adopted in 2003, and the Yapton Neighbourhood Plan (YNP) made on 5 November 2014. The Secretary of State agrees that the most relevant policies in this case are those set out by the Inspector at IR3.3-4 and IR3.14-16.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework'), the planning guidance published in March 2014 and the Community Infrastructure Levy (CIL) Regulations 2010 as amended and the Guidance on Neighbourhood Planning issued 19 May 2016.
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, pursuant to section 72(1) of the LBCA Act.

Main issues

11. The Secretary of State agrees with the Inspector that the main considerations in this appeal are those set out at IR11.1.

Development plan context

12. The Secretary of State has noted the Inspector's assessment of the Development Plan context as set out at IR11.2-3. He agrees that the relevant elements of the Development Plan are those set out at IR11.2.

Arun Local Plan

13. The Secretary of State agrees that the proposals would conflict with ADLP policies GEN2 and GEN3 (IR11.4). He notes that it is agreed that the Council cannot demonstrate a 5 year housing land supply (HLS). As such he agrees with the Inspector (IR11.4) that these policies cannot be considered up to date pursuant to paragraph 49 of the Framework. He notes the Inspector's conclusions at IR11.5 but does not agree with his interpretation. In considering the provisions of paragraph 14 of the Framework he concludes that the paragraph should be used as part of the assessment of whether the development is sustainable. However, he agrees with the Inspector, that given the directions in paragraphs 49 and 215 of the Framework only limited weight should be given to the conflict with these policies.

Emerging Local Plan

14. The Secretary of State has considered the emerging Local Plan (eLP) against the provisions of paragraph 216 of the Framework. He notes its early stage of preparation, the unresolved objections to it, and its significant shortfall in its OAN, contrary to the Framework. He further agrees that there is no certainty as to where future housing allocations will be made by the eLP.

The Yapton Neighbourhood Plan

15. The Secretary of State has carefully noted the Inspector's analysis at IR11.7-16 but he does not agree with his conclusions. He agrees with the Inspector (IR11.8) that the housing policies in the eLP are at an early stage. He notes that the Independent examiner found the Yapton Neighbourhood Plan sound (IR11.9), and he thus finds it complies with the Framework. He notes that Policy H1 states that "additional allocations will be made if the emerging Arun Local Plan requires such action or if the identified housing sites do not proceed." As such he concludes that while the YNP is currently underpinned by an outdated OAN (IR11.9), Policy H1 has flexibility to allow any shortfall in housing supply to be met. As such he gives significant weight to the housing policies of the YNP.
16. The Secretary of State finds that the proposal is in conflict with Policy BB1, as it is not in the built up area boundary and does not fall within any of the exemptions listed in the policy. He agrees that policy BB1 is out of date (IR11.10) in the absence of a 5 year HLS. However, given his conclusions on Policy H1 at paragraph 15 above he gives it significant weight. The Secretary of State considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question. Consequently, in view of Framework paragraphs 198 and 185, and his guidance on neighbourhood planning that this is the case even in the absence of a 5 year housing land supply, the Secretary of State places very substantial negative weight on the conflict between the proposal and policy BB1.
17. He further disagrees that the weight to be given to this conflict would be reduced even further although this decision is issued after 12 months from the YNP being made, because he concludes that the Inspector has misinterpreted paragraph 214 of the Framework, as the 12 month period applies to the publication of the Framework itself, not the YNP.
18. The Secretary of State agrees that Yapton is one of the most sustainable settlements in the District, and that the site is in a sustainable location for additional housing (IR11.11). He notes that no evidence was given as to the probability that the allocations identified

in the YNP, or elsewhere in the district, will come forward within 5 years. He agrees that there is no conflict with YNP policy H1, for the grounds set out by the Inspector at IR11.11. However, he does not agree with the Inspector's conclusion that, given the only conflict is with YNP policy BB1, the weight to be given to conflict with the YNP as a whole should be no more than limited for the reasons set out at paragraphs 15-16 above.

19. The Secretary of State has noted the Inspector's conclusions at IR11.12. However, he does not agree that the potential delay to the provision of additional housing means that priority should not be given to policy BB1, given his findings on neighbourhood planning and taking into account the provisions of paragraph 198 of the Framework.
20. The Secretary of State disagrees with the Inspector at IR11.13 that no weight can be given to the suggestion that the YNP has made adequate provision for housing land, and that policy BB1 is partially compliant with the Framework, for the reasons given at paragraphs 15-16 above. The Secretary of State has given careful consideration to the Inspector's observations at IR11.15.1-11.15-17. However, he does not agree with the Inspector's conclusions at IR11.16 that the weight to be given to the need for additional housing in Arun district, including Yapton, should be given considerably more weight when balanced against YNP policy BB1, given his findings on neighbourhood planning.

Landscape

21. For the reasons set out at IR11.17-8 the Secretary of State agrees that the overall effect on the landscape character of the site itself would be harmful. However, for the reasons given at IR11.19 he agrees that, subject to conditions requiring buffer planting, there is little sound evidence that there would be harm beyond the immediate area. He gives this limited weight.
22. The Secretary of State accepts, for the reasons set out by the Inspector at IR11.20 that the documentation provided by the appellant on the impact on landscape character is adequate.
23. For the reasons given at IR11.21 the Secretary of State agrees that the impact of the scheme on the views of church towers should be given limited weight.
24. The Secretary of State has given careful consideration to the Inspector's analysis at IR11.7-24. The Secretary of State further agrees that, subject to reserved matters, there would be no conflict with ADLP policy GEN7. He agrees that other than the loss of open countryside at the edge of a settlement there would be no significant harm to the character and appearance of the area or the wider landscape, or conflict with paragraph 17 of the Framework. However, he does not agree (IR11.25) that the conflict with the YNP and the conflict with ADLP policies GEN2 and GEN3 and any harm to the countryside by way of policy should not outweigh the benefits of additional housing and affordable housing, given his findings on Neighbourhood Planning.

Heritage

25. For the reasons given by the Inspector at IR11.27-30 the Secretary of State agrees that that there is no evidence that the significance of St Mary's Church would be harmed by the proposal. He further agrees, for the reasons set out at IR11.31, that the information provided by the appellant on the settings of heritage assets is comprehensive and the level of analysis is enough for a proper assessment of the setting. He agrees that the scheme would not impact on Church House and Park Lodge, for the reasons given at IR11.32.

26. The Secretary of State therefore concludes that the contribution which the setting makes to the significance of St Mary's church would be unaffected by the changes within an area of that setting in which only part of the church tower can be experienced. As such he agrees with the Inspector (IR11.33) that the proposal would preserve the special architectural and historic interest of St. Mary's Church and its setting, and that thus the tests in paragraphs 132-134 of the Framework are not relevant and that the proposals would accord with s66 of the LBCA. He further agrees that there would be no conflict with the relevant eLP policies or with YNP policy E9.

Conservation Area

27. The Secretary of State has paid special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area, in line with his duty under s72(1) of the LB Act. For the reasons set out at IR 11.34-36 the Secretary of State agrees that, subject to reserved matters, the scheme would not affect the significance of this designated heritage asset or the character or appearance of the conservation area, which would be preserved. He further concludes that it would accord with historic environment policy in the Framework and that paragraphs 133-4 of the Framework would not apply. He agrees with the Inspector that YNP policy E8 is not relevant as it relates to development within the conservation area.

Archaeology

28. The Secretary of State considers that the level of information provided in the Archaeology Statement was adequate and would comply with paragraph 141 of the Framework. For the reasons given at IR11.37-41 he concludes that a pre-condition requiring further archaeological investigation would be proportionate while safeguarding possible remains. Subject to such a condition, the Secretary of State concludes that the scheme would accord with ADLP policy AREA17. He also agrees that applying a condition would comply with paragraph 128 of the Framework.

Benefits

29. The Secretary of State has considered the Inspector's conclusions at IR 11.43 and agrees that the provision of up to 100 dwellings, up to 30% of which would be affordable, would be benefits of considerable weight. He further notes that the site is agreed to be a sustainable location (IR11.44). He has considered the Inspector's consideration of landscaping at IR11.45, and agrees that while the potential benefits of these would be advantageous, they should more properly be considered as mitigation than as benefits.

Other matters

30. The Inspector has considered the engagement with the community with regard to this application, as discussed by the Inspector at IR11.46, and concludes for the reasons given that this was adequate.

31. The Secretary of State notes that the statutory authorities have assessed any additional pressures on infrastructure, roads and the school as acceptable subject to conditions and contributions. He further notes the Inspector's conclusions (IR11.46) that traffic congestion at school drop-off and pick-up times were not exceptional for roads outside a school in southern England.

32. The Secretary of State has considered the Inspector's comments (IR11.47) that no evidence was put forward at the inquiry that the site provides any significant habitat for either protected or non-protected species other than in the field margins where the trees

and hedges would be retained and enhanced. As such he agrees that there would be no conflict with YNP policies E3, E4, E5 and E6.

Overall conclusions

33. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State concludes that, for the reasons outlined above, the appeal proposal is not in accordance with the Development Plan as a whole, including the Neighbourhood Plan, given the conflicts he finds with policies BB1, E1, GEN2 and GEN3. He has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal. The district does not have a 5 year supply of deliverable housing sites so paragraph 49 of the Framework is engaged and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.
34. The Secretary of State has considered the Inspector's conclusion at IR11.48, and agrees for the reasons given that the site is in a sustainable location. He further agrees that, subject to mitigation, the proposal would not cause any significant harm to the landscape or biodiversity (IR11.49). He agrees that the loss of countryside and productive agricultural land counts against the scheme but agrees that the weight given to this, and to the conflict with SDLP policy GEN3 and NP policy E1, should take into account the fact that such land would be lost to housing both under the YNP locations and elsewhere in the district in any event if its housing needs are to be met. He further agrees for the reasons set out above that there would be no harm to heritage assets, and no conflict with adopted PSG criterion 2.3 with regard to the effect on a conservation area.
35. The Secretary of State agrees that only limited weight can be given to its detailed design and the benefits which should flow from conditions and the obligation should be more properly considered as mitigation (IR11.50). He further agrees that the illustrative layout, which could be required through reserved matters, indicates a scheme which would be well integrated, legible and permeable by walking and cycling, and agrees that some weight should be given to this. Overall he finds, in agreement with the Inspector, that the environmental effects would be neutral.
36. The Secretary of State has noted the Inspector's conclusions at IR11.51 and IR11.55. However, he does not agree, given his findings on neighbourhood planning. As such, he weighs the harms caused by conflict with the YNP and the provisions of paragraph 198 of the Framework against the benefits of the proposal, as set out by the Neighbourhood Planning Guidance he has issued. He gives very substantial weight to this conflict. As such he concludes that the proposal does not comply with the social element of sustainability, and he gives very substantial weight to this against the proposal.
37. The Secretary of State gives significant weight to the benefits of the provision of housing, and further significant weight to the provision of affordable housing. He also gives moderate weight to the fact that the proposed development is in a sustainable location.
38. Against this he gives very substantial weight to the conflict with YNP policy BB1, in line with the provisions of paragraph 198 of the Framework, given his conclusions on neighbourhood planning. He gives limited weight to the adverse impact to the character

and appearance of the field, and further limited weight to the loss of agricultural land. He gives moderate weight to the conflict with ADLP policies GEN1 and GEN2.

39. He therefore concludes that the identified adverse impacts of this proposal would significantly and demonstrably outweigh the identified benefits when assessed against the policies in the Framework taken as a whole. The Secretary of State concludes that the appeal should fail.

Conditions

40. Having considered the Inspector's reasoning and conclusions on conditions, as set out at IR9.1-7, and the conditions which he proposes in Annex C to the IR, the Secretary of State is satisfied that, in the form recommended by the Inspector, they are reasonable and necessary and would meet the tests of paragraph 206 of the Framework and the guidance. However, he does not consider that they overcome his reasons for dismissing this appeal.

Obligations

41. The Secretary of State agrees with the Inspector that the contributions outlined at IR10.1-8 are all necessary to make the development acceptable in planning terms (IR10.2) and that the s106 would meet the tests set out in regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010. However, he does not consider that they overcome his reasons for dismissing this appeal.

Formal Decision

42. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for outline planning permission with some matters reserved for 4.5 hectares of residential development comprising 3.4 hectares of land for up to 100 dwellings (up to 30 (30%) affordable housing) together with 1.1 hectares of land set aside for public open space and strategic landscaping and 2.2 hectares of public open space and green corridors with vehicle access from Ford Lane and pedestrian/cycle access only from North End Road, in accordance with application Ref Y/60/14/OUT, dated 27 June 2014.

Right to challenge the decision

43. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the day after that date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
44. A copy of this letter has been sent to Arun District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Phil Barber

Authorised by Secretary of State to sign in that behalf

ANNEX

Representations received too late to be considered by the Inspector

Name	Date of correspondence
J M Williams	Undated
Paul Every	Undated
Joshua McClelland	Undated
G Weymouth	Undated
N R Roberts	Undated
M J Walker	Undated
Robina Every	Undated
Sean B Murphy M.B.E.	Undated
Timothy Calnan	Undated
Angela Picknell	Undated
Richard Roberts	Undated
Julie McClelland	Undated
Alison Newman	Undated
Ella M Page	Undated
Anne Brearley-Smith	Undated
Mr & Mrs C M Thomas	Undated
Peter J. Sargent	Undated
D Harley	Undated
D & A Pannett	Undated
C & S Taylor	Undated
K. M Chenery and S.L Heaver	Undated
Mr & Mrs R R Neaven	Undated
Marilyn & Paul Hammerton	Undated
A.V.Boxall	Undated
Nick, Julie, Thomas & Emelia Hopkins	Undated
P.E.Mills	Undated
E Cordingley	Undated
E.M Godber	Undated
Jon McClelland	Undated
Julie McClelland	Undated
John Knight	Undated
S A Coomber & Barbara Coomber	Undated
Elle & Graham Coomber	Undated
G V Aldis	Undated
Mrs J E Lott	Undated
Mr P Collins	24 June 16



Department for
Communities and
Local Government

Our Ref: APP/P1425/W/15/3133436

Mr S Brown
Woolf Bond Planning
The Mitfords
Basingstoke Road
Three Mile Cross
Reading
RG7 1AT

19 September 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY CROUDACE HOMES LTD
LAND AT BROYLE GATE FARM, LEWES ROAD, RINGMER, EAST SUSSEX, BN8 5NE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Mr David Prentis BA BPI MRTPI, who held an inquiry on 10-12 May 2016 into your client's appeal against the decision of Lewes District Council ("the Council") to grant planning permission for up to 70 dwellings (including affordable housing), a sports and community building, tennis courts, synthetic turf playing pitch, amenity open space, LEAP, formation of vehicular access, parking and associated landscaping in accordance with application ref: LW/14/0947, dated 11 December 2014.
2. On 6 October 2015 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it relates to residential development over 10 units in an area where a qualifying body has submitted a neighbourhood plan.

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 recommendation and dismisses the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

4. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan for the area comprises the Joint Core Strategy (JCS) (May 2016) and the Ringmer Neighbourhood Plan (RNP)

made in February 2016 (IR3.1). The Secretary of State considers that the development plan policies of most relevance to this case, including those saved from the Lewes District Local Plan 2003, are those described at IR3.2-3.7 and IR10.3-10.6.

5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
6. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess.

The development plan

Planning boundaries and site allocations

7. For the reasons given at IR10.7-10.8, the Secretary of State agrees that the scheme as a whole should be regarded as being in conflict with JCS Policy CT1 and therefore with RNP Policy 4.1 insofar as there would be an adverse effect on the countryside or rural landscape and the benefits of the proposals would not outweigh the adverse effects. The Secretary of State also agrees with the Inspector (IR10.9) that, while there is no numerical cap in the RNP on housing numbers, it is necessary to consider that in the context of the development plan as a whole.
8. For the reasons given at IR10.10-10.14, the Secretary of State agrees with the Inspector at IR10.14 that, as JCS Policy RG3 and RNP Policy 7.4 both allocate the entire appeal site for sport and recreational use, the residential element, which is clearly in conflict with these allocations, forms a very substantial element of the scheme as a whole. In coming to this conclusion, he has taken account of the fact (IR10.11) that the Council and the appellant agree that the sports and leisure element should be regarded as being compliant with RNP Policy RG3.

Landscape and visual impact

9. For the reasons given at IR10.15-10.23, the Secretary of State agrees with the Inspector's conclusions at IR10.24 that the proposal would result in landscape and visual harm which, while not posing an overriding objection to the scheme, is a negative factor to which moderate weight should be attached and which would represent an "adverse effect on the countryside or the rural landscape" for the purposes of RNP Policy 4.1. In particular, the Secretary of State agrees with the Inspector at IR10.16 that the appeal scheme would result in a wholesale change in the character of the site, giving rise to a moderate adverse landscape impact. He also agrees with the Inspector's conclusion at IR10.18 that the visual impacts should be regarded as being more than minor. Furthermore, while recognising that the RNP does not contain a "green gap" policy (IR10.21) the Secretary of State also agrees with the Inspector's conclusion at IR10.19 and IR10.21 that the scale of development proposed would have a harmful effect by eroding the existing clear sense of separation between Ringmer and Broyle Side. The Secretary of State also agrees with the Inspector at IR10.22 that light pollution is a matter to be considered at the reserved matters stage and, for the reasons given at IR10.23, that the specific impact of the appeal scheme on the South Downs National Park does not add further weight to the general landscape impacts identified.

Village scale

10. For the reasons given at IR10.25-10.27, the Secretary of State agrees with the Inspector that, although RNP Policy 6.3 does not contain a numerical cap and the appeal scheme falls below the scale of the strategic allocations made in the JCS, the proposed scheme would represent a substantial addition to the settlement which would not respect the village scale and would therefore conflict with RNP Policy 6.3.

Biodiversity

11. The Secretary of State notes that there are no nature conservation designations affecting the appeal site and, for the reasons given at IR10.28-10.31, he agrees with the Inspector at IR10.31 that the effect of the scheme on biodiversity is not a factor which adds materially either to the case for the appeal or to the case against it. In coming to this conclusion, the Secretary of State has noted in particular that an ecological mitigation plan would be prepared and secured by condition, and that the measures proposed in relation to the populations of Great Crested Newt are likely to require an application to Natural England for a European Protected Species Licence (IR10.28-10.29).

Other development plan issues

12. For the reasons given at IR10.32 –10.33, the Secretary of State agrees with the Inspector's conclusion at IR10.34 that there is no evidence to support a conclusion that the appeal scheme would prejudice the future development of Ringmer Community College or the primary school and that the proposal would not therefore conflict with RNP Policy 5.4. The Secretary of State also agrees with the Inspector's conclusion at IR10.35 that, as the appeal site is not allocated for residential development in the RNP, RNP Policy 6.4 is not applicable and, for the reasons given at IR10.36, that the scheme cannot be said at this outline stage to be in conflict with RNP Policy 9.2.

Conclusions on the development plan

13. For the reasons given at IR10.37-10.38, the Secretary of State agrees with the Inspector that the conflicts with saved policies CT1 and RG3 and with RNP Policies 6.3 and 7.4 are of sufficient importance to conclude that the appeal scheme would conflict with the development plan as a whole. He also agrees that the conflict with RNP Policy 4.1 needs to be weighed in the overall balance and, for the reasons given at IR10.82, he agrees that the proposal would conflict with that policy.

Whether relevant policies for the supply of housing are up-to-date

14. Having carefully considered the Inspector's arguments at IR10.39-10.48, the Secretary of State agrees with his conclusion at IR10.42 and IR10.48 that JCS Policy CT1 should be regarded as up-to-date for the purposes of this appeal.

Delivery of housing

15. For the reasons given at IR10.49-10.50, the Secretary of State agrees with the Inspector that, while additional supply is to be welcomed in circumstances where the supply is tight, the housing requirement set out in the very recently adopted JCS reflects a balance between housing needs and what is achievable within the constraints affecting the district and has been found to be sound through the examination of the JCS. The Secretary of State gives significant weight to that; whilst also noting that the delivery of 40% of the dwellings as affordable units would provide an important benefit (IR10.51) and that there would be wider benefits to the local economy (IR10.52).

Delivery of sports facilities

16. Having given careful consideration to the Inspector's discussion at IR10.53-10.61, the Secretary of State agrees with his conclusions that the appeal scheme is not closely aligned with the type of sports facilities recently identified through the NP process as being needed (IR10.62); that the evidence does not support a conclusion that the appeal scheme is the only way of delivering such facilities (IR10.63); and that therefore only moderate weight should be attached to the benefit of providing sports facilities as part of the appeal scheme (IR10.64).

Effect on heritage assets

17. The Secretary of State has taken account of the fact that the development would be to the east and south of Broyle Gate Farmhouse and the associated farm buildings, which are all Grade II listed (IR10.65-10.66). The Secretary of State agrees with the Inspector that there would be less than substantial harm to their setting and significance but, like the Inspector, he gives considerable weight to this less than substantial harm which he goes on to weigh against the benefits of the proposal (see paragraphs 22 and 23 below).
18. The Secretary of State also agrees with the Inspector that, for the reasons given at IR10.67, although there would be some impact on the setting of Little Thatch Cottage, it adds little further weight to the case against the appeal.

Other matters

19. For the reasons given at IR10.68, the Secretary of State agrees with the Inspector that the fact that the appeal scheme would bring the total provision for growth in Ringmer above the minimum of 385 dwellings determined in the JCS, this is not a matter which weighs significantly against the appeal scheme. The Secretary of State also agrees with the Inspector (IR10.69-10.70) that transport issues should not weigh against the scheme and that the matters considered at IR10.71-10.75 do not add materially to the case for or against the appeal.

Planning conditions

20. The Secretary of State has given consideration to the recommended conditions set out at Annex C to the IR, to the Inspector's analysis at IR9.8-9.12 and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at in the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning obligations

21. Having had regard to the Section 106 Agreement dated 12 May 2016 and submitted at the Inquiry, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector's conclusion that, for the reasons given at IR9.13, the Agreement complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and would 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. However, the Secretary of State does not consider that the obligation overcomes his reasons for deciding that the appeal should be dismissed. The Secretary of State has also noted (IR9.14) that the CIL charge now in place renders contributions to education and public rights of way unnecessary.

Planning balance and overall conclusion

22. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with JCS policies CT1 and RG3 and with RNP Policies 4.1, 6.3 and 7.4, and is not in accordance with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan. However, the development plan is up-to-date and no reasons have been identified to reduce the weight to be attached to any of the policies relevant to this appeal. Nevertheless, the Secretary of State attaches significant weight in favour of the appeal to the delivery of housing, including affordable housing, and moderate weight to the delivery of sports and leisure facilities. Against this, he weighs the harm to the setting of listed buildings which, although less than substantial, is nevertheless a matter of considerable importance; and the Secretary of State also attaches moderate weight to the harm to the landscape.
23. Overall, while recognising the benefits of the scheme in terms of the economic and social roles of sustainable development (as defined by the Framework), the Secretary of State considers that there would be harm to the environmental role in relation to heritage assets and landscape as well as harm to the social role in terms of the conflict with the RNP. He therefore concludes that the other material considerations weighing in favour of the appeal scheme are not sufficient to outweigh the conflict with the development plan together with the other material considerations weighing against the appeal; and that the balance of other considerations, taken together, is not sufficient to indicate that the appeal should be determined other than in accordance with the development plan.

Public Sector Equality Duty

24. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In this regard, and in coming to his decision, the Secretary of State considers that there would be some positive impact on protected persons arising from the affordable housing.

Formal decision

25. 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 planning permission for up to 70 dwellings (including affordable housing), a sports and community building, tennis courts, synthetic turf playing pitch, amenity open space, LEP, formation of vehicular access, parking and associated landscaping in accordance with application ref: LW/14/0947, dated 11 December 2014.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for

leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

27. A copy of this letter has been sent to Lewes District Council and Ringmer Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf



Department for
Communities and
Local Government

Mr C Simkins
RPS
20 Milton Park
Abingdon
Oxfordshire
OX14 4SH

Our Ref: APP/Y3940/A/13/2206963

Your Ref: OXF8221

21 September 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MACTAGGART & MICKEL LTD
LAND OFF COATE ROAD AND WINDSOR DRIVE, DEVIZES, WILTSHIRE
APPLICATION REF: E/2013/0083/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Terry G Phillimore MA, MCD, MRTPI, who held a public local inquiry from 5 to 7 April 2016 into your clients' appeal against the refusal of Wiltshire Council ("the Council") to grant planning permission for a residential development of up to 350 dwellings, local centre of up to 700 sq. m of Class A1 retail use, open space, access roads, cycleway, footpaths, landscaping and associated engineering works, in accordance with application ref: E/2013/0083/OUT, dated 23 January 2013.
2. On 13 November 2013 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 proposals for residential development of over 150 units or on sites of over 5 hectares.
3. A previous inquiry into the above appeal was held from 8 to 11 April 2014 and the Secretary of State issued his decision to dismiss the appeal on 27 October 2014. That decision was the subject of an application to the High Court and was subsequently quashed by order of the Court dated 5 May 2015. The appeal has therefore been re-determined by the Secretary of State. In this case, the Secretary of State consented to re-determine the case by way of a full public inquiry to consider all matters afresh.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Jean Nowak
Planning Casework Division
Department for Communities and Local Government
3rd Floor, SE Quarter, Fry Building
2 Marsham Street
London SW1P 4DF

Tel 0303 444 1626
Email pcc@communities.gsi.gov.uk

Procedural Matters

5. An application for costs made by the Council against your clients (IR8) is the subject of a decision letter which will be issued separately by the Secretary of State.

Policy considerations

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Wiltshire Core Strategy (CS) (January 2015), the 'saved policies' of the Kennet Local Plan 2011 (KLP) (2004) and the Devizes Area Neighbourhood Plan (NP) (December 2015). The Secretary of State agrees with the Inspector that the development plan position has changed since the Council's refusal of the appeal application and the previous Inspector's report (IR18). The Secretary of State also agrees with the Inspector that the relevant policies of the development plan are those referred to at IR20–38.
7. The Secretary of State notes (IR40) that the parties agree that, since the previous decision, saved policy NR6 in the KLP has been replaced by Core Policy 1 and Core Policy 2 in the CS; and that the Council can now demonstrate a five-year supply of deliverable housing sites in the East Wiltshire Housing Market Area (HMA) based on the housing requirements set out in the CS.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework, March 2012) and the associated guidance issued in March 2014; as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Main issues

9. The Secretary of State agrees with the Inspector that the main issues are those listed at IR193.

The relationship of the proposal to the development plan

10. For the reasons given at IR194–203, the Secretary of State agrees with the Inspector's conclusion at IR204 that the proposal is contrary to Core Policy 2 of the CS and policy H1 of the NP. He agrees with the Inspector that these policies and Core Policy 12 give effect to the development strategy set out in policy Core Policy 1, which are intended to be implemented in combination, such that the proposal is therefore also in conflict with these policies. Given the fundamental nature of the policy conflict, and the scale of the proposal, the Secretary of State further agrees with the Inspector (IR204) that the proposal is not in accordance with the development plan as a whole on the location of new residential development.

Whether there are factors that warrant giving reduced weight to the development plan

11. For the reasons given at IR205–218, the Secretary of State agrees with the Inspector's conclusion at IR219 that there are no strong grounds to warrant giving reduced weight to the development plan. In particular, the Secretary of State agrees with the Inspector (IR213) that the CS and NP should not be regarded as out-of-date for the reason of a five-year supply of housing land not being demonstrated at the present time given that the Council can demonstrate a 5-year supply of deliverable

housing sites in the HMA. He therefore also agrees with the Inspector's reasoning at IR217 that there is no justification at the present time for releasing this greenfield site on the basis of either the agreed need for a future review of sites or the degree of progress to date on such a review.

The degree of environmental harm that would result from the proposal including in terms of landscape, transport and air quality

12. The Secretary of State agrees with the parties (IR220) that the proposal is acceptable in terms of site access arrangements, road safety, traffic generation and distribution. Although local concern was raised at the inquiry about these matters, the Secretary of State agrees with the Inspector that there is no evidence to support any different conclusion. The Secretary of State also agrees with the Inspector (IR221) and the parties that the impact of the development would not affect air quality in the Air Quality Management Area. He notes that the Council has confirmed that it does not pursue any objection to the scheme on archaeological grounds (IR222); and he shares the Inspector's concern (IR223) that the scale of the proposal would result in harm to the countryside – to which he gives moderate weight.

Whether the proposal amounts to sustainable development

13. Having regard to the three dimensions of sustainable development (IR235-236), the Secretary of State agrees with the Inspector at IR237 that the potential economic benefits can be given significant positive weight. He also agrees with the Inspector (IR238) that the scheme's substantial boost to housing supply is a significant positive aspect of the social dimension of sustainability, despite the fact that there is not an established current shortfall in the five-year housing land supply for the housing market area; and that the new open space, canal-side improvements and the availability of the local centre would provide further social benefits. For the reasons given at IR239, the Secretary of State agrees with the Inspector that these would also be environmental benefits to be placed in the balance alongside improvements to a cycle route and bus services; but that there would be a degree of harm to the countryside as a result of the extension of urbanisation beyond the existing edge of the built-up area.
14. Overall, therefore, the Secretary of State agrees with the Inspector's conclusion at IR240 that, based on an assessment against the three dimensions set out in the Framework, the proposal can be regarded as sustainable development. However, like the Inspector, the Secretary of State recognises that there is also a need to take account of the principle in paragraph 17 of the Framework that planning should be genuinely plan-led (IR241). For the reasons given by the Inspector at IR241-242, the Secretary of State concludes that as both the CS and NP have recently been found to support sustainable development and neither of these plans supports the appeal proposal, the conflict with the development plan should carry very substantial weight. He also recognises that a decision to allow the appeal would be likely to be regarded as undermining the NP (IR242). For all these reasons, the Secretary of State agrees with the Inspector's conclusion at IR243 that, having regard to the Framework as a whole, the harmful impact of allowing the proposal would outweigh the benefits.

Conditions and planning obligations

15. The Secretary of State has considered the Inspector's analysis of the proposed conditions at IR224-230, the recommended conditions as set out at Annex 3 to the IR

and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

16. Having had regard to the Inspector's reasoning and conclusions at IR231-234, the submitted section 106 Agreement between the Council, the landowners and the developer dated 7 April 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State agrees with the Inspector that the obligations comply with Regulation 122 and the tests at paragraph 204 of the Framework and are necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligations overcome his reasons for deciding that the appeal should be dismissed.

Overall planning balance and conclusions

17. For the reasons given above, the Secretary of State concludes that the proposal does not comply with the development plan as a whole because of the identified conflict with Core Policies 1, 2 and 12 of the CS and policy H1 of the NP. As there is considerably in excess of a five-year supply of deliverable housing sites in the HMA and both the CS and the NP have been prepared relatively recently, he concludes that the development plan should not be regarded as out-of-date and that there are no firm grounds on which to reduce the weight which it should carry. He has therefore gone on to consider whether there are any material considerations that would justify deciding the case other than in accordance with the development plan and, if so, whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. The Secretary of State concludes that the proposal would have no significant adverse impact in terms of highway matters or air quality, while he gives moderate weight to the limited harm to the character and appearance of the area resulting from the loss of the existing undeveloped countryside. The Secretary of State recognises that, in many respects, the proposal would contribute positively to the sustainable development objectives as set out in the Framework but, given the aim of the Framework for planning to be genuinely plan-led and the emphasis placed in paragraph 198 on the important role of neighbourhood plans, he concludes that undermining this approach by allowing the appeal proposal would have a significant negative impact.
19. The Secretary of State recognises that there have been significant changes in material circumstances since the report of the Inspector on the previous inquiry recommending that permission be granted for this scheme. In particular, new elements of the development plan have come into force and a 5-year housing land supply has now been demonstrated for the relevant area. He is satisfied that these factors alter the balance of considerations and he finds that the overall balance is against the grant of permission.

20. Overall, therefore, the Secretary of State concludes that the proposed development would not amount to sustainable development to the extent that it is not plan-led, and that its adverse impacts would significantly and demonstrably outweigh the identified benefits when assessed against the policies in the Framework taken as a whole. The Secretary of State therefore concludes that planning permission should not be granted.

Formal Decision

21. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your clients' appeal and refuses planning permission for a residential development of up to 350 dwellings, local centre of up to 700 sq. m of Class A1 retail use, open space, access roads, cycleway, footpaths, landscaping and associated engineering works, in accordance with application ref: E/2013/0083/OUT, dated 23 January 2013.

Right to challenge the decision

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

23. A copy of this letter has been sent to Wiltshire Council. A notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf



Department for
Communities and
Local Government

Mrs Kathryn Ventham
Barton Willmore LLP
Regent House
Prince's Gate Buildings
2-6 Homer Road
Solihull
B91 3QQ

Our Ref: APP/J3720/W/15/3132123

13 October 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SHARBA HOMES LTD
ERECTION OF UP TO 90 DWELLINGS AT LAND TO THE WEST OF WALTON FARM,
BANBURY ROAD, KINETON, WARWICKSHIRE, CV35 0JY
APPLICATION REF: 14/03602/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of David Cullingford BA MPhil MRTPI, who held a hearing on 23-25 February 2016 into your client's appeal against the decision of Stratford-upon-Avon District Council ("the Council") to refuse your client's application for planning permission for the erection of up to 90 dwellings at land west of Walton Farm, Banbury Road, Kineton, Warwickshire, CV35 0JY, in accordance with application ref: 14/03602/OUT dated 23 December 2014.
2. On 22 March 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority; or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with his 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 since the close of the hearing

4. Following the close of the hearing, and after he had been notified by the Council of the publication of the Stratford on Avon Core Strategy Inspector's Report and the Examination Report of the Kineton Neighbourhood Plan, the Secretary of State invited additional comments from your clients, the Council, and Kineton Parish Council. The responses received are listed at Annex A. The Secretary of State has taken this

correspondence into account but does not consider that it raises any new issues requiring wider consultation to assist him in his decision. However, copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of Stratford-on-Avon Core Strategy (SACS) adopted on 11 July 2016. The Secretary of State considers that the policies of most relevance to this case are CS.1, CS.5 and CS.8.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance') and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Emerging plan

8. The Secretary of State has taken into consideration the emerging Kineton Parish Neighbourhood Plan (KPNP) which was approved at Referendum on 1 September 2016 and awaits being made formally by the Council. This means that the KPNP has progressed significantly along the formal processes since the appeal Inspector reported, and therefore, having regard to the terms of paragraph 216 of the Framework, the Secretary of State gives significant weight to its policies. He considers that those policies of most relevance to this case are H1, H5 and E2.

Main considerations

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR12.2.

Consistency with the Development Plan

10. For the reasons given at IR12.4-IR12.7, the Secretary of State agrees with the Inspector that the proposal would not comply with the SACS or the KPNP in that the application site sits outside the settlement boundary and the Strategic Housing Land Availability Assessment recognises that the future potential of the appeal site for housing must be subject to further consideration through the plan-making process (IR12.7).

Assimilation or intrusion

11. For the reasons given at IR12.8-12.10, the Secretary of State agrees with the Inspector at IR12.11 that the appeal proposal would not be assimilated into the landscape, but would be evident as a somewhat isolated block of development providing an uncharacteristically straight line to the edge of the settlement. He further agrees that the proposal would thus be incongruous, intrusive and damaging to the character of the settlement and the surrounding landscape, contrary to the aims of the SACS.

Agriculture

12. The Secretary of State notes the Inspector's recommendation at IR12.12 that the land "should remain as Grade 3". This appears to the Secretary of State to miss the point of

the Parish Council's argument at IR7.2 that the land should be classified as 3a ("best and most versatile") rather than 3b. However, in view of his overall conclusion to dismiss the appeal for other reasons, the Secretary of State has not considered it necessary to pursue this matter further.

The Battlefield

13. For the reasons given at IR12.13 -12.16, the Secretary of State agrees with the Inspector's conclusion at IR12.16 that the appeal scheme would not alter the setting of the registered Edgehill Battlefield sufficiently to adversely affect its significance and so would not undermine the aims of SACS Policy CS8. He therefore regards this matter as being neutral in the planning balance.

Traffic

14. The Secretary of State has carefully considered the Inspector's discussion on traffic at IR12.17-2.20. He notes the Inspector's experience that, at times during the day, the road fails to accommodate the traffic seeking to use it - incurring congestion and sometimes grid-lock. However, the Secretary of State also notes that the Inspector is not convinced that the appeal proposal would undermine the advice in the Framework by resulting in a cumulative residual effect that would be severe. In view of this uncertainty, the Secretary of State gives no weight to the matter either in favour of, or against, the scheme.

The Neighbourhood Plan

15. In considering the relevance of the KPNP and the weight to be given to it (IR12.21-12.24), the Secretary of State has taken account of the further progress of that plan since the close of the appeal hearing. He notes that the KPNP includes housing allocation sites in policies SSB1, SSB2, SSB3 and SSB4 but that the appeal site is not included, nor does it sit within the area of the KPNP (IR12.23). The Secretary of State acknowledges that the housing sites in the KPNP represent the choice expressed by local people to ensure that they get what they perceive as the right types of development in the places that they consider right for their community (IR12.24); and he agrees with the Inspector that the appeal proposal is out of kilter with the distribution of development at Kinton envisaged in that Plan.

The 5 year housing supply

16. The Secretary of State gives substantial weight to the recently adopted SACS and, within that context, he agrees with the Inspector that, for the reasons given at IR12.25-IR12.32, there is no dispute about the housing required over the Plan period. He also agrees with the Inspector that the Council are approaching the identification of a 5 year housing land supply along the right lines (IR 12.26). The Secretary of State therefore concludes that the 5 year housing land supply issue has been covered sufficiently by the recent SACS examination process, and he therefore agrees with the appeal Inspector that the Council can currently be considered to be able to demonstrate an up-to-date 5 year housing land supply.

Planning conditions

17. The Secretary of State has given consideration to the conditions set out in the Statement of Common Ground (Document 34 listed on page 77 of the IR) discussed at the hearing; the Inspector's analysis at IR12.36; and national policy as set out in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions would comply with the policy test set out at paragraph 206 of the Framework, but he does not consider

that the imposition of these conditions would overcome his reasons for dismissing this appeal.

Planning obligations

18. The Secretary of State has taken account of the submitted Section 106 Agreement as discussed by the Inspector at IR12.38-12.42 and agrees with the Inspector's conclusions that, if planning permission were to be granted, all but the contributions considered at IR12.42 would accord with the provisions of paragraph 204 of the Framework and meet the statutory tests in Regulation 122 of the CIL Regulations as amended. However, he does not consider that the provisions proposed in the Section 106 Agreement are sufficient to overcome the concerns identified in this decision letter with regard to this proposal.

Planning balance and overall conclusion

19. For the reasons given above, the Secretary of State concludes that the appeal proposal is not in accordance with SACS policies CS.1, CS.5 and CS.8 and is not in accordance with the development plan as a whole. The policies in the SACS are up-to-date and no reasons have been identified to reduce the weight to be attached to any of those relevant to this appeal. Furthermore, in accordance with paragraph 216 of the Framework, he has also given increasing weight to the fact that the appeal scheme is not in accordance with the emerging KPNP as it has proceeded through the statutory processes.
20. The Secretary of State has therefore gone on to consider whether there are any material considerations which indicate that the proposal should be determined other than in accordance with the development plan and the emerging KPNP and, in that respect, he attaches significant weight in favour of the appeal scheme to the delivery of housing, including the proposed provision of up to 35% affordable housing. Against the scheme, however, he gives significant weight to its intrusion into the landscape, resulting in an incongruous addition to the village and causing permanent and prominent environmental damage to the character of the countryside and the settlement. He gives no weight either for or against the scheme to any traffic implications or to its potential impact on the Edgehill Battlefield.
21. Overall, therefore, while recognising the economic and social benefits of the scheme, the Secretary of State concludes that there would be harm to the environmental role of sustainable development as defined by the Framework. He therefore concludes that the other material considerations weighing in favour of the appeal scheme are not sufficient to outweigh the conflict with the development plan together with the other material considerations weighing against the appeal; and that the balance of other considerations, taken together, is not sufficient to indicate that the appeal should be determined other than in accordance with the development plan.

Formal decision

22. 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 the erection of up to 90 dwellings in accordance with application ref: 14/03602/OUT dated 23 December 2014 at land west of Walton Farm, Banbury Road, Kineton, Warwickshire, CV35 0JY.

Right to challenge the decision

23. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
24. A copy of this letter has been sent to Stratford-on-Avon District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Schedule of representations

DATE	CORRESPONDENT	Nature of response
26 July 2016	Jay Singh Senior Planning Officer Stratford-on-Avon District Council	Response to ref back of 05 July 2016.
26 July 2016	Kathryn Ventham Partner Barton Wilmore	Response to ref back of 05 July 2016
26 July 2016	Gina Lowe Clerk to the Council Kineton Parish Council	Response to ref back of 05 July 2016
8 August 2016	Gina Lowe Clerk to the Council Kineton Parish Council	Response to 2 nd ref back of 27 July 2016.
9 August 2016	Kathryn Ventham Partner Barton Wilmore	Response to 2 nd ref back of 27 July 2016.
16 August 2016	Gina Lowe Clerk to the Council Kineton Parish Council	Response to Final ref back of 10 August 2016
18 August 2016	Kathryn Ventham Partner Barton Wilmore	Response to Final ref back of 10 August 2016